

**Planning & Zoning Commission Meeting**  
**December 16, 2021**  
**MEETING HELD IN-PERSON & VIA TELECONFERENCE**

The regularly scheduled meeting of the Planning & Zoning Commission was held at Delmar Town Hall and via teleconference. Those in attendance: Deputy Mayor Jack Lenox, Council Member Odell Jones, Commission Members: Beverly Wilson and Rochelle Outten. Key personnel: CDC William Hardin, CEO Liz Peek, and Clerk of Council Vondell Spencer. Guests: Dipal Patel and via Teleconference: Ryan Conway and Chris Brown.

**Called to Order:**

Deputy Mayor Lenox called the meeting to order at 7:00 p.m. and performed the pledge of allegiance. He conducted a roll call of commission members to confirm a quorum. A quorum was established with four Commission Members present. Deputy Mayor Lenox acknowledged for the record that Mayor Jordan was in attendance for his first Planning and Zoning Commission meeting and thanked him for joining the meeting.

**Approval of Minutes –**

Deputy Mayor Lenox mentioned there is an issue of eligibility to vote on the October meeting minutes. Out of the four members present only two were present during the October meeting. He referenced Maryland had a similar situation, and the Town attorney advised a motion could be heard and a second, therefore if the two members who were in attendance that evening and if the Commission are then comfortable, we will call a motion, we will have two abstentions and two votes.

A motion was made and seconded (Wilson/Outten) to accept the October 21, 2021 meeting minutes as circulated by roll call vote with 2 Ayes 2 Abstain (Jones/Lenox).

A motion was made and seconded (Jones/Wilson) to accept the November 18, 2021 meeting minutes as circulated by roll call vote with 4 Ayes.

**New Business –**

- 1. Tommy Burdett/KW Keller Williams Realty – 3 Attractor Flags – 311010 Thornton Blvd., Unit #1, Delmar, DE** – Representative Mr. Burdett was not present at this meeting.

Deputy Mayor Lenox called for a motion to table this submittal in lieu of the fact that there is no one here to address questions that this Commission would inevitably have about this submittal. A motion was made/seconded (Wilson/Outten) and carried by roll call vote 4 Ayes.

**2. Ryan Conway/McCrone (Lincoln Heights) – Concept Plan – Parcel 55, Lot 2, 17 Residential Lots, Delmar, DE** – Representative Ryan Conway presented the concept plan.

Deputy Mayor Lenox stated this is the first time the Commission has seen this concept plan. He asked if Mr. Conway could walk them through just as an overview.

Mr. Conway agreed. Mr. Conway explained the proposal is a 17-lot relatively small residential subdivision off of North Fifth Street. The stormwater pond is in the middle. The plan is to fill in the tax ditch a little bit just to provide access to the main road throughout the site. Contact has been made with DNREC in regards to change the Tax Ditch Association. A picnic area is provided for the purposed community. The road goes to a cul-de-sac to allow turnaround. There is a dead-end for lot seven just to have access to that residential lot.

Deputy Mayor Lenox asked how complicated it is relocating or modifying the tax ditch. Mr. Conway answered it's not very complicated according to the Tax Ditch Association, we just have to prove that the flows are going to still be the same which it will be because they are filling that much and will still be providing a 36-inch culvert, we will just be extending that and still allowing all the proper draining areas into it so the flow won't really change at all; we will still keep the integrity of the ditch alive which will make them very happy. We are also trying to produce the right of way. As it currently stands there is a 60-foot wide right of way on the left side of that tax ditch and we are purposing to have 25 feet from the top of bank on both sides of the tax ditch on the purposed conditions just to allow our client to have more buildable space for the residential left. Commission Member Wilson said she is assuming CDC Hardin is aware of the timeline of being put on the list but approved for actual construction pending the sewer situation. CDC Hardin responded yes and that information was shared in the email comments that upon resolution of the pending I&I issue with the WWTP final approval is still quite a bit away. He added upon final approval and the project is good to move forward a Public Works Agreement has to be obtained so that the allocation of EDU's can be assigned. The allocation of EDU's are based on availability and capacity. Commission Member Wilson inquired if it's fair to say that it could be years in the works. CDC Hardin replied at the very earliest 2023, it would probably be later than that given the fact that there are other projects that have already been approved. She further said she would like for Mr. Conway to acknowledge that he is aware this project could take some time even if it is approved at a future meeting due to the I&I issue the Town is facing. Mr. Conway replied yes, he and his client are aware. Council Member Jones asked what was Mr. Conway's thoughts on the impact the proposed development will have on our school, police department etc. Mr. Conway further replied he cannot address that question; he's just the engineer for this project. However, he added that he didn't believe the impact would be too great because the development would only add 17 houses to the Town. Commission Member Outten commented thank you for contacting DNREC regarding the tax ditch that is currently running through the community. We've had tax ditches in other communities that can sometimes pose difficulty when building accessory structures next to a property and changing the right of way to 25 feet would help ease that. She said she also sees an easement to the west of the cul-de-sac; what sort of easement is that, is it for a sewer. Mr. Conway responded yes. There is an existing sewer manhole in the middle of the field which is the existing manhole to the west of the cul-de-sac and we were extending a sewer cleanout to the west just for any future connection purposes. CDC Hardin suggested to Council Member Jones he

might want to make some preliminary numbers as part of the evaluation so that he would have that data. Commission Member Wilson asked is that not already required. CDC Hardin answered it should be.

Deputy Mayor Lenox asked Mr. Conway to do a projection on the number of school aged children to be generated by the subdivision. Mr. Conway inquired for the number of EDU's?. Deputy Mayor Lenox responded for the development. Do a projection on what you are anticipating; the count for school age children would be, not right now but we will see you in the future. Mr. Conway replied okay.

Deputy Mayor Lenox asked your coming off of an existing Town Road, is that correct. Mr. Conway answered correct. He further asked is that road fully constructed. Mr. Conway responded, correct. Deputy Mayor Lenox inquired what the street cross-section looks like as purposed. Mr. Conway responded the right of way is 32 feet wide, the top of curb to top of curb width is 31 feet wide. Deputy Mayor Lenox further inquired if the Town required sidewalks. Mr. Conway further responded yes. According to the details of Delmar sidewalks are required. Deputy Mayor Lenox questioned how the curb to curb go 31 feet wide and right of way is only 32 feet wide. Mr. Conway replied from the right of way there is a 10-foot-wide utility easement that is also required where the sidewalk sits. He further questioned when you get to the purposed N. Fifth Street extension, you're dead ending into a large parcel, Karen Sullivan; so, you're laying this out for future extension. He further replied if possible but it's also stated in the code that since it's not 400 feet long that it does not require a cul-de-sac and that's also within Delaware State Fire Regulations that we are allowed dead-ends like that since it's only access one residential lot for their purpose of getting access. So, it could provide future connection but for right now its main purpose is just to serve that Lot 7.

Commission Member Wilson said on the front page under site information purposed lot count states 83 single family. Mr. Conway responded that's a typo. Commission Member Outten inquired lots 13 and 14 existing with a drainage swall. Would those lots still meet code requiring the setbacks and can it be noted on the site plan. Mr. Conway further responded in their purposed conditions they are planning on filling that part of the ditch in and moving it to the back of the lot just to maintain drainage to still be able to fit the houses on there within the buildable area of the setbacks. It would be along the rear setback line outside of the buildable envelope and it can be noted on the site plan. Commission Member Outten said it's currently being farmed; is it currently R2. CDC Hardin replied R1. Deputy Mayor Lenox commented before Mr. Conway returns back to Planning and Zoning take a look at Fifth Street and the other streets in the immediate vicinity anticipating it's a direct shot for school both for walkers and school buses. Just be prepared to advise this Commission on how this is going to fit in with the existing street and sidewalk pattern to make sure we tie this thing in as best we can and we are not creating a future problem for ourselves. Mr. Conway said okay. My colleagues and myself are aware when you come back, we will see a lot more detail when this submittal comes back at the preliminary stage; at that time our engineers will have had an opportunity to look at it as well and analyze some of the issues that were discussed about the stormwater, road design and more information on water and sewer but that will be addressed as the plans proceed.

- Dipal Patel – New Home Build – 9137 Drawbridge Drive, Delmar, MD** – Mr. Patel presented a new home build as referenced per the attached drawings. Deputy Mayor

Lenox inquired if there were many lots left and where they his. Mr. Patel replied three and one of those will be his pretty soon. Deputy Mayor Lenox questioned the 7-foot variance. Mr. Patel responded we are pushing the setback line back. CDC Hardin explained the MBOZA reduced the minimal requirements; it went from 30 to 23. He further inquired if those requirements are just for Mr. Patel's lot. CDC Hardin replied, yes. Commission Member Wilson mentioned she liked the design of the house. Deputy Mayor Lenox agreed. She further mentioned the purposed driveway should be added to the site plan.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Dipal Patel – New 9137 Drawbridge Drive, Delmar, MD, with the condition that proposed driveway location be added to the sight plan. A motion was made/seconded (Wilson/Jones) and carried by roll call vote 4 Ayes.

4. **Chris Brown/Ryan Homes – New Home Build – Wood Creek/Bramante – Lot 326, 9189 Clubhouse Drive, Delmar, MD** – Representative Chris Brown presented a new home build as referenced per the attached drawings. Deputy Mayor Lenox pointed out this is one of the lots that's inholding within the existing Wood Creek so, this is not in the new section of Ryan Homes it's within an existing developed street, a vacant buildable lot. This is the second one for Ryan Homes that we have seen. Commission Member Wilson commented we do not know the style of the houses on either side of this home. Deputy Mayor Lenox mentioned essentially this is a single story, doesn't have second floor street front windows which does fit in a little better with the existing Wood Creek homes.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Chris Brown/Ryan Homes – New Home Build – Wood Creek/Bramante – Lot 326, 9189 Clubhouse Drive Delmar, MD, per the attached drawings. A motion was made /seconded (Jones/Outten) and carried by roll call vote 4 Ayes.

5. **Chris Brown/Ryan Homes – New Home Build – Wood Creek/Allegheny – Lot 381, 9320 Mulligan Way, Delmar, MD** – Representative Chris Brown presented a new home build as referenced per the attached drawings. Commission Member Wilson mentioned there are vacant lots on either side of this Allegheny.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Chris Brown/Ryan Homes – New Home Build – Wood Creek/Allegheny – Lot 381, 9320 Mulligan Way, Delmar, MD, per the attached drawings. A motion was made/seconded (Outten/Wilson) and carried by roll call vote 4 Ayes.

- 6. Chris Brown/Ryan Homes – New Home Build – Wood Creek/Hudson – Lot 364, 9321 Mulligan Way, Delmar, MD** – Representative Chris Brown presented a new home build as referenced per the attached drawings. Commission Member Wilson mentioned there are vacant lots on either side.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Chris Brown/Ryan Homes – New Home Build – Wood Creek/Hudson – Lot 364, 9321 Mulligan Way, Delmar, MD, per the attached drawings. A motion was made/seconded (Outten/Jones) and carried by roll call vote 4 Ayes.

- 7. Chris Brown/Ryan Homes – New Home Build – Wood Creek/Pisa Torre – Lot 354, 9341 Mulligan Way, Delmar, MD** – Representative Chris Brown presented a new home build as referenced per the attached drawings. Commission Member Wilson mentioned Hudson models are on either side of this location.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Chris Brown/Ryan Homes – New Home Build – Wood Creek/Pisa Torre – Lot 354, 9341 Mulligan Way, Delmar, MD, per the attached drawings. A motion was made/seconded (Wilson/Jones) and carried by roll call vote 4 Ayes.

- 8. Chris Brown/Ryan Homes – New Home Build – Wood Creek/Hudson – Lot 390, 9348 Mulligan Way, Delmar, MD** – Representative Chris Brown presented a new home build as referenced per the attached drawings. Commission Member Wilson mentioned this lot has a Ballenger on one side and an Allegheny on the other.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Chris Brown/Ryan Homes – New Home Build – Wood Creek/Hudson – Lot 390, 9348 Mulligan Way, Delmar, MD, per the attached drawings. A motion was made/seconded (Jones/Wilson) and carried by roll call vote 4 Ayes.

#### **Public Comments –**

Commission Member Wilson wished everyone good tidings and good cheer.

CDC Hardin reminded the Commission the Maryland Comprehension Plan is due in 2023. Town Mgr. Bynum-King is putting together suggestions as to how to approach it. He is unaware if anyone attended the first meeting for the Planning Session. Maryland was much more relaxed in their approach than Delaware was. It still would require; work sessions outside of this Commission suggested/recommended. Commission Member Wilson asked did the Commission need to work in conjunction with that for the new Planning and Zoning 2015; when is it due or are they overdue. CDC Hardin responded he thought there was going to be some conversation about that in terms of suggestions with continued looking at revisions. Deputy Mayor Lenox

commented he thought that came up on two levels. There is the codification of the Town's codes that is actually going to be initiated then COVID hit and there were a lot of delays from that. There is a certain amount of clean-up work that can take place. Any major changes could very well grow out of the Comprehensive Plan. He also commented we initiate the updated Comp Plan; in the back of our mind, we have that last section on Plan Implementation which includes all the regulations. CDC Hardin responded the one difference in Maryland and Delaware in the Comp Plan is if there is a section that doesn't require a revision the entire Comp Plan does not have to be gone through overall. You can identify those portions of the existing plan that either needs to be revised or updated. Deputy Mayor Lenox asked is there a discussion about getting any professional assistance with this or are we looking to do it inhouse. CDC Hardin answered he was sure that recommendation could be made or requested for professional assistance.

Deputy Mayor Lenox called for a motion to adjourn the meeting. The motion was made/seconded (Jones/Wilson) and carried by roll call vote 4 Ayes.

Vondell Spencer  
Clerk of Council