

## ***Planning & Zoning Commission***

***August 24, 2017***

The regularly scheduled meeting of the Planning & Zoning Commission was held at Town Hall on August 24, 2017. In attendance were Chairman Boyan, Commission Members Catellier, Morgan and Wilson, Code Enforcement Officer Bounds and Community Development Coordinator Hardin. Absent: Commissioner Scholl and Clerk of Council Fisher. Guests: Brock Parker, Gloria Murray, Tim Brooks, Terrance Burke and Dedra West.

### ***Call to Order***

Chairman Boyan called the meeting to order. The Commission performed the Pledge of Allegiance. He asked anyone who would be addressing the Commission to sign in at the podium and that anyone with a cell phone to either turn it off or put it in silent mode.

### ***Approval of Minutes***

May, 2017- Commission Member Wilson made a motion to approve the May, 2017 minutes as circulated. Commission Member Catellier seconded the motion which passed with 3 ayes, 1 absent and Commission Member Morgan abstaining due to her absence at the May meeting.

July, 2017-There was not a quorum to be able to approve the July, 2017 minutes as circulated. They will be brought back up for approval in September.

### ***New Business***

Brock Parker- Parker & Assoc. - Foskey Lane- Proposed commercial site development for a proposed warehouse for Frito Lay, Foskey Lane, Delmar, MD

Mr. Parker stated that this is a revised plan to what they presented to the Maryland Mayor and Commissioners. This revised plan shows an additional 3,400 sq. ft. building. This is a result from when engineering and the storm-water management got together. Most of the engineering has been done and it has been determined that the additional pond is not necessary. Mr. Parker stated that he has moved the whole site over with the retention pond on the left side of the parking lot. He is bringing the revised plan here tonight to keep everyone as up to date as possible as he moves along with the process. There is now room for 3 building sites. He came before the Mayor and Commissioners a few weeks ago with the other plan and they were favorable to it, but they have not seen this plan with the 3<sup>rd</sup> building.

Mr. Parker said that the Frito-Lay distribution facility is at the rear west side of the property. The trucks coming in will load inside the building and turn around and leave. The access site is amazing in that it is so close to a highway. The front 2 buildings are spec. buildings. He is not sure if anyone is interested now but once Frito-Lay is there and there is some activity on the site, it might bring in interested parties.

He reviewed the landscaping plans and stated that the storm-water management is pretty well nailed down. The forest conservation area will be relocated on-site. They will be removing .1 acres and replacing .2 acres. The parking is still up to code even with the 3<sup>rd</sup> building.

Commission Member Wilson said that the issue at hand is that a warehouse is not an inherent use in the Community Business District. Community Development Coordinator Hardin said that is another issue before the Commission this evening. A proposed amendment to Section 10 of the Zoning Code to allow warehouses to the district. It currently does not make any accommodations for warehouses. Commission Member Wilson stated that she was having a hard time seeing a 3,400 sq. ft. building as a warehouse. Mr. Parker said that the front 2 buildings would be for retail office space.

CDC Hardin said that this is a preliminary review this evening. The 1<sup>st</sup> review (the concept review) was made to the Mayor and Commissioners of what was being proposed. Tonight is the preliminary review and those changes are to be incorporated as part of the preliminary review which will go before the Maryland Commissioners on September 11<sup>th</sup>. The permission to have a warehouse has not yet been approved. The Town is trying to have the Zoning Code changes to allow a warehouse in a Community Business District made simultaneously with the final approval of this proposal. It can be a condition for any recommendation the Planning and Zoning Commission wants to make. The Zoning Code change review is the last item on the agenda this evening.

Commission Member Catellier made a motion for favorable recommendation to the Mayor and Commissioners for the proposed commercial site development with a proposed warehouse with conditional approval of the warehouse in a Community Business District upon the amendment to the Zoning Ordinance for Community Business District permitted uses. This is located on Foskey Lane, Delmar, MD, per the attached drawings presented. Commission Member Wilson seconded the motion which passed with 4 ayes and 1 absent.

Gloria Murray- 603 A Bi-State Blvd. Delmar, DE- Renovation and Tenant Fit-out for childcare learning facility. Use permitted under "Special Exception"

Ms. Murray stated that she wanted to open a day-care in the building but the main concern is parking. There are 12 parking spaces on the side of the building she could use. In front there are also parking spaces. The neighboring building is a church but she will not be having daycare open the same time as the church is holding services. When clients do come in to bring in their kids, they usually all don't come in at the same time. As of yet, she has not spoken with the Pastor of the Church. The parents picking up the kids would be at scattered times as well and not all at once.

Ms. Murray said that using the side parking lot, which has 12 spaces, would enable everyone to use the sidewalk on that side to enter the building and alleviate the parking in the front and the crossing of the street.

She said that she is not currently licensed but when done with this process, she will bring all of the information to the State of Delaware for licensing for this location. That is the process. The number of employees she will have will depend on the number of children she is allowed to have at the facility. At the beginning it will probably be herself and another individual. Two employees are allowed to care for 1-4 infants. Pre-school and school-aged children there can be as many as 12. Right now she wants to concentrate on infants.

CDC Hardin said that Ms. Murray would have to meet all the Town's regulations under the Planning and Zoning Code for parking which will be reviewed by the Code Enforcement Officer prior to any building permits being issued. She will also have to meet all the State and local requirements such as getting a license through the State of Delaware as well as through the town of Delmar. When asked, Ms. Murray said that she has already put in an application to the Fire Marshal's office.

Commission Member Wilson said that she would have to go before the Delaware Board of Adjustments for a special exception for the parking. CDC Hardin said that he has already shared the process and procedure through an email for a special exception with Ms. Murray. She will have the burden of proof for the necessity of a special exception. It requires her to come before the Delmar, Delaware Board of Adjustments which is a quasi-judicial hearing in which minutes are taken and is conducted by the Town's Attorney. Ms. Murray will have to file for application with the Clerk of Council with a \$75.00 filing fee. The Clerk will contact the Town's Attorney and set up a hearing date. The burden to present and answer any questions and provide any evidence for a vote by the Board. She is entitled to have an attorney present if she chooses. There are costs involved with the process.

Commission Member Wilson questioned which should come first; Ms. Murray getting her license or her spending the time and money for the Board of Adjustments hearing. Ms. Murray said that the getting the facility must come first because she has to get everything straight with building permits, the fire marshal and then go to Dover, Delaware to the Office of Child Care and provide all that information to them. They will come and look at the building and give her any final approvals on how many children she can care for and what she needs to open up the business.

Commission Member Wilson made a motion for favorable recommendation to the Delaware Board of Adjustments for a special exception for a daycare/nursery use to be located at 603A Bi-State Blvd., Delmar DE. Commission Member Morgan seconded the motion which passed with 4 ayes and 1 absent.

CDC Hardin instructed Ms. Murray to attend the Delmar, Delaware Mayor and Council meeting on Tuesday, September 5<sup>th</sup> and ask for the same special exception. After that meeting, the Clerk of Council will contact the Town's Attorney to schedule the Board of Adjustments hearing. Planning and Zoning Chairman Boyan said that he would be present at those meetings as well.

Timothy Brooks- Clear View Enterprises- 8999 Ocean Highway, Unit D- Delmar, MD- Sign Approval

Mr. Brooks stated that Clear View Enterprises is a distributor for animal health products. They currently have 4 locations. Their Delmar location will be at the old GMA building which is a 10,000 sq. ft. warehouse space. There is an existing sign on the front of the building that is about the same size as what he is proposing to do. The proposed sign on the building is 60 ft. by 90 ft. He is also proposing a sign at the driveway entrance and that sign will be 22 in. by 55 in. The proposed sign might not be as big as the current one.

Mr. Brooks said that the building has one loading dock and one roll up door for the receiving of materials. There is a door on either side of the loading dock and the roll up door. One of the doors will only have "Unit D" on it. The height of the standing sign will not be taller than the existing tenant directional sign already in the front of the building.

Commission Member Catellier made a motion for favorable recommendation to the Maryland Mayor and Commissioners for sign approval for the 2 signs at Clear View Enterprises at 8999 Ocean Highway, Unit D, Delmar, MD per the attached drawings with the condition that the entrance sign does not exceed the height of the existing tenant directional sign in the same location. Commission Member Wilson seconded the motion which passed with 4 ayes and 1 absent.

MD Ordinance 735- P&Z Review and Comment- Amend zoning ordinance for the definition of The Board; to permit warehouses and distributors as inherent uses in Community Business districts; to amend provisions of Section 24 as to signs and amend Section 26 as to site plans.

Commission Member Wilson said that she had a hard time following the replaced wording. The Commission reviewed each change in the Ordinance as follows:

1. Amending the definition of "Board"

Commission Member Catellier read the actual wording as it is currently in the Zoning Code as the following: "Board- the Board of Zoning Appeals in Maryland and the Board of Adjustments in Delaware established hereunder." The replacement language is "Board-the Board of Zoning Appeals in Maryland and/or the Board of Adjustments in Delaware established hereunder."

2. Amending Section 10- Community Business District to permit warehouses and wholesale distributors as inherent uses.

Commission Member Catellier stated that the proposal is to insert warehouse and wholesale distributors as inherent uses under the Community Business District. Listed as #15- Warehouse, excluding truck terminals

# 16- Wholesale distributors, except those that are unsafe or hazardous in nature.

He said as he goes back through the inherent uses that many of the businesses have store fronts which are aesthetically pleasing. Many are on the main roads such as Route 13.

Adding this would allow many of these warehouses to be road front and will take away from the inherent aesthetics of all the inherent uses already in the Community Business

District. He believes that it will be better suited as a Special Exception. He feels it is totally appropriate to have a warehouse on the portion of Foskey Lane between Bi-State Blvd. and Route 13, per the earlier proposal by Mr. Parker, based on the existing surrounding buildings. Having this use as a Special Exception in the Community Business District will allow the Town to review the project a little closer and to look at where these projects are being located in regard to other established businesses.

Commission Member Wilson mentioned that warehouses are an inherent use under Section 11- Highway/ Regional Commercial District. She does not feel that making a warehouse an inherent use in the Community Business District goes along with the theme of current inherent uses that are already listed. She agrees that having a warehouse or distribution center in a Community Business District by Special Exception is the way to move forward.

CDC Hardin noted that warehouses and distribution centers can also be found in Section 12 in the Light Industrial District.

Code Enforcement Officer Bounds said that the Town's Highway/Regional Commercial District includes the State Line Plaza. The Code currently allows for warehouses. He asked if this is leaving the Town open to the possibility that warehouses could replace the stores on that site. He said the older strip developments, which State Line Plaza is one, starts to go under, usually warehouse type businesses come in. He is not sure that a warehouse in the State Line Plaza is keeping in the nature of what everyone is hoping will happen to the Plaza. When vacancies happen, do they remove the walls between the vacant stores and make it a larger space for things such as a warehouse? He is suggesting that warehouses in the Highway/Regional Commercial District should be as a Special Exception as well.

The consensus of the Commission was that while they understood what CEO Bounds was saying, they didn't think there is a cause to regulate warehouses as a Special Exception in the Highway/Regional Commercial District.

CDC Hardin agreed with the thought process of the Code Enforcement Officer. He said that the reason why new businesses have to come before the Planning and Zoning Commission as well as the Delaware Council and Maryland Commission is for a more in depth review. Just because the zoning allows a particular business to operate there doesn't always mean it is going to get approved.

### 3. Substituting Sign Language in Section 24.B 3E

Commission Member Catellier read the current wording of Section 24.B 3 E as it is in the Zoning Code. It basically states that only 12 inch by 12 inch signs are allowed. The intent of the Code should be the sign can be 1 sq. ft. for every 1 linear ft. of the building frontage.

### 4. Substituting Language for Signage in Section 24.B.5.C.1

Commission Member Wilson stated that this is just a language substitution.

Instead of “whichever distance or the greater” and it should read “whichever distance is the greater”

5. Substituting Language for Signage in Section 24.B.6.A.2

Commission Member Wilson stated that this is referencing the paragraph above.

6. Substituting Language for Signage in Section 24.B.8.A

Commission Member Wilson said that this should be referencing B9 instead of B8.

7. Substituting Language for Signage in Section 24.B8.A.C

Commission Member Wilson notated the same change, referencing B9 instead of B8.

8. Development Site Plan- Substituting Language in Section 26.A.2

CDC Hardin said that the wording currently states that petitioners would have to come before an Appeals Board for an extension of the final approval. This is being changed so that the petitioners would have to come to either the Mayor and Commissioners of Delmar, MD or the Mayor and Council of Delmar, Delaware. There is no need to have an Appeal process just for an extension.

9. Substituting Language in Development Site Plan- Section 26A.5.D

CDC Hardin said the same applies to this change as to the one in #8.

Commission Member Catellier made a motion to approve the review of Ordinance 735 with the following recommended changes:

2. “Warehouse or Wholesale Distributors” shall be included in the Community Business District under Special Exception.

3. The restrictions on the dimensions of the sign should read 1 sq. ft. per 1 linear ft. of building frontage.

Numbers 1,4,5,6,7,8,9 are agreed upon as submitted.

Commission Member Morgan seconded the motion which passed with 4 ayes and 1 absent.

***Public Comments***

Mr. Burke identified himself as a Pastor at the New Life Commission at the corner of N. Pennsylvania Avenue and Delaware Avenue. He said that the Town of Delmar has a lot of historic value. He is interested in restoring historic properties. Planning and Zoning Chairman Boyan said that his house will be 100 years old this year. Mr. Burke mentioned that his Church will be having at booth at the Heritage Day celebration. He and/or members of his Church will be attending different meetings that the Town holds so they can get a feel of the Town and the Town can get to know who they are as well.

CDC Hardin said that he appreciates the interaction of the Community at these meetings and getting input from the residents. The more input that is given to the Town by the Community the better the Town can frame the regulations and ordinances that are put in place.

Commission Member Wilson asked about the training for Planning and Zoning Members that took place in Ocean City. She was ill and could not attend. CDC Hardin said that every Board Member and Planning and Zoning Member are supposed to be certified in their training. On the Maryland side, it has been offered quite a few times. It is a one-time requirement for certification for the entire period the Member serves.

***Adjournment***

Motion for adjournment was made by Commission Member Morgan and was seconded by Commission Member Wilson. The motion passed with 4 ayes and 1 absent.

Respectfully submitted,

*Cindy Fisher*

*Clerk of Council*