

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

**July 23, 2009**

The regularly scheduled meeting of the Planning & Zoning Commission was held at Town Hall on July 23, 2009. In attendance were Chairman Houlihan, Commissioner Anderton, Commission Members Henderson, Ferro, Dixon, Code Enforcement Officer Bounds, and Clerk of Council Fisher. Absent: Commission Members Boyan and Slabaugh. Guests: 72 signed in guests. (Please see attached).

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

Chairman Houlihan called the meeting to order.

He reported that Commission Member Boyan had informed him last month that he would not be able to attend this month's meeting. He also stated that he had not heard anything from Commission Member Slabaugh in reference to her absence.

Chairman Houlihan welcomed everyone and commented on the large crowd. Chairman Houlihan reported that the Town had received notification yesterday from Mr. Thomasson that he is withdrawing his request to be on tonight's agenda and wants to be rescheduled for August. Chairman Houlihan reminded everyone that Mr. Thomasson was told to gather some information for this meeting and as of yet he has not be able to get everything that was asked of him. Since Mr. Thomasson has asked to be removed from this agenda, the WoodCreek topic will not be discussed during the body of the meeting. If anyone wanted to stay until the end for Public Comments, they would be heard then.

### **Revised Motion- 9043 Newbridge Drive, Bridgewood Estates, Delmar, Maryland**

Chairman Houlihan stated that an approval for the construction of a new home had been given at last month's meeting and the Commission had been provided the incorrect address. So an amended motion will need to be made this evening.

Commission Member Henderson made a motion to revise the address for Atlantic Bay Homes in care of Bryan Adkins for plans for a single family residence at 9043 Newbridge Drive, Bridgewood Estates, located in Delmar, Maryland. Commission Member Dixon seconded the motion which passed with 5 ayes and 2 absent.

### *Approval of Minutes*

Commission Member Ferro made a motion to accept the June, 2009 Planning and Zoning minutes as circulated. Commission Member Dixon seconded the motion which passed with 5 ayes and 2 absent.

### *New Business*

#### **Anna Cooper & Dean Adkins- Sign Permit for First State Thrift Store**

Owner Anna Cooper and East Coast Signs representative Dean Adkins were present to request approval for a sign for the First State Thrift Store at 18 N. Pennsylvania Avenue in Delmar, Delaware.

There was some discussion that the new sign would go on the existing sign pole that would make the sign come out at the front of the building. There was also discussion on how much room there would be from the bottom of the sign to the sidewalk. The Commission wanted to ensure that there was enough head room for pedestrians.

Mrs. Cooper explained that her business would be selling small furniture, DVD's, toys and knick-knacks in general and would not be taking consignments.

Chairman Houlihan stated that he welcomed this new business to Delmar.

Commission Member Henderson made a motion for the approval for Anna Cooper and Dean Adkins for sign approval for 18 N. Pennsylvania Avenue, Delmar, Delaware per the attached drawing. Commissioner Anderton seconded the motion which passed with 5 ayes and 2 absent.

#### **Dan Trader- Sign Permit for Bi-State Pharmacy**

Mr. Dan Trader requested approval for the placement of 2 signs and for window graphics for Bi-State Pharmacy located at 5 E. State Street, Delmar, Delaware. He supplied a color rendition of what he wanted and also stated that the sign located on the east bound side of the building would be illuminated. Currently there is a sign already located at the site, and these signs would cover them. The plans showed corner signs for the building which will not sit on the sidewalk but will be mounted on brick.

Commissioner Anderton stated that he did not like the corner "blade" signs. Chairman Houlihan stated that he likes this type of business for the downtown area and did not really have an issue with the sign package.

Commission Member Dixon made a motion to approve the signs and window graphics for Bi-State Pharmacy for 5 E. State Street, Delmar, Delaware, per the attached drawings. The motion was seconded by Commission Member Henderson which passed with 5 ayes and 2 absent.

### **Delmar Sesquicentennial Committee- Banners**

Chairman Houlihan reported that the Delmar Sesquicentennial Committee has requested to be allowed to hang banners announcing the celebration for a longer period of time than what the code allows. He stated that Mayor Niblett has requested permission to hang the banners immediately and that they would be removed on the Monday following the week-long celebration. Chairman Houlihan stated that he thought the Planning and Zoning Commission could be flexible with this.

Commission Member Ferro made a motion for the Delmar Sesquicentennial Committee to be allowed to hang banners for the celebration effective July 23, 2009 until September 28, 2009. The motion was seconded by Commission Member Dixon and passed with 5 ayes and 2 absent.

### **Jamie Rostocki- “Casino” wording in Highway Commercial Zoning**

Mr. Jamie Rostocki reported that the land in question was one of the largest of the five Delaware annexations that occurred over a year ago. It has 131 acres and is zoned highway commercial and is located on Rt. 13 across from the race track. He stated that he has tried to recruit different retail uses for that area but with no success.

He said that the State of Delaware is trying to locate four other casinos within the State and he thinks lower Sussex County would be ideal. He spoke of the large scale of jobs that this venture would be able to offer to Delmar, along with any spin-off jobs. The study by the State will be concluded by October, 2009 and he thinks that it will be favorable that they will allow more casinos in the State.

He spoke of the proposal that Millsboro has already offered and he would like to be the second proposal with the Town of Delmar, but needs to have the word “casino” inserted as an allowable use in the highway commercial zoning district. The first step towards this goal is what he is doing tonight; speaking with the officials to see if this is something the town would want to do. He asked if there was a proposal that met all the needs of the Town and its’ residents and answered all the questions and satisfied all of the concerns, would this project be feasible for him to pursue. That’s what he needs to know.

There were some questions about Millsboro and the possibility that the State would allow two casinos in the same County. Mr. Rostocki stated that the general consensus is that the

State would only allow one and that Millsboro fast tracked that annexation and also created a zoning code that would allow casinos in that particular zoning district.

Chairman Houlihan stated that he is not comfortable with having a casino in Delmar and just putting the wording in the code is dangerous because Maryland and Delaware do mirror off of each other. He felt that Delmar would lose its' family atmosphere. Delmar basically is a railroad town that centers on their Friday night football games.

Commissioner Anderton stated that since this piece of property is the furthest away from the center of Delmar, why couldn't a new zoning district be established for only this parcel of land that would allow casinos? Chairman Houlihan did say that the Delaware Council does want to have a conversation with Mr. Rostocki on this issue and that he does want Mr. Rostocki to have the opportunity to go forward since a casino would actually help out the Delaware side financially, if it is done right. Although he feels it will help, he also thinks that there are other ways. The Joint Council will meet this Monday, July 27, 2009, at 7 p.m. and asked if Mr. Rostocki could attend. Mr. Rostocki stated that he will attend that meeting.

There was discussion of the October 15, 2009 deadline. Mr. Rostocki stated that anything he would have at this point is preliminary due waiting for Delmar to make a decision. Chairman Houlihan addressed the timing and stated that he felt that the Town was being pushed to make a decision.

Commission Member Ferro stated that he would like Mr. Rostocki to proceed to the next step, which would be coming to Monday nights' meeting and then have the residents and elected officials have their input and see what happens. He also recommended that the Planning and Zoning Commission establish a gaming zone for this particular parcel of land.

### *Old Business*

#### **Element- Doug Warner- Whitetail Run- Extension Request**

Doug Warner reported that the original preliminary plan for this subdivision was approved in September, 2008. He is present to ask for an extension request for 6 months. The project is in the final engineering stages and the only concerns are with water and sewer and how it will interact with Tidewater.

Commission Member Ferro and Mr. Warner had a conversation in reference to if six months was an adequate extension time. Mr. Warner stated that he did not think so, but he is not sure how long Tidewater will take on their end of the process. Chairman Houlihan stated that in these economic times, he is not the first developer who has asked

for an extension and probably won't be the last. There was more discussion and it was decided that a more adequate extension time would be 18 months.

Commission Member Dixon made a motion for a favorable recommendation to extend the preliminary plat approval for DWA Brittingham, LLC for the Whitetail Run Subdivision located in Delmar, Delaware, plat dated November 30, 2007 until March 25, 2011. The previous approval was made on September 25, 2008. Commission Member Henderson seconded the motion which passed with 5 ayes and 2 absent.

**Element-Doug Warner- Delmar Grove-Extension Request & DBOA Recommendation**

Mr. Warner stated that this is the second parcel that he is asking for the same type of extension due to the same circumstances as Whitetail Run. Also involved is a Special Exception given by the Delaware Board of Adjustments for the use of apartments in this R-2 zoning district.

Commission Member Dixon made a motion for favorable recommendation to extend the preliminary plat approval for Delmar Grove, located in Delmar, Delaware, plat dated October 3, 2008 until April 23, 2011. The previous approval was made on October 23, 2008. Commission Member Ferro seconded the motion which passed with 5 ayes and 2 absent.

Commission Member Dixon made a motion for favorable recommendation to the Delaware Board of Adjustments for the extension of the Special Exception for apartment use in the R-2 zone until April 23, 2011 for Delmar Grove, located in Delmar, Delaware with the plat dated October 3, 2008. Commission Member Henderson seconded the motion which passed with 5 ayes and 2 absent.

***Public Comments***

WoodCreek resident Laura Sapovits commented that she has lived in WoodCreek for two years and is opposed to the building of these Section-8 townhouses proposed by PCS Homes because it will bring the value of her home down. She also commented that she knows of no home in WoodCreek that only has one bathroom.

WoodCreek residents William and Catherine Mears commented that they have lived in WoodCreek for 5 years and have received many promises from PCS Homes, none of which has come to fruition. He stated that he actually cringes when he sees the signs in WoodCreek stating that "It's Fun To Live Here". He spoke of the HOA and how that didn't come to be due to some last minute voting. He said that they are dealing with a family locked company that has no morals.

WoodCreek resident Marsha Callis stated that she was in agreement with everything that she has heard. She also does not want Section-8 housing in WoodCreek. Some homes are very pricey in WoodCreek and these “trailer” homes will not be welcomed and the low-income families will damage the whole community.

WoodCreek resident Peggy Luber stated that WoodCreek is a nice neighborhood and she likes her neighbors and she doesn't want to see that changed.

WoodCreek resident Charles Palmer agreed with the frustration in dealing with broken promises from PCS Homes. He said that he moved here from St. Mary's County and that the Town of Delmar reminded him of his roots growing up with a small town atmosphere. He is against the new style of homes PCS Homes is proposing due to it impacting the Town and WoodCreek.

WoodCreek resident Raymond Brozzetti stated that he has lived in WoodCreek for four years and was a first time home buyer. PCS Homes has never followed through on anything that they promised him. He is definitely opposed to this new type of housing.

WoodCreek resident Eleanor Kaul stated that the Thomassons' tell the residents one thing and they go and do another. She has no faith in them. She said that there are already cement pads poured that haven't been built on.

WoodCreek residents Richard and Shirley Roby commented that they also are in agreement with everything that has been said. They said that for many of them, their house purchase was a major investment. With many of the WoodCreek residents being older, they just cannot start over as quickly as some of the younger residents, if at all.

WoodCreek resident Patrick Roberts stated that he is very proud of the residents of WoodCreek. He said that Mr. Mark Thomasson should be put on notice and he asked everyone here tonight to bring a friend with them next time. He said that the Thomasson's are destroying the property values in their own development.

WoodCreek resident Carol Wenkel stated that she just purchased her home in May of this year, but she is against the townhouses.

WoodCreek resident Hazel Coleman agreed with everyone. She said that she has been a WoodCreek resident for five years. She said that she did not move this far away from the Bay Bridge to live in the “ghetto”. She said that the Thomasson's advertise that living here is so much fun, but it is not. She also stated that Mr. Thomasson has been advertising that he will sell part of the land to other developers so that the parcel will be sold and they could get out from underneath.

WoodCreek resident Mary Anne LaQuay thanked the Planning and Zoning members for listening. Not only does she live in WoodCreek but also do members of her family.

WoodCreek resident Eleanor Orsini stated that she has lived here for five years and has been dealing with PCS Homes issues ever since. She said that PCS Homes does not respond to anything the residents have to say. She is asking the Commission for some help.

WoodCreek resident Doris Mackey stated that she also agrees with everything said here this evening. The Town of Delmar is a nice place to live and she enjoys the Church that she attends, but PCS Homes has made it so WoodCreek is not a nice place to live.

WoodCreek resident Janet Core also agreed with everything stated. She said that she is 70 years old and loves the Town. It is a beautiful place to live but with PCS Homes, it has been one disappointment after another.

WoodCreek resident Richard Pravlik felt like PCS Homes is trying to push things through, while they have plenty of lots still to build on. He said that PCS Homes feels like they can do anything they want and that they should be stopped.

WoodCreek resident Piotr Kawalec stated that he came here to America to live in a free country. He has fantastic neighbors and agrees with what has been said. He stated that he is asking for the help from the Planning and Zoning Commission to stop PCS Homes.

WoodCreek residents Bert and Gladys Saylor stated that these proposed townhouses would be built right across from them. He reported the damage that has been done to his house without any response from PCS Homes. He said that Mark Thomasson will probably come here when there aren't as many residents to complain.

WoodCreek resident Gene Dickerson commented that he has lived in WoodCreek for two years and has lived in Delmar since 1971 and thanked everyone for speaking out. He said that he has a lot of pride and takes these commitments seriously.

WoodCreek residents Rob and Cindy Tucker stated that they have lived and loved living in WoodCreek for four years. They said that they have been lied to by PCS Homes and there isn't anyone backing up the residents.

WoodCreek resident Francis Leatherbury stated that she agreed with everyone and that she has had a water spill and she has to pay dues for things in WoodCreek that she does not use.

WoodCreek resident John Stitcher stated that he has lived in WoodCreek for three years and agreed with everything said. He said that the HOA is a joke, since it will never come to fruition. The dues are to fund the golf course, which is not being maintained.

WoodCreek resident and architect Eric Catellier thanked everyone for staying late. He stated that he is a new home buyer in WoodCreek and was drawn to the community. He called Mark Thomasson a “bald-faced liar”. He wants to know what can be done to get PCS Homes out of the community.

There was some discussion on an injunction and hiring an attorney. Suggestions were made to have a “shadow HOA”. If everyone sticks together, then they are a force to be reckoned with. They could hold their meetings in the Clubhouse at WoodCreek.

There also was a discussion on who makes the final decision about the proposed townhouses. Chairman Houlihan said that this Commission will make a decision but not until Mr. Mark Thomasson comes forward with the information that the Commission had asked of him.

WoodCreek resident Alice Henderson held up a clipboard that she was passing around the group. She said that she knows someone who has gone through the same scenario that they are right now, and has won. She is asking for everyone to write down their contact information on the sheets on the clipboard. She wants to gather up the troops and act as one voice.

Delmar resident Howard Dickerson stated that he is against a casino coming to Delmar. He said that he does have a lot of respect for Mr. Jamie Rostocki, but a casino is not the image that he would want for Delmar.

Another Delmar resident stated that he is in favor of a casino.

Chairman Houlihan stated that this is the first time a lot of the audience has been to a Planning and Zoning meeting. He hopes that they have confidence in them. He said that the Commission speaks frankly and they have open discussions and they actually do think through their decisions. He asked the WoodCreek residents to have confidence on the decision that they will be making for the Town in reference to the proposed townhouses in WoodCreek.

He stated that the next Planning and Zoning meeting is scheduled for Thursday, August, 27, 2009 at 7:00 p.m. and that the agendas for these meetings are posted 10 days in advance and are on the Town’s website.

***Adjournment***

Commission Member Dixon made a motion for adjournment that was seconded by Commission Member Henderson. The motion passed with 5 ayes and 2 absent.

***Respectfully Submitted***

*Cindy Fisher*

*Clerk of Council*