



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE REGULAR MEETING OF APRIL 14, 2011

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 14, 2011, in the County Council Chambers, County Administrative Office Building in 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. 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. Smith, seconded by Mr. Burton, 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 March 24, 2011 as corrected. Motion carried 5 – 0.

OLD BUSINESS

C/U #1883 – application of **MARGARET TAYLOR** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for multi-family dwelling structures (6 units) to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 0.989 acres, more or less, lying southeast of Bi-State Boulevard (U.S. Route 13-A) and Horsey Road (Road 460).

The Commission discussed this application which has been deferred since March 10, 2011.

Motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV, 115-181 RELATING TO YARDS AND OPEN SPACES GENERALLY.

The Commission discussed this Ordinance Amendment which has been deferred since March 10, 2011.

Mr. Robertson referenced that the Commission heard testimony expressing concerns that this Ordinance could relate to manufactured home parks; that the staff explained that it is not intended to relate to manufactured home parks; that he can see where someone might try to get creative with the Code; and that if the Commission decides to recommend approval of the Ordinance Amendment, he would suggest that there be a recommendation for an additional line that confirms that it does not apply to manufactured home parks.

Mr. Burton stated that the Ordinance Amendment should also include an automatic referral to the Board of Adjustment if a neighbor should object to an Administrative Variance request.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to forward this Ordinance Amendment to the Sussex County Council with the recommendation that the Ordinance Amendment be approved as circulated and with the following additional recommendations: that a new sentence be added at the end of Section E (5) to state "If any objection is received, the Director shall refer the application to the Board of Adjustment."; and that a new Section E (6) be added that states "This Administrative Variance process shall not be applicable to Manufactured Home Parks." Motion carried 5 – 0.

Subdivision #20090-10 – application of **H. P. LAYTON PARTNERSHIP** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 52.97 acres into 49 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located west of Round Pole Bridge Road (Road 257), 1,050 feet north of Cave Neck Road (Road 88).

The Commission discussed this Subdivision application which has been deferred since August 26, 2010, the original public hearing date, and March 24, 2011, the reopening of the public hearing for the purpose of review of the PLUS Preliminary Land Use Service comments and responses.

Mr. Burton advised the Commission that he has a motion prepared but would like to discuss the application prior to making a motion; that Section 99-16 of the Subdivision Code allows the County to place limitations on the development of land which is unsuitable due to flooding, improper drainage, steep slopes, adverse earth formations, etc. unless the developer has a plan that adequately addresses those issues; that he does not feel that the developer has addressed these issues adequately, which include the clay pits and drainage problems on the property; that the developer has simply given a general description of adding fill material to the clay pits, building houses into them with walk out basements or simply allowing them to remain as part of the storm water management system even though they are within several lots; that his motion eliminates lots from the areas where the clay pits are located and also where the topography and drainage issues have not been adequately addressed along Lots 45, 46 and Lot 28; that he is concerned about the possible historic nature of the property, but that does not create a basis for turning down the project; that the Applicant has allowed the State or County to inspect the property to document and inventory it; that the developer has proposed that the historical areas will be preserved and fenced off; that the adjacent property owners have expressed concerns about access to their property which is an easement over the H.P. Layton Partnership property; that on the site plan there are several areas where 50 foot wide points of interconnectivity were

established even though there is no real basis for the points of connection or their location; that the Plan only shows as access point 20 feet wide to the adjacent property where interconnectivity is actually used at this time; and that the proposed motion eliminates the other 50 foot wide points of interconnectivity and establishes a 50 foot wide point of interconnectivity opposite the entrance to this project where interconnectivity actually exists at this time.

Mr. Johnson advised the Commission that with proposed changes such as fewer lots may result in a better design.

Mr. Ross questioned the lots with steep slopes and pits being located on individual lots.

Mr. Smith asked Mr. Robertson to explain the Ashburn case for the Commission and people in the audience.

Mr. Robertson summarized the Ashburn case.

Mr. Wheatley advised the Commission that access to the adjacent property should be a minimum of 50 feet for the safety of vehicular traffic; that the 50 foot easement needs to be maintained; that if specific lots are eliminated, the project may be suitable; that the application, as presented, should be denied; and that it is not the Commission's responsibility to design projects.

Mr. Wheatley asked Mr. Burton to read his motion and that at the end of the motion, the Commission would discuss the motion.

Mr. Burton stated that he would move that the Commission grant preliminary approval with conditions and limitations for Subdivision #2009 – 10 for H.P. Layton Partnership, based upon the record made at the public hearings and for the following reasons:

1. While the proposed subdivision generally meets the purposes of the Subdivision Code in that it protects the orderly growth of the County, there are limitations upon where the lots can be located within the property due to improper drainage, steep slopes, and adverse topography.
2. With the limitations and conditions, this subdivision satisfies the items set forth in Section 99-9C of the Subdivision Code.
3. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
5. The project will be served by a central wastewater system in accordance with all State and County requirements.
6. The site will be served by central sewer.
7. Section 99-16 of the Subdivision Code states that land which is unsuitable for development due to flooding, improper drainage, steep slopes, adverse earth formations or topography shall not be developed or subdivided unless adequate methods are formulated by the developer to solve these problems. On this site there are deep clay pits with steep slopes within several lots and Mr. Burton is not satisfied that the developer has

provided adequate methods to solve these issues. During the first public hearing, the Developer's representatives stated that houses will be built upon fill or into the sides of the pits. During the second public hearing, the Developer's representatives stated that the pits would collect water which would then overflow into the storm water management system. These explanations are inconsistent and vague. Mr. Burton is also not satisfied that the developer has addressed the effects of the railroad bed, and the topography and the flow of water through this property towards the Broadkill River. For these reasons the areas where Lots 3 – 10, and Lots 28, 45 and 46 are located must not be developed.

8. A waiver from the cul-de-sac length should not be granted. Turnarounds or similar design features must be included within the subdivision to comply with the street design requirements.
9. This approval is subject to the following conditions:
 - A. There shall be no more than 37 lots within the subdivision. The clay pits and the areas where Lots 3 through 10 and Lots 28, 45 and 46 are shown must not be developed, and must remain undisturbed in their current state except for utilities and storm water management systems.
 - B. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
 - C. The storm water management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
 - D. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.
 - E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
 - F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation controls.
 - G. Buffers shall be shown as required along boundaries of the entire subdivision. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.
 - H. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
 - I. No wetlands shall be included within any lots. As represented by the Applicant, a minimum buffer of at least 50 feet shall be provided between lot lines and all wetland boundaries.
 - J. A system of street lighting shall be established.
 - K. Sidewalks shall be located on one side of all streets in the subdivision.
 - L. The subdivision shall be served by a central sewer system as defined by Sussex County Ordinance, designed in accordance with Sussex County Engineering Department and DNREC specifications. No building permits shall be issued for houses within the development until the development is connected to an off-site sewer treatment plant.
 - M. The subdivision shall be served by a central water system operated by a public utility.

- N. As represented by the Applicant, appropriate agencies of the State of Delaware and Sussex County shall be provided an opportunity to perform an archeological or historical survey of the Brickyard buildings and kiln ruins, subject to prior notice to the Applicant. This access shall be provided prior to the approval of the Final Site Plan for this project, and the Final Site Plan shall contain any requirements of the State Historic Preservation Office.
- O. The tot lot shall be relocated to an area away from the brickyard ruins so that children are not tempted to play around them.
- P. As stated by the Applicant, the Brickyard and Kiln ruins shown on the Preliminary Site Plan shall be fenced off with wrought iron fencing to prevent access to them. It is further recommended that all of the ruins remain preserved, even if that requires the relocation of roadways or lots.
- Q. Because of the unusual topography of this site, the Final Site Plan shall contain a depiction of all areas where cut and fill will be required.
- R. The Final Site Plan and Deeds shall contain the Agricultural Use Protection Notice and a similar notice indicating that hunting activities occur on neighboring and adjacent properties.
- S. The Applicant has provided 50 foot wide access points for interconnectivity to adjacent properties where none are needed, while only showing a 20 foot wide access point where interconnectivity currently exists. The proposed locations of the access points shall be eliminated and the existing point of interconnectivity to the adjacent property opposite the entrance to the subdivision shall be expanded to 50 feet.
- T. The Median strip shall be removed from the entrance area to allow agricultural equipment to continue to safely access the adjacent properties.
- U. 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. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.
- V. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Mr. Johnson advised the Commission that Mr. Burton prepared a detailed motion and questioned how much the Commission plays into the design of projects.

Mr. Burton advised the Commission that all applications have flooding and drainage concerns.

Mr. Ross advised the Commission that the motion is a good motion and that the Commission is not micro-managing the application.

Mr. Wheatley advised the Commission that the motion is a well thought-out motion.

Motion by Mr. Burton, seconded by Mr. Ross, and carried 2 votes to 3, to approve the motion as stated. Motion failed 2 -3.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

PUBLIC HEARINGS

C/U #1886 – application of **CLARENCE A. EDGENS, III** to consider the Conditional Use of land in GR General Residential District for HVAC business and multi-family dwelling structures (2 units) to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 4.37 acres, more or less, lying northwest of Road 305 (Hollyville Road), 3,330 feet south of Road 48 (Zoar Road).

The Commission found that the Applicant provided a survey of the property which depicts the location of paved driveways, the dwelling on the premise, and the existing shop/garage building.

The Commission found that DelDOT comments were received on November 5, 2010 in the form of a Support Facilities Report and that the Report references that a traffic impact study was not recommended and that the current Level of Service “B” of Hollyville Road will not change as a result of this application.

The Commission found that County Engineering Department Utility Planning Division comments were received on April 11, 2011 in the form of a memorandum and that the memorandum references that the site is located in the North Coastal Planning Area; that the use of an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed project is not in an area where the County currently plans to provide sewer service; and that a concept plan is not required.

Mr. Lank advised the Commission that the site received a violation notice on January 29, 2010 for the operation of the HVAC business, and that the Applicant immediately came forward and started the application process.

The Commission found that Clarence A. Edgens, III was present and stated in his presentation and in response to questions raised by the Commission that he has started a small business at his home; that he operates a HVAC business; that he would also like to build a home for his son on the same property; that the Restrictive Covenants do not allow subdividing; that he currently has 10 employees; that 5 of the employees drive their work vehicles to and from their homes; that 2 vehicles are on the site daily; that 5 to 6 employees visit the site daily; that he has been operating the business for 4 years; that he originally was located in Rehoboth; that the majority of the storage is indoors; that he has erected a fence between his neighbor and his property to screen the business activities; that he has not received any complaints; that his office is not designed for customers; that the majority of his work is performed off-site; that paved parking already exists on his property; that normal work hours are from 7:30 a.m. to 4:00 p.m.; that some of the employees are on-call for emergencies 7 days per week; that any dumpster or outside storage shall be screened; that he shares the driveway and entrance with his neighbor; that he maintains the driveway with his tractor; that he hopes to pave the entire driveway in the future; and that his two sons work for the company.

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 and to leave the record open to allow Counsel to research the deed restrictions and to report back to the Commission with his findings. Motion carried 5 – 0.

C/U #1887 – application of **MAYOLA A. CLARK** to consider the Conditional Use of land in AR-1 Agricultural Residential District for a monument sales and display to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.2 acres, more or less, lying south of Route 24 and east of Swan Creek approximately 2 miles east of the Town of Millsboro.

The Commission found that the Applicant provided a survey of the property which depicts the location of paved driveways, the dwelling and outbuildings on the premises, and a proposed location for the display of monuments.

The Commission found that DelDOT comments were received on December 2, 2010 in the form of a Support Facilities Report and that the Report references that a traffic impact study was not recommended and that the current Level of Service “E” of John J. Williams Highway will not change as a result of this application.

The Commission found that County Engineering Department Utility Planning Division comments were received on April 11, 2011 in the form of a memorandum and that the memorandum references that the site is located in the Oak Orchard Sanitary Sewer District; that wastewater capacity is available; that there is no sewer service available to the parcel at this time; that conformity to the North Coastal Planning Study will be required; that the parcel is in an area recently annexed into the Oak Orchard Sanitary Sewer District; that sewer service has not been extended to the parcel at this time; that the parcel will receive sewer service when development of an adjoining parcel occurs; that the adjoining project is known as Ferry Cove; that the schedule for providing sewer service is unknown at this time; that when sewer service becomes available connection to the sewer is mandatory and must occur within the first year of service being available; and that a concept plan is not required.

The Commission found that Mayola Clark was present and stated in her presentation and in response to questions raised by the Commission that she is applying for Conditional Use to allow the placement of some display monuments and a sign for advertising the Sipple Monument business; that she acts as a salesperson for a monument company; that she has a sales booklet to exhibit the types and sizes of monuments; that a sign has existed on the property for over 20 years; that she operates the business from her home on the property; that she would like to display no more than 3 or 4 monuments; that she meets some of her customers by appointment and that she has no set business hours; and that she would like to have a sign, no larger than 32 square feet on both sides, with directional lighting.

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 C/U #1887 for Mayola A. Clark for monument sales and displays based upon the record made at the public hearing and for the following reasons:

- 1) The Applicant has stated that the use has been in existence for more than 20 years. Signs have changed, but the basic use has remained the same over this time period.
- 2) The use is performed by the Applicant in her home, and is very nearly a home occupation.
- 3) The Conditional Use will not adversely affect any neighboring properties or roadways.
- 4) This recommendation is subject to the following conditions:
 - A. The use shall be limited to the Applicant's business of monument sales and displays.
 - B. The Final Site Plan shall show the area designated for monument displays. There shall be no more than four (4) monuments on display. No monuments are to be displayed in the front yard setback.
 - C. One lighted sign, not to exceed 32 square feet in size per side, shall be permitted.
 - D. The Applicant shall comply with all DelDOT requirements.
 - E. The hours of operation shall be between 9:00 a.m. and 6:00 p.m., or by appointment.
 - F. 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 5 – 0.

C/U #1888 – application of **MICHAEL HENDERSON** to consider the Conditional Use of land in AR-1 Agricultural Residential District and a GR General Residential District for a marine services and boat storage to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 6.81 acres, more or less, lying northwest of Road 305 (Hollyville Road) across from Road 306 (Indian Bay Road).

The Commission found that the Applicant provided a survey of the property which depicts the location of the dwelling and the proposed location of the boat storage area.

The Commission found that DelDOT comments were received on November 5, 2010 in the form of a Support Facilities Report and that the Report references that a traffic impact study was not recommended and that the current Level of Service "B" of Hollyville Road (Road 305) will not change as a result of this application.

The Commission found that County Engineering Department Utility Planning Division comments were received on April 11, 2011 in the form of a memorandum and that the memorandum references that the site is located in the North Coastal Planning Area; that the Applicant intends to use an on-site septic system; that conformity to the North Coastal Planning

Study will be required; that the proposed project is not in an area where the County currently plans to provide sewer service; and that a concept plan is not required.

The Commission found that Michael Henderson was present and stated in his presentation and in response to questions raised by the Commission that he is operating a marine service business and retail parts and accessory sales facility on Long Neck Road at the Leisure Point Retail Center; that all of his retail parts and accessory sales are performed at the Retail Center; that he performs marine service work on this site and off-site; that the marine service work includes general outboard engine repairs and tune-ups and electrical services on boats; that he resides on the site; that currently all of the work is performed outside; that he has no employees working at the site; that the proposed boat storage area will store 9 to 12 boats; that he may have 6 or more boats on the site waiting for service; that the maximum number of boats combined will not exceed 30 boats; that the boats stored will be parked on locked trailers or on blocks; that the pontoon boats would be shrink-wrapped; that he is proposing to install a swing gate at the entrance to the storage area; that the storage area is surrounded by trees; that he would like to erect a 4-feet by 4-feet sign for advertising; that he did receive a violation notice from the Zoning Department; that he tunes and services the outboard engines in a 100 gallon tank; that the tank water is recycled; that he uses biodegradable soaps; that all of his waste oils and greases are picked up and hauled away by a waste oil handler; that the tank is in close proximity to his dwelling and that he has no intent or desire to impact his well or the wells of any of his neighbors.

The Commission found that Victoria Eastburn was present in opposition to this application and expressed concerns about the waste oils, fluids, wash water from boat washing, and the possible impact of the well water in the area; that she is also concerned about the number of school buses that travel this road and turn around in front of the driveway; and that the runoff from the site naturally runs to the ditch behind her property.

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 and to leave the record open to allow Counsel to research the deed restrictions and to report back to the Commission with his findings. Motion carried 5 – 0.

Subdivision #2010-8 – application of **VILLAGES AT HERRING CREEK DEVELOPMENT CO., LLC**, to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 17.64 acres into 22 lots, and a waiver from the forested buffer requirements, located south of Sand Bay Drive within the Villages of Herring Creek, south of Road 277.

Mr. Abbott advised the Commission that the Technical Advisory Committee Report of March 7, 2011 is a part of the record for this application; that the Applicants submitted an Exhibit Booklet on March 23, 2011 that is a part of the record; and that the Applicants have an Irrevocable Power of Attorney for the lot owners.

Harold Dukes, Attorney and one of the partners for the developer and Jessica Nichols, P.E. with Artesian Consulting Engineers, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the existing subdivision was approved in 2003; that this site is a 17 acre site that was formerly used as an on-site wastewater treatment site; that County sewer is now available in the area and the residents are connecting to the County sewer; that this site is surrounded by other developments; that the proposed lots are larger than the surrounding lots in the other developments since they are cluster developments; that all of the amenities in Phase 1 have been completed except for a tennis court; that 22 single-family lots are proposed; that Phase 1 contains 119 lots; that Phase 1 will be connected to County sewer in the Fall of 2011; that the minimum lot size is 20,000 square feet; that Tidewater Utilities will provide central water to the site; that buffers are proposed along the eastern and western boundaries; that a buffer is not proposed along the southern boundary since it adjoins another development; that the proposed density is 1.25 lots/acre; that the items referenced in Section 99-9C of the Subdivision Code are referenced in the Exhibit Booklet and summarized these items; that DelDOT will probably not require any major improvements to the existing entrance; that a notice will be provided to all future lot owners advising them of the previous use of the site; that Phase 1 currently contains 38 dwellings; that Phase 2 will utilize the same amenities as Phase 1; that the existing clubhouse is one of the largest in the area; that this project will have the same restrictions as Phase 1; that 1,300 square foot dwellings will be the minimum dwelling size; that there is adequate room for a buffer along the southern boundary if the Commission deems it necessary; that there are no wetlands on the existing site; that there are no rapid infiltration basins on the site; and that the existing lined-lagoon will be pumped dry, unlined and filled and that this work will be overseen by DNREC.

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. Smith and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE I, IV, V, VI, VIII, IX, XI, XIA, XII, XIII, XIV, XV, XXV, AND ARTICLE XXVI RELATING TO WIND TURBINE AND WINDMILLS IN SUSSEX COUNTY.

Mr. Lank introduced the title of the proposed Ordinance Amendment.

Mr. Robertson summarized the proposed Ordinance Amendment that establishes regulations for wind turbines in the County as the State of Delaware has, by statute, eliminating the role of the Board of Adjustment in the process of approving wind turbines, and added that there is a definition of a Wind Turbine and Windmill for inclusion in the Zoning Ordinance; that the Ordinance takes out all references to windmills under Special Use Exceptions since that would require Board of Adjustment review and places the reference in permitted accessory uses; that a new section for Wind Turbines is placed in the Code to deal with the setbacks and heights of requested Wind Turbines; that the setbacks are based on the height of the turbine and the length

of one blade above the turbine; that this Ordinance Amendment would govern Wind Turbines in the County along with any other requirements spelled out in the Delaware Code; that the Ordinance does not address noise decibels, since the DNREC already regulates noises; and that this Ordinance Amendment brings the County Code into compliance with the Delaware Code.

Mr. Lank advised the Commission that to date he has not received any written comments for or against this proposed Ordinance Amendment from any agency or individual.

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

At the conclusion of the public hearings the Commission discussed this Ordinance Amendment.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to forward a recommendation to the Sussex County Council that the Ordinance Amendment be approved as presented. Motion carried 5 – 0.

OTHER BUSINESS

Richard F. Lynam
C/U #1834 Site Plan – Hebron Street

Mr. Abbott advised the Commission that this is a site plan for seasonal storage of umbrella stands; that this Conditional Use was approved on October 5, 2010 with 7 conditions; that the 7 conditions are referenced on the site plan; that 9 beach storage sheds are proposed; that an 8-foot high solid vinyl fence is required and proposed; that the proposed landscape buffer consists of 26 trees including white pine, spruce and yews; that a buffer is not proposed on the northeastern boundary since there is an existing building on the adjoining site that is located only 1-foot from the property line; that all agency approvals have been received; and that the Commission was previously provided a copy of the site plan.

Mr. Johnson questioned if a gated fence is shown on the site plan.

Mr. Abbott advised the Commission that the fence shown does not show a gate but there is a note on the site plan that indicates that the fence will be secured at all times and that only representatives of the Applicant will have access to the fenced in area.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the site plan as a preliminary with the stipulation that the final site plan shall show the gate for the fence and that the final site plan shall be subject to the review and approval of the Commission and to approve the landscape plan as submitted. Motion carried 5 – 0.

Delmar Feed Mills, Inc.
3 Lots & 50' Right-of-Way – Road 536

Mr. Abbott advised the Commission that this is a request to subdivide a 2.75-acre parcel into 3 lots with access from a 50-foot right of way; that Lot 1 will contain 0.75-acre, Lot 2 0.77-acres and Lot 3 0.85-acre; that the owner is proposing to create the 50-foot right of way over an existing 50-foot entrance to the site; that DelDOT has issued a Letter of No Objection for the entrance; that this request was previously approved by the Commission on October 14, 2009 but was not recorded within one-year of the date of approval; that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require an application for a major subdivision; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve the request as submitted with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 5 – 0.

Subdivision #2006-75 – Tull Group, LLC
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Commission granted preliminary approval for 222 lots on September 17, 2008 and granted a one-year time extension on October 14, 2009; that this is the second request for an extension; that if an extension is granted, it shall be retroactive to the anniversary date of preliminary approval and preliminary approval would be valid until September 17, 2011; and that the Commission was previously provided a copy of the request.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to grant a two-year time extension, retroactive to the anniversary date of preliminary approval. Preliminary approval is now valid until September 17, 2012. Motion carried 5 – 0.

ADDITIONAL BUSINESS

The Commission discussed the need to schedule a workshop meeting for the Commission to discuss possible ordinances, policies, procedures, concerns, etc.

There was a consensus of the Commission to schedule a workshop meeting for Wednesday afternoon, May 11, 2011 at 3:00 p.m.

Meeting adjourned at 8:25 p.m.