

MINUTES OF THE REGULAR MEETING OF OCTOBER 29, 2015

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 29, 2015 in the County Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Michael Johnson, Mr. Rodney Smith, Mr. I.G. Burton, and Mr. Martin Ross with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Ms. Janelle Cornwell – Planning and Zoning Manager.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Agenda as circulated. Motion carried 5 – 0.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of October 15, 2015 as amended. Motion carried 5 – 0.

OLD BUSINESS

C/Z #1785 – Truitt Homestead, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a MR (Medium Density Residential District) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 23.5079 acres, more or less. The property is located west of Shuttle Road (Road 273D) 250 feet northwest of Country Club Road (911 Address: None Available) Tax Map I.D. 334-19.00-3.00.

The Commission discussed this application which has been deferred since October 15, 2015.

Mr. Johnson stated that he would move that the Commission recommend approval of Change in Zone No. 1785 for Truitt Homestead, LLC for a change in zone from AR-1 Agricultural Residential to MR Medium Density Residential based upon information contained in the record and for the following reasons:

- 1) The proposed zoning to MR Medium Density Residential meets the purpose of the Zoning Ordinance and that it promotes the orderly growth of the County and the proposed project is in a Developing Area according to the Sussex County Comprehensive Land Use Plan.
- 2) Sewer service will be provided as part of a County operated sanitary sewer district, and adequate wastewater capacity is available for the project.
- 3) The site will be served with central water.
- 4) This is basically an infill rezoning. MR Medium Density Residential zoning is consistent with the neighboring and adjacent zoning, which includes other lands that are zoned MR Medium Density Residential. Other nearby zonings and uses include multi-family and

single-family residential development, the Route One commercial corridor, a DelDOT transportation hub, and an outdoor water park.

- 5) MR Medium Density Residential zoning is appropriate for this site and is consistent with the purposes of the MR Medium Density Residential District according to the Sussex County Zoning Ordinance. The purpose of the MR Medium Density Residential District is to provide medium density residential development in areas which are generally urban in character. Again, the surrounding development includes commercial development, the Route One corridor, single-family development and multi-family communities. Rezoning this property to MR Medium Density Residential is consistent with this character and the purpose of the MR Medium Density Residential District.
- 6) The proposed rezoning to MR Medium Density Residential will not adversely affect the neighboring properties, uses or roadways.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4 – 0. Mr. Burton did not participate in the discussion or the vote since he was not present during the public hearing.

C/U #2029 – Truitt Homestead, LLC

An Ordinance to grant a Conditional Use of land in a MR (Medium Density Residential District) for single family / condominium units (age restricted) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 23.5079 acres, more or less. The property is located west of Shuttle Road (Road 273D) 250 feet northwest of Country Club Road (911 Address: None Available) Tax Map I.D. 334-19.00-3.00.

The Commission discussed this application which has been deferred since October 15, 2015.

Mr. Johnson stated that he would move that the Commission recommend approval of Conditional Use No. 2029 for Truitt Homestead, LLC to allow 90 condominium units based upon the information contained in the record and for the following reasons:

- 1) The proposed Conditional Use meets the purpose of the Sussex County Zoning Ordinance in that it promotes the orderly growth of the County because the proposed project is in a Developing Area according to the Sussex County Comprehensive Land Use Plan.
- 2) The development of this site with 90 age-restricted condominium units is consistent with the densities of surrounding developments.
- 3) Sewer service will be provided by Sussex County as part of a County operated sanitary sewer district.
- 4) The residential development will be served by central water.
- 5) The Conditional Use will permit the development of the property in a way that is consistent with the uses that exist in the area, including single family houses, multi-family dwellings, and commercial uses.
- 6) The proposed development will not adversely affect neighboring properties or roadways.
- 7) This recommendation is subject to the following conditions:
 - a. There shall be no more than 90 dwelling units constructed on the site.

- b. All entrances, intersections, inter-connection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's requirements.
- c. The development shall be served as part of a Sussex County Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
- d. The Conditional Use shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
- e. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.
- f. As proffered by the applicant, all roadways shall comply with the Sussex County street design requirements.
- g. As stated by the applicant, there shall be sidewalks on both sides of all streets, which shall be designed and built in accordance with the Sussex County requirements for a street with curbs and gutters.
- h. The applicant shall submit as part of the Site Plan Review a landscape plan showing the proposed tree and shrub landscape design.
- i. The applicant shall form a homeowners or condominium association responsible for the perpetual maintenance of the streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities, and other common areas.
- j. As indicated by the applicant, the development shall be operated as an Age-Restricted over 55 Community as that term is generally interpreted and governed by Federal Law. This proffer by the applicant was a significant part of the record, including traffic counts, the need for additional traffic analysis, and the basis for the density and site plan of the development.
- k. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
- l. A 20 foot wide perimeter buffer shall be provided as shown on the Preliminary Site Plan. The buffer, which may include existing vegetation, shall be included as part of the Final Site Plan.
- m. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permits. As offered by the applicant, a 25 foot buffer shall be provided for Federal wetlands as shown on the Preliminary Site Plan. The wetland areas and the buffer areas shall be clearly marked on the site with permanent markings to prevent disturbance.
- n. Construction, site work, grading and deliveries of construction materials, landscape materials, and fill on, off or to the property shall only occur Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m., and on Saturday between the hours of 9:00 a.m. and noon.
- o. This preliminary approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on

- it. The staff shall approve the revised Plan upon confirmation that all conditions of approval have been depicted or noted on it.
- p. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Smith, 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 stated. Motion carried 4 – 0. Mr. Burton did not participate in the discussion or the vote since he was not present during the public hearing.

PUBLIC HEARINGS

Subdivision #2015-4 – Bankove

The plan proposes to subdivide 101 acres into 25 lots with private roads and open space. The property is located on the southeast side of Jersey Road and the east side of Holly Oaks Road, just south of John J. Williams Highway (Route 24). The property is zoned AR-1 (Agricultural Residential District). Tax Map I.D. 234-32.00-110.00.

Mr. Robertson advised the Commission that he would not be participating in the public hearing on this application, and that if the Commission has any questions they should be referred to James Sharp, Assistant County Attorney.

Ms. Cornwell summarized the comments received from the agencies within the Technical Advisory Committee.

The Commission found that Robert Witsil, Jr., Esquire, was present on behalf of the applicant, Jack Parker, with John Barwick, Design Engineer with Karin Associates, and Tim Hodges, a family member, and that they stated in their presentation and in response to questions raised by the Commission that the applicant intends to convey the 25 lots to family members; that all lots contain a minimum of 1.0 acre, with some lots exceeding 5.0 acres; that the property is located within a Conservation Zone; that the property is located in a Level 2 Area, a growth area, according to the Strategies for State Policies and Spending; that entrance drives to Lots 4 and 11 are proposed due to the size of the lots; that wetlands have been delineated; that 50 foot wide buffers are proposed from State tidal wetlands; that no lots will contain any wetlands; that on-site septic and on-site wells are proposed on all lots except for Lots 21 through 25 which will have community septic; that Lots 21 through 25 are proposed on an area leased for spoil placement to the State DNREC; that site constructed or modular dwellings are proposed; that they are requesting a waiver of the buffer requirement for the area adjacent to the Mountaire property since Lots 4 and 11 exceed 5.0 acres in size; that Lots 4 and 11 may be used for raising livestock; that the site is ideal for a subdivision; that the proposed plan will be compliant with Section 99-9C of the Subdivision Ordinance; that 25 acres of open space is being created; that they will comply with all agency requirements; that a gated community is proposed; that DelDOT has determined that Holly Oak Lane will be required to conform with current DelDOT standards; that the Murray property to the rear has access across the property over a recorded 12 foot wide easement that was established in 1970 and confirmed in 1980 by a plot reference in the Court of Chancery; that there should not be any detrimental effect on property values; that there should

not be any detrimental effect on the Mountaire property; that a safer more accessible right-of-way will be provided to the three previously conveyed lots; that the State DNREC has already approved septic feasibility for some of the lots; that no sidewalks are proposed due to the size of the lots proposed; that streets will be built to County standards; that permits have been issued for the barn and accessory buildings already under construction; that reclamation of the lots on the spoil site will be required; that no further subdivision of any of the lots is proposed; that septic system permits are normally valid for five years; and that Holly Oak Drive is not a State maintained drive.

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 5 – 0.

C/U #2021 – VIII P-Loan Portfolio Holding, LLC

An Ordinance to grant a Conditional Use of land in a CR-1 (Commercial Residential District) and an AR-1 (Agricultural Residential District) for multi-family dwelling structures to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 29.66 acres, more or less. The property is located at the southwest corner of the intersection of John J. Williams Highway (Route 24) and Autumn Road (Road 299). (911 Address: None Available). Tax Map I.D. 234-23.00-115.00.

The Commission found that the applicants provided a survey/site plan with their application filed on May 22, 2015.

The Commission found that the Preliminary Land Use Service (PLUS) comments, dated September 22, 2015 are a part of the record, and that Civil Engineering Associates responded to those comments on October 16, 2015.

The Commission found that DelDOT provided comments on May 12, 2015 referencing that while the proposed project meets their volume warrants for requiring a Traffic Impact Study, the developer has the option to pay an Area-Wide Study Fee in lieu of conducting a Traffic Impact Study.

The Commission found that the Sussex Conservation District provided a memorandum on October 27, 2015 referencing that there are 5 soil types on this site; that the applicants will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that no storm hazard areas are affected; that it may be possible that off-site drainage improvements will be required; that it is highly likely that on-site drainage improvements will be required; and that no tax ditches are affected.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided a memorandum on October 28, 2015 referencing that the site is located in the Long Neck Planning Area; that Ordinance 38 construction will be required; that the current System Connection Charge Rate is \$4,510.00 per EDU (Equivalent Dwelling Unit); that there is no service to this parcel at this time; that the project is capable of being annexed into the Long Neck Sanitary Sewer District; that conformity to the North Coastal Area Planning Study will be required; that the project can be annexed into the sewer district using the County's administrative procedure; that the project site was previously AR-1 zoned lands allocated for sewer service at 4.0 EDU per acre; that based on the planning, sewer capacity is available based on a calculation of 118.64 EDU total; that the project proposes 288 residential units which exceeds the Engineering Departments planning assumptions; that prior to being approved for a sewer district expansion, a planning study shall be performed at the developers expense to determine if capacity exists and whether transmission expansion improvement are required; that any and all system upgrades shall be performed at the developer's expense; that the proposed development will require a developer installed collection system in accordance with County standards and procedures; that the County Engineer shall approve the connection point; that a Sewer Conceptual Plan shall be submitted for review and approval prior to initiating the annexation process; that a concept plan is required.

Mr. Lank advised that Commission that a letter was received from Laura Hudson, an adjacent property owner, stating that the information submitted, referring to the property lines that are currently marked AR-1, do not legally belong to the applicants; and that the proper deed, which will eventually transfer that portion to the applicants, has not been signed and filed with the County.

The Commission found that Robert Glantz of Starwood Land Ventures was present on behalf of this application with Aaron C. Baker, Esquire, and Ron Sutton, Professional Engineer, and exhibited a power point display and stated in their presentations and in response to questions raised by the Commission that the site contains approximately 30 acres of land with access to John J. Williams Highway (Route 24) and Autumn Road (Road 299); that the current zoning is primarily CR-1 Commercial Residential; that 288 multi-family apartment units are proposed; that the use is consistent with the Comprehensive Land Use Plan; that the Power Point Display contains: an aerial view of a portion of the Coastal Highway commercial corridor near Midway; a chart showing how development goes from a retail/service area, through high density, medium density, low density, to agricultural areas; an aerial with a similar breakdown highlighting the activities around this site with two hub intersections and showing the locations of other retail/service areas, high density, medium density, low density and agricultural areas; a series of photographs depicting stores in the area, some of which were vacant, and including a Harris Teeter, a Subway, Giant, McDonalds, and several photographs of real estate signage offering properties for sale; a conceptual site plan of a commercial retail development of the site; and the proposed site plan for the apartment complex; that the demand does not currently exist for additional commercial uses at this time, as noted by the number of vacant store fronts in the area; that in 2005 they submitted for a PLUS review for rezoning from AR-1 Agricultural Residential to HR High Density Residential and did not proceed; that in 2006 the property was split into two parcels; that in 2008 a 30 acres parcel was rezoned to CR-1 Commercial Residential; that in 2014 the two parcel minor subdivision was revised and resubmitted to allow for a land swap with

Laura Hudson; that the survey/site plan for the land swap was recorded; that the entrance to Autumn Road will be realigned to correct the intersection of Autumn Road and Branch Road; that the site plan will comply with all Codes; that stormwater management and erosion and sediment control facilities will comply with the Sussex Conservation District; that the site will contain approximately 14 acres of open space/green space; that walking trails, sidewalks, and multi-use paths will have a total length of approximately 1.2 mile; that the proposed density is 11.5 units per acre; that the density of the multi-family condominiums across John J. Williams Highway is 11.4 units per acre; that currently the parcel is not feasible to be developed for commercial uses; that apartments are needed in the area; that the use is consistent with the Comprehensive Land Use Plan; that more residential uses will support the existing commercial uses in the area; that affordable housing is supported in the Comprehensive Land Use Plan; that the Strategies for State Policies and Spending Map depicts this area as Level 2 and 3, Growth Areas; that DelDOT has reviewed and performed many traffic analysis in the area; that they will be performing a Traffic Operations Analysis and be paying fees for an Area Wide Study; that 3 story buildings, not exceeding 165 feet in length containing 32 units each are proposed; that the buildings will not exceed 42 feet in height; that they can improve the parking plan by adding additional parking around the clubhouse and pool area; that the project will comply with all traffic, water, sewer, and site plan requirements from any agency; that they are hoping to create a workforce housing rental community; that rental rates will be market driven; that the apartment complex will be developed on 25 acres of the CR-1 Commercial Residential property, and the additional 5 acres of the property will be reserved for future commercial use; that the zoning across John J. Williams Highway is C-1 General Commercial; that their proposal exceed the EDU calculation by 170 units, and they realize that they will be required to prepare and submit studies to the County Engineering Department to validate the increase in units, and that the developer will be required to pay for the studies and the improvements necessary to complete the project; that, in reference to the boundary issue raised by Ms. Hudson, Ms. Hudson signed the minor subdivision which is of record, that the cross access easements have been recorded, and that the actual deeds for the land swap have not been recorded; that the pool and clubhouse on the site plan have not been sized and are for illustration purposes only; and that elevators are not currently intended.

The Commission found that no parties appeared 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. Ross, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

C/U #2032 – Guillermo Vasquez, t/a F&N Vasquez Concrete, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a construction company office, equipment parking, and shop/yard to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 3.125 acres, more or less. The property is located north of Sherman Avenue (Road 213B) 135 feet east of North Old State Road (Road 213) (911 Address: 18578 Sherman Avenue, Lincoln) Tax Map I.D. 330-14.16-5.03 and 5.00.

The Commission found that the applicant provided a survey/site plan with the application when finally accepted for processing on August 27, 2015.

Mr. Lank advised the Commission that numerous complaints were received in reference to activities on the site; that the property owners were sent violation notices; and that the Zoning Inspector and County Constables have visited the site on several occasions to get the applicants to cease and desist or make an application.

The Commission found that DelDOT provided comments on February 26, 2015 and advised that a Traffic Impact Study is not required; that originally two separate applications were filed, and that the application was changed to one application for the two parcels; and that the current Level of Service “A” of Sherman Avenue will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments on October 27, 2015 referencing that there is only one soil type on this property; that the applicants will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it is not likely that any on-site or off-site drainage improvements will be required.

The Commission found that the County Engineering Department Utility Planning Division provided comments on October 28, 2015 referencing that the site is located in the North Coastal Planning Area; that the project is not capable of being annexed into a sewer district at this time; that conformity to the North Coastal Planning Study will be required; that the proposed project is not in an area where the County has a schedule to provide sewer service at this time; and that a concept plan is not required.

Mr. Lank provided the Commission with copies of a petition from “Concerned Residents of Lincoln, De” expressing concerns in opposition to this application. The petition contains seven (7) signatures and several photographs.

The Commission found that Fernando Vasquez was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the Conditional Use requested is for the activities that have already been started on the site; that he would like to hear what the neighbors have to say about his activities; that he operates a small concrete business with 10 to 15 employees; that the site plan depicts the two houses on the site; that he operates his office from one of the houses; that two employees work in the office; that the shop and yard are for the repair and storage of equipment; that adequate parking is available for the employees on site; that employees park on the site and then leave for job sites in company vehicles; that the office contains approximately 1,000 square feet; that business hours are typically from 6:00 a.m. or 6:30 a.m. to 6:00 p.m. or 8:00 p.m.; that the company currently has 5 work trucks and 2 or 3 dump trucks; that he has not spoken to his neighbors about the business activities; that he has been in business for 5 or 6 years; that the business has progressively grown; that originally he operated the business from one of the lots, not both; that he now uses both lots; that he has been using the second lot for approximately 3 years; and that he has looked for another parcel to relocate, but has not found a site suitable for the use to date.

Mr. Ross stated that the use may not be in an appropriate location since it has grown to its current size.

The Commission found that there were no parties present in support of the application.

The Commission found that Mike Maney, Doris Maney, Diana Richardson, Jack Meredith, and Nancy Meredith were present in opposition to the use, not the applicant; that the applicant has been a good neighbor helping others clear snow from driveways; that the use impacts the quality of life and the quality of the air in the neighborhood; that they have some concerns about soil impacts; that if the use is approved, an escrow account should be provided to protect the residents in the area from any loss of property values; that the use impacts the character of the area and scenic values; that the use is not compatible with the residential character of the area; that the use is not needed for the welfare of the community; that there is no protection of area properties; that both properties were being utilized before the application was even filed; that there are numerous vehicles scattered over the property; that materials are regularly dropped off at the site; that noises impact the community; that the noises include backup beepers, slamming noises from equipment being thrown into trucks, people hollering over vehicle noises, etc...; that the neighborhood is normally quiet, except when the site is active; that concrete crushing activities have taken place on the site; that the business hours are unfair to the neighbors in this residential neighborhood; that they cannot open windows due to dust and noise; that they question the diesel fuel tank installation on the site; that some of the employees speed when driving to and from the site; that the use has gotten out of hand as it grows; that the diesel fumes are annoying; that some of their trees have died from the fumes; that they wish the applicant success, but it should be located somewhere else that is more appropriate for the use; that there may be some runoff/drainage issues that need to be addressed; that permits have not been obtained; that some of the vehicles on the site are unlicensed; that some of the noises scare the pets in the neighborhood; and that the trees that exist do not block out the noises or the fumes.

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 5 – 0.

C/Z #1788 – Upesh Vyas

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 26,596 square feet, more or less. The property is located at the northwest corner of the intersection of John J. Williams Highway (Route 24) and Indian Mission Road (Route 5) (911 Address: 24858 John J. Williams Highway, Millsboro) Tax Map I.D. 234-23.00-269.08.

The Commission found that the applicant provided a survey/site plan of the existing improvements on the site and a proposed revised survey/site plan of the proposed improvements to replace those that already exist on the site with the application.

The Commission found that DelDOT provided comments in the form of a letter, dated July 30, 2015 and a Support Facilities Report, dated July 28, 2015 referencing that the Department recommends that this rezoning application be considered without a Traffic Impact Study and that the need for a Traffic Impact Study be evaluated when a development plan is proposed.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum, dated October 27, 2015, referencing that there is one soil type on this property; that the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum, dated October 28, 2015, referencing that the site is located in the Long Neck Sanitary Sewer District; that wastewater capacity is available for the use; that Ordinance 38 construction is required; that the parcel has been provided with a sanitary sewer lateral and that the building was connected to sewer on February 23, 1999; that conformity to the North Coastal Area Planning Study and Amendment No. 1 Expansion Area No. 1, Long Neck Sanitary Sewer District Planning Study will be required; that the proposed use is not expected to have an adverse impact on the sewer system; and that a concept plan is not required.

The Commission found that Jim Clark, Architect, was present on behalf of the applicants and stated in his presentation and in response to questions raised by the Commission that the applicant is proposing to remove the existing convenience store and replace the store with a new structure; that the gas pumps and canopy will remain as existing; that the application is basically an infill zoning since the lot is surrounded by Route 24, Route 5 and the Nanticoke Crossing Shopping Center which is zoned C-1 General Commercial.

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 Change of Zone No. 1788 for Upesh Vyas for a change in zone from AR-1 Agricultural Residential to CR-1 Commercial Residential based upon the record made during the public hearing and for the following reasons:

- 1) The site has been used as a gas station for decades. The use predates zoning, which is why the zoning has remained as AR-1 Agricultural Residential.
- 2) The site is surrounded by a shopping center that was rezoned to C-1 General Commercial. This property should have been rezoned to C-1 General Commercial at the same time, but it was not.
- 3) The area is surrounded by commercial zonings and uses. This rezoning will make the parcel consistent with surrounding zonings and uses.
- 4) CR-1 Commercial Residential is appropriate for this location at the intersection of Route 5 and Route 24.

- 5) The rezoning will make the long-standing use of the property consistent with the property's zoning.
- 6) No parties appeared in opposition to the application.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 5 – 0.

OTHER BUSINESS

Thomas and Laura Kucharik – C/U #2006 Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a preliminary site plan for a seasonal farm stand/garden center. The use required a Conditional Use. The Planning Commission reviewed the application at their meeting on January 22, 2015. County Council approved the Conditional Use on March 10, 2015. The plan indicates screening along the north side and a portion of the south side of the property to screen the storage containers from neighboring uses and roadways. The property is zoned AR-1 (Agricultural Residential District). The tax parcel is 234-5.00-44.07. Staff is in receipt of all agency approvals.

Motion by Mr. Johnson seconded by Mr. Burton and carried unanimously to approve the site plan as both a Preliminary Site Plan and Final Site Plan. Motion carried 5-0.

Lands of Black – Off of Shingle Point Road Minor Subdivision off of a Private road

Ms. Cornwell advised the Commission that this is a minor subdivision to create two parcels with a residual land off the existing private road. A portion of the property will be combined with a parcel to the north. There is an existing driveway that will be used as the extension of the private road. A cul-de-sac should be created at the end of the extension of the private road for access. Any further subdivision shall require a major subdivision. The property is zoned AR-1 (Agricultural Residential District). The tax parcel is 235-25.00-30.02. Staff is awaiting approval from DelDOT.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the Minor Subdivision with further subdivisions requiring a major subdivision and upon receipt of approval from DelDOT. Motion carried 5-0.

Earth Movers – C/U #545 Request to Amend Conditions of Approval

Ms. Cornwell advised the Commission that this request is to amend a condition of approval as part of the Conditional Use (CU # 545). The Sussex County Council approved the use on August 14, 1979. The condition requested to be removed "pit must be kept at or above the water table". The applicant also owns and operates the borrow pit on the adjacent parcel to the south that does not have that condition. The applicant would like to have the same conditions on both

borrow pits. The applicant has stated that going below the water table on the adjacent parcel has not created any negative impacts on the environment. The property is zoned GR (General Residence District). The tax parcel is 430-23.00-40.00.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to delete the condition that states “pit must be kept at or above the water table”. Motion carried 5-0.

Edward J. Kaye – C/U #1413
Request to Amend Conditions of Approval

Ms. Cornwell advised the Commission that this is a request to amend two (2) conditions of approval as part of the Conditional Use (CU # 1413). The Sussex County Council approved the use on April 9, 2002. The Planning Commission recommended approval at their meeting of September 13, 2001. The first request is to remove Condition #8: “no de-watering shall be permitted” may be considered by the Planning Commission as this condition was placed by the Planning Commission. The second request to extend the length of time the borrow pit may be in operation (Condition #19) requires County Council approval since the condition was placed by the Council. The property is zoned AR-1 (Agricultural Residential District). The tax parcel is 331-4.00-49.00.

There was discussion regarding the request that requires County Council approval.

Motion by Mr. Smith, seconded by Mr. Burton and carried unanimously to delete Condition #8 of the Conditional Use. Motion carried 5-0.

The Planning Commission took no action regarding the request to amend Condition #19.

Earth Movers – C/U #430
Request to expand Conditional Use

Ms. Cornwell advised the Commission that this is a request to expand the Conditional Use (CU # 430) for a borrow pit. The Conditional Use was approved by County Council on August 2, 1977. The size of the parcel at the time of approval was 31.65 ac. The property has been adjusted to include an addition of 7.8 ac of land. The 7.8 ac was not included as part of the original approval of the Conditional Use. The expansion of the borrow pit to include the additional 7.8 ac. should require a public hearing before the Planning Commission and County Council. The property is zoned GR (General Residential District). The tax parcel is 430-23.00-41.00

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to deny the expansion of the Conditional Use and that the expansion should go through the Public Hearing process. Motion carried 5-0.

Saddle Ridge – C/Z #1742
Final Site Plan

Ms. Cornwell advised the Commission that this is a final site plan for the Saddle Ridge development. The development is an RPC. The Planning Commission granted preliminary Site Plan approval at their meeting on April 9, 2015. The plan is for the construction of 81 Single Family lots with open space and private roads. The plan complies with sidewalks along both sides of the streets along with streetlights as indicated on the preliminary plan. The amenities shown on the preliminary plan will come back to the Planning Commission as a separate Site Plan. The property is zoned MR (Medium Density Residential District). The property is located off of John J. Williams Highway (Rt. 24), west of Mulberry Knoll Road. The tax parcel is 334-18.0-40.00. Staff is in receipt of all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the Final Site Plan. Motion carried 5-0.

Meeting adjourned at 9:18pm.