



# PLANNING & ZONING

## AGENDAS & MINUTES

### MINUTES OF THE REGULAR MEETING OF OCTOBER 14, 2010

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 14, 2010, 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. I. G. Burton, Mr. Michael Johnson, 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. Johnson, and carried unanimously to approve the Agenda as amended by deleting Item 1 under Other Business. Motion carried 5 - 0.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of September 23, 2010 as amended. Motion carried 5 - 0.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Consent Agenda. Motion carried 5 - 0.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the items on the consent agenda as submitted. Motion carried 5 - 0.

### CONSENT AGENDA

The Consent Agenda included:

Subdivision #2005 – 60 – Mandrin Homes  
Time Extension

This was a request for a one-year time extension. The Commission granted preliminary approval for 57 lots on October 17, 2007 and granted one-year time extensions on September 17, 2008 and October 14, 2009. This is the third request for an extension. If an extension is granted, preliminary approval will be valid until October 17, 2011.

Subdivision #2007 – 13 – C. Larry McKinley

This was a request for a one-year time extension. The Commission granted preliminary approval for 206 lots on November 13, 2008 and granted a one-year time extension on February 17, 2010. This is the second request for a time extension. If an extension is granted, preliminary approval will be valid until November 13, 2011.

## OLD BUSINESS

C/U #1855 – application of **DOUBLE R HOLDINGS, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for general offices and medical/professional offices to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 3.40 acres, more or less, lying southwest of Plantation Road (Road 275) 2,100 feet northwest of Route 24.

The Commission discussed this application, which has been deferred since September 9, 2010.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1855 for Double R Holdings, LLC for medical and professional offices based on the record and for the following reasons:

1. This application previously was approved as Ordinance No. 1732, for Conditional Use No. 1573, by the County Council in 2004. That Conditional Use became void for reasons including the death of Ross Harris, P.E., an owner of the project and the person responsible for obtaining all necessary permits.
2. The site is within a development district according to the County Land Use Plan.
3. This application is for professional offices including doctor's offices. This location is appropriate for such a use, given the close proximity to the Beebe Health Campus.
4. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
5. The use is of a public or semi-public character and is desirable for the general convenience and welfare of the area and the County.
6. This recommendation for approval is subject to the following conditions and stipulations:
  1. The offices shall be limited to professional medical care or other services incidental to such a use. The offices may also be used for professional services such as law offices, accountant offices, engineering offices and similar professions. The project shall not be occupied by general contractors, contractors, retail operations, or other uses inconsistent with the residential nature of the neighboring properties.
  2. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on any neighboring properties or Plantation Road.
  3. The use shall comply with all DelDOT regulations and requirements.
  4. The project shall be connected to the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District as soon as that service is available to the site. In the interim the project may be served by an on-site sanitary sewer system in accordance with DNREC regulations.
  5. The Site Plan shall be designed so that the buildings are configured with a residential appearance. As part of the Site Plan review, Front, Side and Rear Elevation Plans

- shall be submitted to the Commission to confirm the residential appearance and character of the buildings.
6. All parking shall be relocated to the rear or the interior of the property and screened from view from Plantation Road and neighboring residential properties. In addition, there shall be a landscaped buffer area along the northern and southern boundaries of the property.
  7. Hours of operation shall be limited to 7:00 a.m. until 8:00 p.m. Monday through Friday and 8:00 a.m. until 5:00 p.m. on Saturdays.
  8. One lighted sign, not to exceed 32 square feet in size per side shall be permitted.
  9. The Final Site Plan shall be subject to the approval of the Planning and Zoning Commission.
  10. If approved by County Council, the Conditional Use shall become null and void unless substantially underway within three (3) years of Council's approval.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried with four votes 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, with Mr. Wheatley not voting since he was not in attendance during the public hearing.

Ordinance Amendment – AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXIV SUBSECTION 115-172 G RELATING TO CONDITIONAL USES REGARDING MANUFACTURED HOMES.

The Commission discussed this Ordinance Amendment, which has been deferred since September 23, 2010.

Mr. Johnson expressed some concern about “immediate” removal of ramps when an emergency no longer exists.

Mr. Robertson stated that during the public hearing there was a lot of comments about more definition and clarity regarding ramps for emergency needs; that he has reviewed the record and would like to suggest some revisions that include clarification that the County is who granted the prior permit referenced in Section (13); that there was testimony from the audience about “permits” from home dealers, park owners and the County and who had ultimate authority; that for clarity the Ordinance needs to address the words “temporary” and “for emergency needs” in Section (14); that since this proposed Section exempts such ramps from setback and lot coverage requirements for emergencies, the audience commented that it should state more clearly that it is for emergency purposes only; that he also suggests that a phrase requiring a doctor's note be a basis for the handicap ramp; that he suggests similar language to what currently exists in the Code for medical hardship extensions; and that he suggest that the Ordinance include a sentence at the end of Section (14) requiring that the ramp be removed if the emergency need no longer exists, since the use was only intended to be temporary.

Mr. Robertson offered the following reasons for consideration should the Commission decide to recommend approval of this Ordinance Amendment:

1. This Amendment is the result of meetings and recommendations from a Manufactured Housing Committee that included representatives from the County, Park Owners and Home Owners.
2. This Amendment clarifies regulations regarding accessory buildings in manufactured home parks, and adds Code language addressing the construction, location and dimensions of unenclosed steps, landings and handicap ramps providing access to mobile homes, which had previously been subject to size and lot coverage limitations that were often unreasonable.
3. It is recommended that **Section 2**, creating a new Subparagraph 13 of Section 115-172G of the Code be amended in the last sentence to read, "An existing accessory building, of the same dimension, may be replaced in the same location if the accessory building was previously permitted by Sussex County and if authorized by the Park Management." As currently worded, it is unclear who may have granted the previous permit.
4. It is recommended that **Section 2**, creating a new Subparagraph 14 of Section 115-172G of the Code be amended to insert the word "temporary" prior to the words "handicap ramps" throughout the Subparagraph; and by adding the words "for emergency needs" after the words "handicap ramps" in the first line of the Subparagraph.
  - a. It is recommended that the 4<sup>th</sup> sentence of new Subparagraph 14 be amended so that it states as follows: "Temporary handicap ramps may be permitted for emergency needs upon receipt of an affidavit from a doctor on an annual basis that an emergency situation exists and shall be subject to the approval of Park Management, the Director, and the County's Chief of Building Code."
5. It is recommended that a new sentence be added at the end of new Subparagraph 14 to state: "A temporary handicap ramp permitted under this Subparagraph shall be removed if the need for it no longer exists."

Mr. Johnson stated that he would move that the Commission adopt the Motion suggested by Mr. Robertson.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried with 4 votes to forward this Ordinance Amendment to the Sussex County Council with the recommendation that the Ordinance Amendment be approved with the referenced amendments noted. Motion carried 4 – 0 with Mr. Ross not voting since he was not present during the public hearing.

Ordinance Amendment – AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING XXVII SUBSECTION 115-211 RELATING TO VARIANCES.

The Commission discussed this Ordinance Amendment, which has been deferred since September 23, 2010.

Mr. Robertson stated that during the public hearing there was a lot of comments about this Ordinance Amendment and that the intent of this Ordinance Amendment was primarily building separation and that there is a need to clarify the intent of the Ordinance Amendment; that he tried several ways of inserting wording and found it difficult to do so, so that he has proposed a rewrite to insert reference to "separation", and "previously permitted by Sussex County", and

rearranging it so that the amendment makes sense; that since the intent is the same (and the words are basically the same but in a different order), it does not require that the Ordinance Amendment be re-advertised and run through hearings again;

Mr. Robertson offered the following reasons for consideration should the Commission decide to recommend approval of this Amendment:

1. This Amendment is the result of meetings and recommendations from a Manufactured Housing Committee that included representatives from the County, Park Owners and Home Owners.
2. The Amendment clarifies that a neighbor to a property that has received an approved variance for the location of an accessory structure does not need to apply for his or her own variance when he or she replaces their own accessory structure with one of the same size, and as long as other setback requirements are met.
3. This recommendation is subject to the following suggestions:
  - a. There is an apparent typographical error in **Section 1**. It should refer to Section 115-211, not Section 115-121 as currently worded. The heading of the Ordinance correctly refers to Section 115-211.
  - b. Council should consider inserting the words “as previously permitted by Sussex County” to the Ordinance. This would make it consistent with the requirements of the Ordinance Amendment for Conditional Uses Manufactured Homes, which allows the replacement of an existing accessory, building, but only if it was previously permitted by Sussex County.
  - c. Because this Amendment still requires all setback requirements to be met, and only avoids the need for a variance regarding building separation, this should be clarified.
  - d. It is suggested that the amendment be redrafted to incorporate these changes, so that it now reads as follows:

H. In a Manufactured Home Park, if an adjoining site received a variance for building separation from Sussex County, no variance for building separation caused by the adjoining site’s variance shall be required for the replacement of an existing accessory structure previously approved by Sussex County, as long as all setback requirements are met and the replacement structure is of the same size and on the same footprint.

Mr. Johnson stated that he would move that the Commission adopt the Motion suggested by Mr. Robertson.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried with 4 votes to forward this Ordinance Amendment to the Sussex County Council with the recommendation that the Ordinance Amendment be approved with the referenced amendments noted. Motion carried 4 – 0 with Mr. Ross not voting since he was not present during the public hearing.

## PUBLIC HEARINGS

Subdivision #2010-1 – application of **BARBARA ANN MANSHIP** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by

dividing 7.29 acres into 3 lots, (strip lots), located west of Gravel Hill Road (Route 30), 170 feet south of Neptune Road (Road 251).

Mr. Abbott advised the Commission that DelDOT issued a Letter of No Objection for the entrance locations on May 11, 2009 and that Parcel A will have a single entrance and that Parcels B and C will have a combined entrance.

Barbara Manship was present on behalf of this application and stated in her presentation and in response to questions raised by the Commission that the parcels have been surveyed; that percolation tests have been completed and that the lots are suitable for on-site septic systems; that the parcels are for single-family dwellings; and that the lots are in character with other lots in the area.

Laura West, an adjoining neighbor, spoke in support of this application and stated that the proposed lots are in character with the area; and that the subdivision will improve the area.

No parties appeared 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 preliminary and final site plan approval of Subdivision #2010 – 1 for Barbara Manship, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low-density single-family residential development. The proposed subdivision density of 3 lots on 7.29 acres of land is significantly less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. This approval is subject to the following conditions:
  - A. There shall be no more than 3 lots within the subdivision.
  - B. All entrances shall comply with all of DelDOT's requirements.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve this application as a preliminary and as a final, for the reasons, and with the conditions stated. Motion carried 5 – 0.

Subdivision #2010-2 – application of **KIDFAR PROPERTIES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 2.01 acres into 2 lots, located southeast corner of the intersection of Road 48 (Hollymount Road) and Scottie Run, a private road.

Joseph Farnan, Attorney, was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that 2 lots are proposed; that each lot is approximately 1 acre in size; that the existing dwelling located on Parcel B will remain; that septic has been approved for both parcels; that an adjoining neighbor sent a letter in support of this application; and that central sewer may be available in the future.

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

Mr. Johnson stated that he would move that the Commission grant preliminary and final site plan approval of Subdivision #2010 – 2 for Kidfar Properties, LLC, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low-density single-family residential development. The proposed subdivision density of 2 lots on 2.01 acres of land is less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. This approval is subject to the following conditions:
  - A. There shall be no more than 2 lots within the subdivision.
  - B. All entrances shall comply with all of DelDOT's requirements.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve this application as a preliminary and as a final, for the reasons, and with the conditions stated. Motion carried 5 – 0.

C/U #1860 – application of **JOHN F. AND LORRY A. LUIKART** to consider the Conditional Use of land in a B-1 Neighborhood Business District for a multi-family dwelling structure (2 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 8,140 square feet, more or less, lying east of Pennsylvania Avenue and Route One and 75 feet north of Bennett Road.

The Commission found that on October 1, 2010 the Applicant provided an Exhibit Booklet which contains a cover letter provided by Robert V. Witsil, Jr., Attorney, a copy of the application form, a photograph of the existing structure on the property, a tax map of the site and general area color coded to show existing zoning, commercial uses, and multi-family uses, a survey of the property showing existing conditions, a photograph of a similar building proposed, a proposed site plan, a sketch and description of the proposed building, photographs of some of the buildings in the area, and four letters in support. The four letters were signed by Thomas Crowley, Ruby Evans, Wilson M. Compton, and Perry Psaros.

The Commission found that on June 29, 2009 DelDOT provided comments in the form of a Support Facilities Report and advised that a traffic impact study was not recommended and that the existing Level of Service "C" of Pennsylvania Avenue will not change as a result of this application.

The Commission found that on October 12, 2010 the County Engineering Department Utility Planning Division provided comments in the form of a memorandum and advised that the site is located in the Bethany Beach Sanitary Sewer District; that wastewater capacity is available for the project; that the current System Connection Charge Rate is \$4,515.00 per EDU; that the parcel is served with one 6-inch lateral located along the parcel's frontage on Pennsylvania Avenue; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that the County requires that a County licensed plumber obtain a disconnection permit and properly disconnect the existing structure from sewer; that the disconnection requires inspection and approval by County personnel and shall be completed before undertaking site work, moving or demolishing the existing structure or issuance of a building permit for new construction; and that a concept plan is not required.

The Commission found that John and Lorry Luikart were present with Robert V. Witsil, Jr., Attorney, and that they stated in the presentations and in response to questions raised by the Commission that they have received four additional letters in support from residents in the area; that they are proposing to build a small duplex replacing an existing business improvement on the site; that the existing improvements were built prior to zoning jurisdiction by the County; that the improvements are actually two pre-fab garage structures converted into retail space and a shop; that the lot is considered to be within the Sussex Shores Beach Association commercial district; that the lot is adjacent to or in close proximity to Evans Insurance, Crowley Real Estate, Bethany Family Medical Center, and several condominium project; that the condominium project include "Beach Peeble", "Bethany Sea View", and Mallard Condominiums"; that they have looked around the Bethany Beach area and found a building design that they may duplicate with same and similar construction; that the building would be a little higher than the Crowley Real Estate building, but in compliance with Sussex Shores height limitations; that the use will comply with the Comprehensive Plan Update; that the site is located in the Bethany Beach Sanitary Sewer District; that central water will be provided by the Sussex Shores Water Company; that the County will benefit by the improvements by the receipt of additional tax based and impact fees; that they will be working with DelDOT to obtain approval of their entrance approval; that the site is directly across from the intersection of Pennsylvania Avenue and Route One; that they anticipate less vehicle trips per day than business use of the property; and that they will comply with the more restrictive height limitation, whether it is the County or the Sussex Shores Beach Association.

The Commission found that Mr. Witsil submitted copies of the referenced four additional letters in support that were signed by Eric and Kim Gilar, Marjorie Franc, Virginia L. Martins, and Mary Beth Donnelly.

The Commission found that Harvey Goldberg and Michael Guemen were present in opposition to this application and referenced that there are other residents in the area that oppose multi-family use of this property; that this project has caused controversy in the development and the



association; that a one unit residential building would be preferred since the site adjoins single family lots to the rear; that there are concerns about the height limitation and setbacks; and questioned the difference between covenants and Code.

Mr. Robertson advised the Commission that the more restrictive regulation is enforceable, whether it be the private deed covenants or the County Code, and that the County cannot enforce private deed covenants.

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

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1860 for John and Lorry Luikart for a multi-family dwelling structure of 2 units based upon the record made at the public hearing and for the following reasons:

1. The proposed Conditional Use will have no significant impact upon traffic.
2. The use, in close proximity to Bethany Beach, complies with the current Land Use Plan for Sussex County.
3. There are other multi-family dwelling structures with similar characteristics in the immediate vicinity.
4. The project will not have an adverse impact on the neighboring properties or community.
5. Letters of support have been received from neighboring property owners.
6. Two (2) residential units are more appropriate than a commercial or business use of this location at the irregular intersection of Route One and Pennsylvania Avenue.
7. This recommendation for approval is subject to the following conditions and stipulations:
  - a. Only two (2) residential units shall be constructed upon the property.
  - b. The development shall be served as part of a Sussex County Sanitary Sewer District.
  - c. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur the hours between 8:00 a.m. and 6:00 p.m.
  - d. The Conditional Use must be substantially underway within three (3) years or it will become void.
  - e. The Applicant shall obtain an entrance permit from DelDOT and comply with all DelDOT requirements.
  - f. The Site Plan shall be subject to the approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Ross 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 5 – 0.

C/U #1861 – application of **ABSHER CONSTRUCTION, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District to park/store construction equipment and materials, and light duty metal fabrication to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 2.622 acres, more or less, lying west of Trussum Pond Road (Road 462), 4,900 feet north of Wooten Road (Road 72).

The Commission found that on June 29, 2009 DelDOT provided comments in the form of a Support Facilities Report and advised that a traffic impact study was not recommended and that the existing Level of Service "A" of Trussum Pond Road will not change as a result of this application.

The Commission found that on October 12, 2010 the County Engineering Department Utility Planning Division provided comments in the form of a memorandum and advised that the site is not located in a proposed or current County operated and maintained sanitary sewer district; that the site is located in the Western Sussex Planning Area #4; that an individual 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.

Mr. Robertson presented 10 letters in support of this application from neighbors and area residents. The letters were submitted by William Chasanov, Attorney, on behalf of the applicant.

The Commission found that Rick Absher was present with William Chasanov, Attorney, and stated in their presentation and in response to questions raised by the Commission that Mr. Absher operates a construction business and needs to store and park construction equipment; that the letters in support show that Mr. Absher is and has been a good neighbor; that the Applicant does some minor repair work on the site; that 95% of his work is performed off-site; that his wife has been sick for some time and that he desires to be on the site as much as possible; that he is within one mile of several business uses, i.e. Mid-Shore Boat Sales and S & W; that he does not see a need for the storage of more than 10 vehicles or pieces of equipment; that he and a secretary are on the site daily; that he works with sub-contractors; that they work 6 days per week with hours from 8:00 a.m. until 5:00 p.m.; that he would like to erect a small sign to identify the business; that the light duty metal fabrication work is performed to assist local farmers and the farm and grain industry; that the lot to the rear of his property was established for his stepson; and that the lot to the rear is accessed through an easement across his 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. Ross stated that he would move that the Commission recommend approval of Conditional Use #1861 for Absher Construction, Inc. based on the record made at the public hearing and for the following reasons:

1. The use is of a public character that benefits the residents of Sussex County. The Applicant also provides a service that benefits Sussex County agriculture.
2. The use will not adversely affect neighboring or traffic. Most of the Applicant's work occurs off-site.
3. No parties appeared in opposition to the project, and letters of support were received from ten (10) neighboring property owners.
4. This recommendation is subject to the following conditions:

- a. The use shall be limited to the parking and storage of the Applicant's construction equipment, material and vehicles, as well as light-duty metal fabrication.
- b. The hours of operation shall be limited to Monday through Saturday, 8:00 a.m. to 5:00 p.m.
- c. One lighted sign shall be permitted, not to exceed 32 square feet per side.
- d. No more than 10 vehicles associated with the business shall be permitted at any one time.
- e. Any outside storage of materials shall be screened from view of neighboring properties.
- f. The location of any dumpsters shall be shown on the Final Site Plan, and any dumpsters shall be screened from view of neighboring properties.
- g. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

C/U #1864 – application of **DAWN'S COUNTRY MARKET** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a country market with BBQ, ice cream, Amish meats/cheese/baked goods and the sale of produce, nursery stock, flowers, and items associated with gardening to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 3.32 acres, more or less of a 14.92 acre tract, lying at the northwest corner of Cave Neck Road (Route 88) and Route One.

The Commission found that the Applicants provided a site plan and a report on their intended use of the site when the application was filed and that they referenced that they want to renovate the old dairy barn on the site by creating a country market; that in and around the barn they would like to create a market retailing produce and fruit, both grown on the farm and brought in from other farmers; that they would like to be able to have a small grocery retailing stable foods and other items, such as all natural cleaning products, keepsakes and gifts; that they would like to bring in vendors to retail tasteful items; that that would like to grow and bring in flowers and nursery stock for sale and create a small garden center with some wrought iron, pottery, statuary and other items associated with gardening; that they would like to convert and renovate the old milk house into a ice cream parlor; that they would like to erect green houses to grow plants from seed for their own use and retail sales; that in the future they would like to erect another building fitting the architecture of the farm and install, but not be limited to an Amish meat market, bake shop and cheese shop, and to erect a covered area where they could prepare and serve BBQ meats; and that they hope to bring the farm back to a better than original state creating a family destination that will benefit the community, mixing the experience of seeing a working farm in operation, while providing a family fun and safe environment.

The Commission found that on June 18, 2009 DelDOT provided comments in the form of a Support Facilities Report and advised that a traffic impact study was not recommended and that the existing Level of Service "D" of Coastal Highway (Route One) and the existing Level of Service "C" of Cave Neck Road (Route 88) will not change as a result of this application.

The Commission found that on October 14, 2010 the County Engineering Department Utility Planning Division provided comments in the form of a memorandum and advised that the site is located in the West Rehoboth Expansion Planning Area; that wastewater capacity is available for the proposed market; that a project exceeding 13.2 EDU may require downstream upgrades; that the current System Connection Charge Rate is \$4,411.00 per EDU; that use of an on-site septic system is proposed; that a central sewer gravity connection point is available in Cave Neck Road; that the project is capable of being annexed into the County operated West Rehoboth Expansion Area Sanitary Sewer District; that conformity to the North Coastal Area Planning Study will be required; that the property adjoins the existing sewer district boundary; that connection to the sewer system is strongly recommended; that the parcel could be annexed into the sewer district following completion of certain administrative procedures; that the County does not have a schedule at this time to extend sewer service to the north side of Cave Neck Road; that it will be the developer's responsibility to extend mainline sewer line across Cave Neck Road; that the County Engineer must approve the connection point; that a concept plan is required to be submitted for review and approval prior to requesting annexation to the District; that all cost associated with extending sewer service will be the sole responsibility of the developer; and that one time system connection charges will apply.

The Commission found that four e-mails in support of this application have been received by staff from Martin Inteli of Paynter's Mill, Gareth Tonnessen of Overbrook Shores, Robert Richardson of Paynter's Mill, and Kerry Williams of Overbrook Shores.

The Commission found that Dawn and Wally Goff were present and stated in their presentation and in response to questions raised by the Commission that they consider their project as an asset to the community; that they have received a lot of support and had a great summer; that they sell products that are locally grown or made; that they may gravel or pave the pickup and delivery area; that they have an outside area for vendors to prepare and sell BBQ; that they will temporarily be using portable toilets and hope in the future to add an addition to the barn for restrooms; that picnic tables are proposed; that the maximum number of employees will not exceed ten (10) employees; that their business hours are from 7:00 a.m. to 7:00 p.m. in season and 8:00 a.m. to 6:00 p.m. in the off season; that the in season is from Memorial Day through Labor Day; that they would like to erect a sign; that the sewer line is across Cave Neck Road; that they were not cited for being in violation of the zoning by operating the business; and that their entrance is off of Cave Neck Road.

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

#### OTHER BUSINESS

This item was removed from the Agenda on September 28, 2010 and Mr. Lank advised the Commission that the use is substantially underway.

Sunset Harbor  
CU #1612 – Revised Site Plan – Road 357

Mr. Abbott advised the Commission that this is a revised site plan for the purpose of relocating a single family detached dwelling from the current site along the north side of Canal Street to the northern side of River Street; that the existing Unit #71 will now be Unit 14A; that 6 parking spaces are being added to the former site of Unit #71 which is in front of the community buildings; that the cul-de-sac along Canal Street has been revised to a Y-type turn around; and that the Commission was previously provided a copy of the site plan.

Mr. Smith advised the Commission that he has reviewed the site plan with the staff and feels that the proposed revisions are an improvement to the project.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the site plan as revised. Motion carried 5 – 0.

Gray's Creative Touch  
CU #1745 – Time Extension and Preliminary Site Plan – Route 26

Mr. Abbott advised the Commission that this is a request for a one-year time and preliminary site plan approval; that this conditional use was approved on October 14, 2008 with 6 conditions; that the Commission granted a one-year time extension on April 14, 2010 retroactive to the anniversary date of approval; that this is the second request for an extension and the last that the Commission has the authority to grant; that if an extension is granted, approval will be valid until October 14, 2011; that the site plan is for a landscaping/garden center; that the 6 conditions of approval are referenced on the site plan; that all displays, bins, wagons, etc. are setback a minimum of 25 feet from all roadways; that if preliminary approval is granted, final approval could be subject to this office receiving all agency approvals; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Smith, seconded by Mr. Burton and carried unanimously to grant a one-year time extension. Approval is now valid until October 14, 2011. Motion carried 5 – 0.

Motion by Mr. Smith, seconded by Mr. Burton and carried unanimously to approve the site plan as a preliminary with the stipulation that final site plan approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

William T. and Betty J. Mumford  
Parcel and 50' Easement – Road 68

Mr. Abbott advised the Commission that this is a request to subdivide a 13.0-acre parcel into 6 and 7-acre parcels; that the proposed 6-acre parcel is proposed to have access from an existing strip of 71-feet along Old Stage Road; that the owner is proposing to convert the strip to a 50-foot easement across their other lands to serve as access to the 6-acre parcel; that the 7-acre parcel has existing road frontage along Old Stage Road; that the request can 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 the request.

Motion by Mr. Ross, seconded by Mr. Smith and carried unanimously to approve the request as submitted as a concept. Motion carried 5 – 0.

Kermick and Lillie L. Trammell  
Parcel and 50' Right of Way – Route 20

Mr. Abbott advised the Commission that this is a request to create a 1.4555-acre parcel with access from an existing 50-foot right of way known as Honeysuckle Drive; that the remaining lands will contain 17.0875-acres; that the request can be approved as submitted or an application for a major subdivision can be required; that if approved, this would be the second parcel having access from the right of way; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the request as submitted as a concept. Motion carried 5 – 0.

Subdivision #2005 – 79 – Paradise Property  
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 169 lots on January 18, 2007 and granted one-year time extensions on November 14, 2007, October 16, 2008 and November 12, 2009; that this is the fourth request for an extension; that preliminary approval is currently valid until January 18, 2011; and that the Commission was previously provided a copy of the request.

Mr. Smith advised the Commission that he has had a conversation with Mr. Robertson and that he is considering getting some feedback from the County Engineering Department since the Applicant has stated that delays have resulted from its work with the County Engineering Department and since the preliminary approval does not expire for over three months.

Ken Christenbury, P.E. with Axiom Engineering, LLC advised the Commission that when the application was originally approved, the project was to have an on-site central sewer system; that other developments have been approved in the area; that the County Engineering Department would like to see the project served by County sewer; that other agencies have approved the plan; that the sewer concept plan should be approved by the County Engineering Department by the end of October; and that he feels that one year will be adequate to received final approval.

Minutes

October 14, 2010

Page 15

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to grant a one-year time extension. Preliminary approval is now valid until January 18, 2012. Motion carried 5 – 0.

Meeting adjourned at 8:15 p.m.