

Planning & Zoning Commission Meeting
January 27, 2022
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: Chris Brown (via teleconference), Tom Bauer, Tim Metzner, Nila Nakrani.

Called to Order:

Council Member Jones called the meeting to order at 7:00 p.m. and performed the pledge of allegiance. He said that Deputy Mayor Lenox was on his way to the meeting, he will fill in and get started.

Approval of Minutes –

A motion was made and seconded (Wilson/Outten) to accept the December 16, 2021 meeting minutes as circulated by roll call vote with 3 Ayes 1 Absent (Lenox).

Note: Deputy Mayor Lenox arrived after the approval of minutes and apologized for his lateness.

Old Business –

None.

New Business –

- 1. Tom Bauer – Entrance Sign Installation – 13425 Grace Lane, Delmar, DE – Mr. Bauer presented an entrance sign installation as referenced per the attached drawings. Mr. Bauer said JB Signs would be installing the sign and it would take about six weeks after approval. He asked if they changed the color of the sign did it matter and how long they would have to wait. CDC Hardin answered technically what gets approved is what you are authorized to do, if the color got changed, they would have to go back through the channels.**

Commission Member Wilson inquired if their where other signs in the neighborhood. Mr. Bauer responded it's two other signs, a couple of Town signs but nothing at the entrance.

Commission Member Outten inquired if the sign was two-faced sign, so it can be seen both north and south. Mr. Bauer replied the view will be pointing towards the road.

Commission Member Wilson added it's two signs and Mr. Bauer agreed. Commission Member Wilson asked if neighborhood signs were specifically addressed in the Regulations. CDC Hardin answered it only addresses standalone signs. He added right now the Regulations only allow for a monument size sign that would stand no higher than 10 feet and be 30 square feet dimensionally.

Council Member Jones called for a favorable recommendation to the Mayor and Council for – Tom Bauer – Entrance Sign Installation – 13425 Grace Lane, Delmar, DE, per the attached drawings. A motion was made/seconded (Outten/Wilson) and carried by roll call vote 4 Ayes.

- 2. Tim Metzner/Davis, Bowen and Friedel – Construction Proposal – 38666 Sussex Highway, Delmar, DE** – Representative Tim Metzner presented a construction proposal for the Delmar Starbucks as referenced per the attached drawings located in the parking lot of the Stateline Plaza directly north of the Title Max Building. Mr. Metzner stated the last time he appeared before this Commission the developer was in negotiations with Dunkin Donuts. This is a different site plan, a different foot print than the Commission seen before. The new site plan is directly from Starbucks. The prototype has three different options that the owner is working with to determine which color and configuration. It's an all-four-sided elevation with three different color schemes. CDC Hardin asked would the color decision be made before the final. Mr. Metzner answered that is correct. The side that states Starbucks will face Rt.13. The drive-thru is on the south side which is facing Title Max. Deputy Mayor Lenox asked was this a two-story building or just appeared to be. Mr. Metzner said it just appears to be, it's consistent with the newer Starbuck models.

Commission Member Wilson inquired about the parking and flow through the parking lot. Mr. Metzner explained the site is configured. There is one drive isle and three rows of parking that are being removed so we are essentially utilizing one of the drive isles on the north side that will allow a portion of the front parking for Starbucks. We are adding two handicapped spaces in that location. The drive-thru would go on the west side so that is closest to the plaza, to the shopping center so the drive-thru starts there on that side then turns and heads towards Rt.13 where the drive-thru window is located; then exits back out on to that drive isle. Then there are additional parking spaces on the eastside adjacent to the drive isle that runs parallel with Rt.13. The dumpster location was agreed upon in the May 18, 2021, Delaware Board of Adjustments Hearing for the size variance which was approved and the Council also reviewed it. Commission Member Wilson inquired if all of the variance exceptions applied to the lot so, they are still in effective although it's a different place. CDC Hardin responded yes; the variance was obtained for one of the lots which did not meet minimum requirements so they were granted a variance.

Mr. Metzner said we are not creating any new lots; we are reconfiguring the existing lots on the whole Stateline Plaza and essentially, we were taking Title Max and parceling that portion out for leasing purposes and we were reconfiguring the line to make this Starbucks area its own parcel. Starbucks doesn't need 3 acres for the highway commercial zoning. Mr. Metzner mentioned they are looking at starting construction in the spring if given favorable recommendation. Commission Member Wilson inquired if there would be any I&I issues. CDC Hardin replied he is not aware that there are, that would probably come from the Council and or Town Mgr. Bynum-King.

Deputy Mayor Lenox asked the process for DBF submitting a plan and they are also the Town's review engineers. Mr. Metzner answered this particular site is utilizing an existing pavement, the grading and storm drainage design will fall under the building permit specs of the actual building. The water and sewer are existing mains that is Town owned, which will be tied into. The portion that will get reviewed by the Town (DBF) would be that water and sewer connection to the 20–25-foot connection, that's the level of review that would need to be done. Deputy Mayor Lenox commented obviously DBF cannot sign off on their own work so how will that issue be resolved. CDC Hardin replied no one has mentioned a conflict before but he sees his point and it is well taken. Deputy Mayor Lenox suggested that be worked out with the Town Mgr. and whatever action we take that would be the caveat before it goes before the Council.

Commission Member Outten commented by her calculations on the plans there were 25 parking spaces and Planning and Zoning allows for 17 parking spaces, 15 regular and two handicapped. Mr. Metzner replied we were well over the parking requirements and that was one of the questions that was brought up by the Council. We do still have enough parking spaces to meet the required code for the whole shopping center. Commission Member Outten said by her calculations for the entire Stateline Plaza it is still less than what is required by the Town's code so when we take away and give back parking spaces, he is still short parking spaces; is Stateline Plaza the owner of that lot or is it a lease. Mr. Metzner said it's a lease so they still have ownership. CDC Hardin added at the time of Stateline Plaza development, they might be grandfathered in and the code that have the provisions for parking spaces allowed was not in place at the time of its development. Commission Member Wilson commented 2015 Regulations may not apply. CDC Hardin further added it may date back to 2010 when that requirement was put into place but he was sure Stateline Plaza was developed before that. Mr. Metzner mentioned the parking requirements and counts that were provided was based on data that he has for the present plans.

Commission Member Outten said our current code states 550 spaces, on this plan, remaining for Stateline minus the Starbucks is 360 spaces. CDC Hardin explained what the current requirement stated for parking spaces for any establishment dispensing food or refreshments. Commission Member Outten commented but the plans the Commission have are brand new. Mr. Metzner added the reason they are proposing that particular

layout is because they are taking into account the overall shopping center design. Council Member Jones commented they are doing shared parking so he is unaware how the Commission could hold them accountable for the new code if they are utilizing the entire parking lot of the shopping center.

Mr. Metzner mentioned what is recorded is in the latest office survey, shared easements from Stateline Plaza parking, Delmar Restaurant parking, incorporate parking and the shared access easement. Commission Member Outten inquired about the easement's ingress and egress. Mr. Metzner responded there are multiple easements but designed as a whole. He added before proposing the realignment of the lot lines, the previous lot lines were broken up where Stateline Plaza was one parcel, the whole front area in front of the Title Max was one parcel and all the parking and stormwater on the right was one parcel. Essentially, it's still designed as whole.

Commission Member Outten responded she has concerns about the parking that would be required, five and a half parking spaces per 2500 square feet plus employees or maybe they are included which brings him to about 25 or 17 and what the code translates to 17 parking spaces total. Mr. Metzner said but it's shared parking throughout the whole development.

Deputy Mayor Lenox said he understood the point that Mr. Metzner was making. We have two choices; look back to the code when the entire Plaza was approved and say that is the standard or we look at the new code and say everything out there is grandfathered but when you start to add square footage you have to comply with the new code and he could argue either one. If the Commission wished to say that the standard will be what was in effect back in 2015 and as long as any new construction goes in up there it doesn't reduce that portion/fraction. So, the standard would then be the twenty-year-old standard as opposed to before. He further said he understands the logic that when we adopt a new code what we are saying is we are not going to back date it all are grandfathered and anything new goes by that code, he's just unsure what that number would be; are we saying that they cannot add anymore buildings up there or we will be saying they have to get a variance.

Commission Member Outten commented she had concerns about parking and traffic flow with the drive-thru. She further commented if she is coming north from State Street and she wants to go to Starbucks she is going to make a U-turn when she gets an opportunity now, she is backing traffic up into the intersection where Edward Jones Investments is located. Also, the setbacks that the variance was granted, the variances are not depicted on the building backline. The lines are depicted but the number is not shown. Mr. Metzner responded this number stacking as seen on C 2.1 was provided to us by Starbucks, we have the number of vehicles shown there and we needed to provide that number which is based on what Starbucks is seeing with their restaurants. Commission Member Outten replied the other concern would be for the supply trucks as far as the

flow, where would that be, in the drive isle between the additional parking spaces of the existing Stateline or the parking spaces for Starbucks or behind it in the drive isle. Mr. Metzner further responded as far as the width; the truck is going to stop in one of the areas essentially, one of the drive isles. The one out front is a 30-foot drive isle that's closest to Rt. 13, the drive isle on the southside between Title Max is 24 feet wide and the one in front of the shopping center is 26 feet. So, we can provide direction for the truck but his guess would be along the frontage because that's the widest and easiest way for a truck to turn right in the turning radius which sheet 1.0 which gives you the best idea how the supply truck could come in and park and still have enough room for vehicles to traverse around it and it continue to go north and then come out and make that right out on the northern property entrance and then come back south again. It's a loop.

Commission Member Outten questioned the outdoor seating. Mr. Metzner explained that's their prototype for that building elevation; it's not specific to the site. CDC Hardin commented when they come back for final approval all of that will be worked out and you will see the proposed final because that's what's going to get the approval for the build if that's given.

Commission Member Wilson said this piece of property was parceled out not that long ago. Mr. Metzner replied it's not been recorded. So, we got the preliminary approval to do so and essentially, we are waiting for the preliminary site plan approval to proceed and go about it that way. Commission Member Wilson questioned who would make a decision on whether it applies to old code or new code. CDC Hardin replied the Commission would make that recommendation and the Council in conjunction with your recommendation say what the interpretation was at the time that the code was established.

Commission Member Wilson commented she would love to have Starbucks, concerned about the traffic flow but there is not much you can do about where people are going to drive in Delmar. It would be really nice if there has to be a backup line in the drive-thru, at least they could come in the northern entrance and use this street and not back up into the highway. The parking is a concern; but what she does not want to do is set a precedent for any commercial property. She suggested if you have to go and get a formal variance for the parking then you are covered and we are all covered. Mr. Metzner said the difference between this development is that it has the shared parking for the total site and not just this parcel. If we just parceled out a pad site on vacant land then that is the sole responsibility; there is no shared parking agreements between other lands. This is an overall shared parking agreement for the Stateline Plaza Shopping Center which includes the out parcels that are recorded within that.

Mr. Metzner asked should we determine that the parking is substantial for the code this was under and it still meets with the reduction in the 8 spaces, is the variance necessary. Deputy Mayor Lenox answered no. Commission Member Wilson asked we are parceling this out but it's going to be the same owner. Mr. Metzner answered yes. There were

three parcels one owner; now they are rearranging the parcels. All three parcels have the same right to the parking, utilities, stormwater and access. Commission Member Wilson said the argument would be your changing things and they need to comply with new rules; what parking should there be. Deputy Mayor Lenox replied it warrants property lines.

Deputy Mayor Lenox asked CDC Hardin if he felt comfortable if they make some sort of motion that said he would need to confirm that the Stateline Plaza as a whole complies with this development and will still comply with the Towns new requirement. Deputy Mayor Lenox said when they give you those numbers you can look at them, if they do not then this Commission recommends, they will need a variance for the overall development. Mr. Metzner responded the site that the shopping center was designed was approved under a specific code for parking requirements. Deputy Mayor Lenox responded but you didn't show this many users, your adding users. Mr. Metzner said that's correct. He further said he is not sure if it's fair to have the overall development go to the new code. Deputy Mayor Lenox said no it does not have to trigger it for the overall development.

Commission Member Outten suggested if there is a favorable recommendation it will be subject to the proposed parking meeting the code. The Stateline Plaza was approved as a whole, for the shopping center itself. If it is not then a variance will be required for the Starbucks as well as subject to the placement of the building. Mr. Metzner responded he will have to run this by the owner and then he would have to run it by the tenants in the shopping center but if we shifted the property line northerly to include that additional row of parking this site would meet the code; it would have 13 additional spaces located in this one property. Commission Member Wilson replied but you would be taking away the other parking spaces. Commission Member Outten said but it is likely it would fall under the old code when Stateline Plaza was built. CDC Hardin commented Shayona Pharmacy and Delmar Pizza all share the parking. Mr. Metzner further responded by realigning this lot line we are modifying the easement or the shared use agreement. CDC Hardin further commented the issue of parking came up during the concept; he would be willing to go back and see if he can find any notes or minutes from previous meetings again that would not come from the administration side to make an interpretation because when regulations are passed, they go through the Council.

Council Member Jones called for a favorable recommendation to the Mayor and Council for – Tim Metzner – Construction Proposal – 38666 Sussex Highway, Delmar, DE, subject to the proposed revised parking of the overall Stateline Plaza to meet the code at which time Stateline Plaza was approved. If it doesn't meet that code then a variance would be required. A motion was made/seconded (Outten/Lenox) and carried by roll call vote of 4 Ayes.

Council Member Jones called for a favorable recommendation to the Mayor and Council for – Tim Metzner – Construction Proposal – 38666 Sussex highway, Delmar, DE, subject to noting the building restriction line setbacks. Also noted the DBF engineer is not permitted to review or approve sewer plans on behalf of the Town of Delmar. A motion was made/seconded (Outten/Lenox) and carried by roll call vote of 4 Ayes.

- 3. Paresh/Nila Nakrani – New Home Build – Lot 61, 9116 Swingbridge Lane, Delmar, MD** – Ms. Nakrani presented a new home build as referenced per the attached drawings. Ms. Nakrani stated the plan was submitted before and it was slab base and they changed to crawl space instead. Commission Member Wilson said we will need to have the driveway on the site plan before the next meeting.

Council Member Jones called for a favorable recommendation to the Mayor and Commissioners subject to submission of the site plan showing the driveway for – Paresh/Nila Nakrani – New Home Build – Lot 61, 9116 Swingbridge Lane, Delmar, MD. A motion was made/seconded (Lenox/Wilson) and carried by roll call vote 4 Ayes.

- 4. Chris Brown/Ryan Homes – New Home Build – Wood Creek/Pisa Torre – Lot 351, 9347 Mulligan Way, Delmar, MD** – Representative Chris Brown presented a new home build as referenced per the attached drawings. Commission Member Wilson noted for the record on either side is a Ballenger the other side is a vacant lot.

Council Member Jones called for a favorable recommendation to the Mayor and Commissioners for – Chris Brown/Ryan Homes – New Home Build – Wood Creek/Pisa Torre – Lot 351, 9347 Mulligan Way, Delmar, MD per the attached drawings. A motion was made/seconded (Wilson/Jones).

- 5. Chris Brown/Ryan Homes – New Home Build – Wood Creek/Hudson – Lot 383, 9324 Mulligan Way, Delmar, MD** – Representative Chris Brown presented a new home build as referenced per the attached drawings. Commission Member Wilson noted for the record there is open space and a vacant lot next door.

Council Member Jones called for a favorable recommendation to the Mayor and Commissioners for – Chris Brown/Ryan Homes – New Home Build – Wood Creek/Hudson – Lot 383, 9324 Mulligan Way, Delmar, MD, per the attached drawings. A motion was made/seconded (Wilson/Lenox) and carried by roll call vote 4 Ayes.

Public Comments –

None.

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

Vondell Spencer
Clerk of Council