

MINUTES OF THE REGULAR MEETING OF OCTOBER 24, 2013

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 24, 2013, in the County Council Chambers, County Administrative Office Building in Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Vice-Chairman Smith presiding. The following members of the Commission were present: Mr. Rodney Smith, Mr. Michael Johnson, Mr. I.G. Burton, III, and Mr. Martin Ross, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. Shane Abbott – Assistant Director.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the Agenda as circulated. Motion carried 4 – 0.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the Minutes of October 10, 2013 as amended. Motion carried 4 – 0.

OLD BUSINESS

Conditional Use #1970 – Matthew A. Carr

Application of **MATTHEW A. CARR** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an auto repair shop to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 1.033 acres, more or less, lying east of Sand Hill Road (Road 319) and 0.3 mile south of Wilson Road (Road 244)(Tax Map I.D. #1-35-10.00-56.03).

The Commission discussed this application which has been deferred since October 10, 2013.

Mr. Johnson stated that he would move that the Commission recommend approval of Conditional Use #1970 for Matthew A. Carr for an auto repair shop based upon the record made at the public hearing and for the following reasons:

- 1) The site was previously used for business purposes. It was occupied by a sign and lawn service company until that business relocated.
- 2) The site is currently the residence of the applicant. The applicant testified that he intends to relocate his residence to the lot he owns next door. Based upon the testimony of the applicant, the use will be a family-run business and the size and scope of the auto repair business will be very consistent with that of a home occupation.
- 3) The applicant will be required to comply will all waste disposal regulations and requirements associated with oils, lubricants, etc. associated with the auto repair business.
- 4) The use, particularly in a location where a business previously existed, will not have any adverse impact on traffic on area roadways.
- 5) The use, with the conditions and stipulations placed upon it, will not have any adverse impact on neighboring properties or the community.

- 6) The use as an auto repair facility is of a public or semi-public character that promotes the convenience of providing an auto repair service to Sussex County residents. The applicant also stated that he could perform work on agricultural equipment of nearby farmers.
- 7) The applicant has stated that all repair work will be performed within the building located on the site.
- 8) The applicant has stated that no towing service will be conducted from the site.
- 9) This recommendation is subject to the following conditions and stipulations:
 - A. The use shall be limited to an automobile repair facility, with repairs to agricultural equipment as needed. There shall not be any boat repair or large truck repairs permitted on the site.
 - B. No towing operations shall occur from the site.
 - C. No junked, permanently inoperable, or unregistered vehicles shall be stored on the site.
 - D. No more than four (4) vehicles awaiting repair shall be stored outside on the site at any one time, other than the owner's personal vehicles. Any vehicles awaiting repair shall be either in the building or located behind it.
 - E. All repairs shall occur within the building.
 - F. The application shall comply with all State and Federal requirements regarding the storage, use and disposal of all fluids associated with the use.
 - G. One lighted sign shall be permitted, not to exceed 32 square feet per side.
 - H. The hours of operation shall be from 8:00 a.m. to 7:00 p.m. Monday through Friday, and 8:00 a.m. to 12:00 Noon on Saturday.
 - I. All dumpsters or trash receptacles shall be screened from view of neighboring properties or roadways. All scrapped automobile parts shall also be stored in containers or behind screening fences so that they cannot be viewed from neighboring properties or roadways.
 - J. The Final Site Plan shall show the location of all parking areas, dumpster areas, outside containers, and screening required by this approval.
 - K. No used car sales or retail operations shall be conducted from the site.
 - L. The Final Site Plan will be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions and stipulations stated. Motion carried 4 – 0.

Subdivision #2007-31 Sussex Ventures

Application of **SUSSEX VENTURES** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broad Creek Hundred, Sussex County, by dividing 28 acres into 28 lots (Cluster Subdivision), located north of Road 485A, and east of U.S. Route 13.

Mr. Abbott advised the Commission that this is the final record plan for a 28-lot cluster subdivision application; that the Commission granted preliminary approval for 28 lots on June 11, 2009 with 10 conditions; that on January 12, 2012 the Commission deleted the condition requiring an asphalt walking path throughout the community; that in lieu of the walking path, the developer agreed to install streetlights in the project; that the preliminary approval for this project is valid until January 1, 2016; that the final record plan meets the requirements of the subdivision and zoning codes and the conditions of approval; that the conditions of approval are noted and depicted on the record plan; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve this application as a final. Motion carried 4 – 0.

PUBLIC HEARINGS

Conditional Use #1971 – Greg N. Johnson

Application of **GREG N. JOHNSON** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a countertop manufacturing business to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 8.145 acres, more or less, lying south of Route 64 (Whitesville Road) 500 feet east of U.S. Route 13 (Sussex Highway)(Tax Map I.D. 5-32-6.00-87.02).

The Commission found that on August 2, 2013 the Applicant submitted a survey/site plan with his application, and on October 14, 2013 he submitted an Exhibit Booklet for consideration. The Exhibit Booklet contains a copy of the application form; a copy of the survey/site plan; an aerial photograph of the property; a copy of the Tax Map for the area depicting the parcels and zoning in the area; a copy of DelDOT's comments; a copy of the Deed to the property; a description of the activities on the site from Warren Reid of Solid Image, Inc.; suggested proposed Findings of Fact; and suggested proposed Conditions of Approval.

The Commission found that DelDOT provided comments on July 23, 2013 referencing that the property is adjacent to U.S. Route 13 and is subject to the Department's Corridor Capacity Preservation Program; that U.S. Route 13 is a limited access highway; that the property is located within an Investment Level 4 according to the State Strategies; that the property owner has a recorded ingress/egress easement to Whitesville Road (Route 64), therefore full site access will be permitted via the easement.

The Commission found that the County Engineering Department Utility Planning Division provided comments on October 22, 2013 in the form of a memorandum referencing that the site is located in the Western Sussex Planning Area #4; that an on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that Greg N. Johnson was present with Mike Smith, Attorney with The Smith Firm, LLC, and Warren Reid with Solid Image, Inc., and that they stated in their presentations and in response to questions raised by the Commission that the site has frontage along U.S. Route 13, but no direct access to U.S. Route 13; that access is via an entrance easement from Whitesville Road (Route 64); that there are two buildings on the premise, one being 86' x 116', and one being 86' x 144'; that the total square footage of the two buildings is 22,230 square feet; that the smaller building is used for the processing, manufacturing and fabrication of countertops; that there are eight (8) employees, one of which is part-time; that they are providing nine (9) parking spaces; that three (3) loading spaces are required and will be provided; that slabs of granite are cut and polished for installation; that the main office/showroom is located off-site on the westerly side of U.S. Route 13 on a C-1 General Commercial site; that normal working hours are 7:00 a.m. to 4:00 p.m. Monday through Friday; that granite, when needed, is received on Tuesday and Thursday; that the noisiest equipment would be the air-compressors which are maintained indoors; that the building is fully insulated and no noise should be heard outside; that the smaller building will be used for the processing; that the larger building will be used for storage; that Hale Trailer and other commercial uses exist in close proximity; that the buildings were formerly used for an aquaculture business growing shrimp; that access is only from Whitesville Road, by way of a recorded easement; that the use has been operating from the site since October 2012; that on-site septic and water exists; that a dumpster is used for disposal of materials; that the dumpster area can be screened; that there is no current security lighting; that company vehicles can be stored on-site in parking areas; that an unlighted sign is requested; that some of the granite slabs are stored on a concrete pad south of the building; that there will be no retail sales at this site; and that deliveries of the finished countertops are performed during regular business hours.

The Commission found that there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Mr. Ross stated that he would move that the Commission recommend approval of Conditional Use #1971 for Greg N. Johnson for a countertop manufacturing business based upon the record made during the public hearing and for the following reasons:

- 1) The use is on a site that was previously used as a shrimp farm. This is the redevelopment of that commercial shrimp facility.
- 2) The use will be within the existing buildings on the site.
- 3) The location near the intersection of U. S. Route 13 and Whitesville Road is appropriate for this use. The property has frontage on U.S. Route 13, but vehicular access is via Whitesville Road.

- 4) The use will have no adverse impacts on traffic, neighboring properties or the community. In addition, all countertop fabrication will occur inside, and there will not be any excessive noise generated from the use.
- 5) No parties appeared in opposition to the application.
- 6) This recommendation is subject to the following conditions and stipulations:
 - A) The use shall be for the fabrication of countertops. No retail sales shall occur on the site.
 - B) The hours of operation shall be from 6:00 a.m. to 6:00 p.m., Monday through Friday.
 - C) Deliveries shall occur only during hours of operation.
 - D) There shall not be any formal displays of countertops on the site. There shall not be any outside storage of countertops within 200 feet of U.S. Route 13.
 - E) Any dumpsters on the site shall be screened from view of neighboring properties of roadways.
 - F) One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - G) Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - H) All parking areas shall comply with the Zoning Code, and the parking areas, and material storage areas, shall be shown on the Final Site Plan.
The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions and stipulations stated. Motion carried 4 – 0.

Conditional Use #1972 – Harry E. Miller

Application of **HARRY E. MILLER** to consider the Conditional Use of land in a GR General Residential District for an auto repair shop to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 1.20 acres, more or less, lying south of Iron Branch Road (Road 331) 150 feet east of Thorogoods Road (Road 333)(Tax Map I.D. 2-33-5.00-189.05).

The Commission found that the Applicant submitted a survey/site plan with his application.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report, dated April 24, 2013, referencing that the existing Level of Service “B” of Iron Branch Road will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum, dated October 21, 2013, referencing that the site is located in the Dagsboro/Frankford Planning Area; that sewer service has not been extended to the area at this time; that an on-site septic system is proposed; that conformity to the

Dagsboro/Frankford Planning Study will be required; that the parcel is in a planning area for sewer service; that when sewer service is provided to the area, connection is mandatory; that the County does not have a schedule to provide sewer service at this time; and that a concept plan is not required.

Mr. Lank read the conditions of use proposed by the Applicant on his survey/site plan, which included references to 1) Business hours are to be from 8:00 a.m. to 5:00 p.m., Monday through Saturday; 2) There will be no employees other than the owner; 3) Proposed sign to be a one-sided non-illuminated lettered sign not to exceed 32 square feet placed on the side of the building; and 4) All work on vehicles is to be done inside of the building to minimize the noise and/or disturbance of the adjacent property owners.

The Commission found that Harry E. Miller was present and stated in his presentation and in response to questions raised by the Commission that he proposes an auto repair shop on the same property as his residence; all repairs to be inside of the one-story pole building; that he will be performing mechanical and brake work; that security lighting already exists on the building; that all oils and fluids relating to the business will be recycled by a licensed recycler; that a dumpster will be placed to be rear of the building; that he will not be offering any retail automobile sales; that he will have no more than 3 or 4 vehicles on site at any one time for repairs; that all parts storage will be contained indoors; that there are several business uses in the area, i.e. beauty shop, concrete plant, auto/truck repairs, roofing company, etc.; that he will not be doing any auto body work; and that he lives on the property.

The Commission found that there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Mr. Johnson stated that he would move that the Commission recommend approval of Conditional Use #1972 for Harry E. Miller for an auto repair shop based upon the record made at the public hearing and for the following reasons:

- 1) The site is currently the residence of the applicant. Based upon the testimony of the applicant, the use will be a family-run business and the size and scope of the auto repair business will be very consistent with that of a home occupation.
- 2) The applicant will be required to comply with all waste disposal regulations and requirements associated with oils, lubricants, etc. associated with the use.
- 3) The use will not have any adverse impact on traffic on area roadways.
- 4) The use, with the conditions and stipulations placed on it, will not have any adverse impact on neighboring properties or the community.
- 5) The use as an auto repair facility is of a public or semi-public character that promotes the convenience of providing an auto repair service to Sussex County residents.

- 6) The applicant has stated that all repair work will be performed within the building located on the site.
- 7) This recommendation is subject to the following conditions and stipulations:
 - A. The use shall be limited to an automobile repair facility. There shall not be any boat repair or large truck repairs permitted on the site.
 - B. No towing operations shall occur from the site.
 - C. No junked, permanently inoperable, or unregistered vehicles shall be stored on the site.
 - D. No more than 4 vehicles awaiting repair shall be stored outside on the site at any one time, other than the owner's personal vehicles.
 - E. All repairs shall occur within the building.
 - F. The applicant shall comply with all State and Federal requirements regarding the storage, use and disposal of all fluids associated with the use.
 - G. One un-lighted sign shall be permitted, not to exceed 32 square feet and to be located on the side of the building per the applicant's request.
 - H. The hours of operation shall be from 8:00 a.m. to 7:00 p.m. Monday through Saturday.
 - I. All dumpsters or trash receptacles shall be screened from view of neighboring roadways or properties. All scrapped automobile parts shall also be stored in containers or behind screening fences so that they cannot be viewed from neighboring properties or roadways.
 - J. The Final Site Plan shall show the location of all parking areas, dumpster areas, outside containers, and screening required by this approval.
 - K. No used car sales or retail operations shall be conducted from the site.
 - L. The Final Site Plan will be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Ross, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved for the reasons and with the conditions and stipulations stated. Motion carried 4 – 0.

Change of Zone #1737 – Robert & Julie Norwood

Application of **ROBERT & JULIE NORWOOD** to amend Comprehensive Zoning Map from AR-1 Agricultural Residential District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 24,205 square feet, more or less, lying at the northwest corner of Route 24 and Retz Lane (a private Road) 280 feet southwest of Road 284 (Mulberry Knoll Road)(Tax Map I.D. 3-34-12.00-25.00 & 26.00).

The Commission found that DelDOT provided comments in the form of a Support Facilities Report, dated August 9, 2013, referencing that the existing Level of Service "E" of Route 24

(John J. Williams Highway) will not change as a result of this application; and that a Traffic Impact Study was not recommended.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum, dated October 21, 2013, referencing that the site is located in the Goslee Creek Planning Area; that an on-site septic system is proposed; that conformity to the North Coastal Area Planning Study will be required; that when the County provides central sewer service, the on-site system must be abandoned and a direct connection to the central system is mandatory; and that a concept plan is not required.

The Commission found that Robert Norwood was present and stated in his presentation that he is requesting rezoning to CR-1 Commercial Residential so that he may operate a window cleaning business; that he is planning on converting a portion of the dwelling into an office and to utilize the existing garage for storage; that within a one mile radius of the property there are sixteen (16) businesses, i.e. a school, Apple Electric, Sussex Tree, Robinson Eye Care, Maplewood Dentistry, and many other business and commercial uses; that he will have two to five employees; that adequate space is available on the site for parking for the employees; that there will be one employee on-site as an office worker; that there will be no noise on the site; that he has spoken with his neighbors and there are no known objections; that access to the site is from Retz Lane; that his attorney advised him to apply for CR-1 Commercial Residential zoning, not a Conditional Use; that deeds for the development reference that Lots 13 and 14 are appropriate for commercial uses, not any other lots in the development, and since they front only Route 24; and that he owns both lots.

The Commission found that the applicant submitted 16 photographs of area business/commercial uses in the general area along Route 24.

The Commission found that there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

Change of Zone #1738 – Atlantic Community Thrift Shop, Inc.

Application of **ATLANTIC COMMUNITY THRIFT SHOP, INC.** to amend Comprehensive Zoning Map from a MR Medium Density Residential District and an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.46 acres, more or less, lying south of Route 26 (Atlantic Avenue) 100 feet southeast of Road 348 (Irons Lane)(Tax Map I.D. 1-34-11.00-184.02 & 185.00).

The Commission found that the Applicants submitted surveys and survey/site plans with the application. The site plan depicts the existing buildings and paved parking area within the existing B-1 Neighborhood Business District, and the proposed reconfigured driveway and parking on the AR-1 and MR portions of the site proposed for rezoning.

The Commission found that DelDOT provided comments in the form of a letter, dated August 5, 2013, referencing that the Department has reviewed the site plan and has no objection to its recordation.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum, dated October 21, 2013, referencing that the site is located in the Millville Expansion of the Bethany Beach Sanitary Sewer District; that sewer service has not been extended to the parcels at this time; that the County is coordinating with DelDOT and the project has been bid and a contractor identified; that sewer service could be available as early as the Spring of 2015; that a sanitary sewer lateral is proposed to be installed to each parcel's property line along Route 26; that conformity to the South Coastal Area Planning Study – 2005 Update and Route 26 West Technical Memorandum will be required; that connection is mandatory; that improvements on parcels are required to connect within one year of sewer service becoming available; and that a concept plan is required.

The Commission found that two letters and an email were received in opposition to this application expressing concerns about traffic and drivers lack of consideration in their attempt to get into the site; that the site should have a commercial entrance for the safety of the drivers that travel Route 26; that other businesses have proper entrances; that many accidents have occurred at this location because of the improper access to the property; that the Route 26 construction has added to the traffic concerns; that the location of the entrances are a concern; that a safety study should be made concerning the location of the entrances; that the safest entrance and exit would be on the site of the proposed rezoning; that drainage for the parking areas need to be addressed; that the proposed parking area needs to be for customers, not employees; that the employees should park in the rear; that something needs to be done to improve the safety around the large propane tank in the front yard; that trash needs to be controlled; questioning why they are requesting rezoning since it is rumored that they are proposing to only park employees on the new site; and that the existing use of the site is a very unhealthy and unsafe situation.

The Commission found that Karen Lesperance, President of Atlantic Community Thrift Shop, Inc. (ACTS) was present with Tom Ford of Land Design, Inc. and that they stated in their presentations and in response to questions raised by the Commission that ACTS is a recorded 501-C3 organization; that the organization is maintained by all volunteers; that ACTS has been in operation for 24 years; that ACTS was originally supported by four churches in the area and is now supported by 20 churches; that ACTS contributes to many charitable organizations; that the building utilized has had a minimal growth in the past; that they do not desire to expand the operation, only to improve efficiency and to improve the site for the safety and protection of

their clientele; that the requested rezoning will permit them to expand their parking layout and improve circulation; that Ms. Lesperance has been President of ACTS for seven years and works with nine (9) Board members and 65 volunteers; that the business is operational five (5) days per week for three (3) hours each day; that volunteers work approximately 15 hours per week in two (2) shifts from 8:00 a.m. to 12:00 Noon, and 12:00 Noon to 3:00 p.m.; that they have found that they serve predominantly young families; that they receive goods at the rear of the building; that they goods received are processed by the volunteers; that they are proposing to rezoning two parcels as extensions to the existing ACTS parcel; that they have been working with DelDOT on the Mainline Route 26 project; that DelDOT created a master plan for circulation and will be closing three (3) existing entrances; that an existing entrance will be redesigned and a new entrance on the easterly side of the site will be created; that the rezoning will allow for parking and driveways; that DelDOT has granted a letter of approval; that there are no wetlands on the property; that a Sediment/Erosion Control permit has been issued for a pipe to cross the ditch between the sites; that several business and commercial uses exist in close proximity, i.e. funeral home, lumber yard, car wash, auto supplies and repairs; gift shops, etc.; that Route 26 circulation will be improved; that the existing ACTS site is zoned B-1 Neighborhood Business and they are asking for the same B-1 zoning for these parcels; that the commercial entrances will be built by DelDOT during construction of the Mainline Route 26 project; that the design of the project should alleviate the current traffic circulation problems that exist; that the two lots will be primarily used for driveways and parking; and that normally only 15 volunteers are on premise at any one time.

The Commission found that Dorothy Somerville was present, not to the rezoning, to express concerns about the dangerous entrances that already exist; the narrow driveways, and inadequate parking; that DelDOT took 30 feet of the front yard, reducing the setback to the ACTS building to almost 10 feet from the proposed Route 26 right-of-way; that there have been many accidents at this intersection; suggested that the access door to the shop should be moved from the front to the side of the building; that the lot has been raised, creating run-off concerns; that she is being impacted by water run-off onto her property; and that she is concerned about pedestrian safety to people walking to the site and those standing waiting to get into the shop.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

Subdivision #2013-9 – Louis J. & Antoninette Perri

Application of **LOUIS J. & ANTONINETTE PERRI** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 5.0 acres into 4 lots, and a waiver from the street design and forested buffer requirements, located north of Road 64 and across from Road 454C (Tax Map I.D. 5-32-7.00-27.14).

Mr. Abbott advised the Commission that on October 14, 2013 the applicants submitted an Exhibit Booklet containing the qualifications of Mark Davidson and Carlton R. Savage, Jr. of Pennoni Associates, a copy of a 2012 Orthophoto Map, a copy of the minor subdivision plan, a copy of a lot survey prepared by Gene Littleton dated March 1991, a copy of the minor subdivision plan, responses to Section 99-9C Notes, a copy of DeIDOT's Letter of No Objection dated August 9, 2013, a copy of a DNREC Soil Feasibility Study dated May 8, 2013, a copy of Accent Environmental LLC Soil Maps, a copy of the Elliott – Nichols Tax Ditch Map, a copy of the County Zoning Map, copies of 2010 State Strategies and Investment Levels, a copy of a 2006 Soil Classification Map and a copy of a USGS Topographic Map; that this application was not reviewed by the Technical Advisory Committee since the applicant is requesting a waiver from the street design requirements; and that letters were received from Dan Nero and Anthony Nero in opposition to this application.

The Commission found, based on comments received from the Sussex County Engineering Department Utility Planning Division that the site is not located in a County operated and maintained sanitary sewer district; that the site is located in the Western Sussex Planning Area 4 planning area; that individual on-site septic systems are proposed to serve the subdivision; that at this time, the proposed subdivision is not in an area where Sussex County currently has a schedule to provide central sewer service; and that a concept plan is not required.

The Commission found that Mark Davidson of Pennoni Associates, Inc. and Anthony Perri were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the total site contains 5.0 acres, that Mr. Perri's parents purchased the property in 1991 and that Mr. Perri and his sister inherited the property; that there are no deed restrictions prohibiting the subdivision of the land; that to the east and west of this site are also 5.0 acre parcels; that there is a larger tract of land located north of the site; that the site fronts Whitesville Road across from August Road; that 3 lots and residual lands are proposed for a total of 4 lots; that each of the proposed lots exceeds $\frac{3}{4}$ acre in lot size; that the largest lot is 1.4 acres; that the applicant is requesting a waiver from the street design requirements; that a 50-foot easement is proposed along the eastern boundary of the property; that a single driveway will serve as access to the proposed lots; that DeIDOT has issued a Letter of No Objection; that a waiver from the 30-foot forested buffer requirement is also requested since there is an 80-foot tax ditch easement that bisects the site; that DNREC has indicated that they do not want any plantings located within the tax ditch easement; that in reference to Section 99-9C of the Subdivision Code, the proposed subdivision was planned to be consistent with the uses allowed in the AR-1 zoning district and is compatible with the surrounding developments; that special attention was focused on the preservation of natural topographic features and the integration of the development into existing terrain as well as the pattern of existing development; that there are no wetlands on this property and the subdivision was planned to stay outside of the 80-foot wide tax ditch easement that is located on the site; that the site is not located in a flood plain area; that the subdivision will preserve the tax ditch easement maintenance easement that has

been established along the tax ditch that runs through the middle of the property; that an additional 15-foot building restriction setback has been established from the maintenance easement as requested by DNREC; that there are no historical features on the site; that the proposed subdivision has established a 20-foot forested and/or landscape buffer strip which is exclusive of the lots proposed and is subject to the conditions outlined in Section 99-5 of the Sussex County Subdivision Code; that there are no trees on the subject property and there will be little to no soil removal or grade changes with the establishment of this subdivision; that the proposed subdivision will be served by individual on-site wells for each lot as permitted by DNREC; that each lot will be served by an individual on-site wastewater disposal system as approved in the DNREC feasibility statement; that the existing farm field will be changed to single family lots thus each lot will create grassed lawns and will help mitigate any pollution of surface and groundwater; that with the change in land use from farming, nitrogen loading will significantly be reduced; that the four lots will have no effect on erosion and sedimentation leaving the site; that with the change in land use from farm field to single family houses, the rate of runoff will decrease; that a 50-foot easement has been established across all four lots and will provide for safe vehicular and pedestrian movement within the site as well as access to the public road; that there is no access point to Whitesville Road from this site; that the housing that will be permitted in this development will enhance and compliment the natural setting of the community and will increase in value over time and will promote an unmatched style of living; that the area property values will not be decreased and may be increased by the development of the project; that the larger lot sizes and the 20-foot landscape buffer around the site will help preserve the adjacent farmland; that the four lots will have a positive benefit on schools by generating economic benefits in the form of increased revenues through property taxes; that the proposed subdivision will have no negative effect on the area roadways; that the development provides for low density housing within an area predominately having high density GR zoning; that the land use change from farm field to grassed lots will help reduce runoff to the existing tax ditch; that there will be a maintenance agreement for all 4 lots through a shared agreement for the proposed easement; that the proposed driveway would be 12 to 16 feet in width and improved with crusher run; that the developer could install 2 inches of crusher run over the subgrade as permitted by Code; that the parcel to the east is owned by the applicant's aunt; and that a culvert will be necessary for the tax ditch crossing.

The Commission found that no parties appeared in support of this application.

Robert Witsil, Attorney, Annette Stellhorn and Ray Vincent were present in opposition to this application and advised the Commission that the application leaves room for debate; that a waiver from the forested buffer requirements should not be granted since the area is mostly agricultural and that is what the buffer is intended to protect; that the property is surrounded by agricultural uses; that the parcel to the east is owned by a bank through a reverse mortgage program; that there was an agreement between Mrs. Stellhorn's father and his brother in reference to the irrigation pivot on the adjoining property; that there needs to be a 50-foot

setback from any agricultural use for a residence; that the application should have been reviewed by the Technical Advisory Committee since the applicant is requesting 2 separate waivers from the subdivision code; that restrictive covenants were not submitted and they question the types of residences that are proposed; that the tax ditch starts at Whitesville Road and heads north; that the ditch is 15 feet in width and approximately 5 feet in depth; that the ditch divides the subject site; that the property and surrounding properties are used for high production vegetable crops; that if the development is approved, there would be approximately a 20 acre loss of productive farmland in the area; that the Department of Agriculture recommends that fields in the area be irrigated; that a crusher run type roadway is not suitable for traffic as it would have ruts in the roadway and there would be maintenance problems; that there would be emergency vehicle concerns with this type of roadway; that the subdivision does not meet the requirements of Section 99-9C items 1, 13, 16, and that item 9 and 10 have not been complied with; that the project is an inexpensive design project; that the applicant does not have any approval from the tax ditch company; that the site is located in an Investment Level 4 area; that the site is prime agricultural farmland; and they question the type of homes that are proposed; and submitted written comments into the record.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Ross, seconded by Mr. Johnson and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

OTHER BUSINESS

The Seasons HR/RPC
Revised Site Plan – Road 273

Mr. Abbott advised the Commission that this is a revised site plan for the Seasons residential planned community; that the building footprints for buildings 51, 54 and 58 have been shifted slightly from their original locations; that the 3 buildings are still proposed duplex units; that the duplexes for buildings 52, 53, 56, 57, and 64 through 67 have been revised to single-family units; that 118 total units are permitted by the approved Ordinance and 118 units are proposed; and that the Commission was previously provided a revised copy of the site plan.

Mr. Johnson advised the Commission that the street layout is the same and that the revisions increase the number of single-family dwellings and a decrease in multi-family units.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the revised site plan as submitted. Motion carried 4 – 0.

Subdivision #2005-64 – Palisades Land, LLC
Revised Preliminary

Mr. Abbott advised the Commission that this is a revised preliminary plan for Phase 1; that this phase contains 281 single-family lots, a community clubhouse and pool; that the existing Phase

1A has received final site plan approval for 22 lots and that there are no revisions to this phase; that the Commission needs to determine if the proposed revisions are substantial enough to warrant a new application and public hearing; and that the Commission was previously provided a copy of the revised preliminary plan and a copy of the approved master plan.

Mr. Smith advised the Commission that this site has been the subject site of a couple of applications and that he would like for the full Commission to discuss this request.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to defer action so that all of the Commission members may participate in this discussion. Motion carried 4 – 0.

Van Gabriel Terlemezian
3 Lots & 50' Right-of-way – Road 249

Mr. Abbott advised the Commission that this is a request to create 3 lots with access from a 50-foot right of way; that the Commission deferred action on this request on February 14, 2013 pending receipt of comments from DelDOT; that DelDOT has issued a Letter of No Objection for Lots A, B and C having access from the 50-foot easement and the residual parcel having access from Road 249; that the owner is proposing to create the easement over an existing entrance; that the request may be approved as submitted, or an application for a major subdivision can be required; that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require a major subdivision application; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the request as submitted as a concept with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 4 – 0.

Larry L. & Jeanette H. Yoder
Lot & 50' Easement – Road 36

Mr. Abbott advised the Commission that this is a request to create a 1.88 acre lot with access from a 50-foot easement; that the owner is proposing to create the easement over an existing 10-foot gravel driveway; that DelDOT has issued a Letter of No Objection; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a sketch drawing of this request.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the request as submitted as a concept. Motion carried 4 – 0.

Dennett Pridgeon
Relocation of 50' Easement – Road 72

Mr. Abbott advised the Commission that this is a request to relocate an existing 50-foot easement to be entirely located on Mr. Pridgeon's property and not on the common boundary line as is currently depicted; that the easement will serve parcels 3-32-4.00-71, 71.01 and 71.03 and be

located on the applicant's property; that the Commission originally approved this easement on August 27, 1998; and that the Commission was previously provided a sketch drawing of this request.

Motion by Mr. Ross, seconded by Mr. Johnson and carried unanimously to approve the request as submitted as a concept. Motion carried 4 – 0.

Meeting adjourned at 9:00 p.m.