

Planning & Zoning Commission Meeting
July 21, 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: Rochelle Outten, Beverly Wilson, and Shawn Johnson. Key personnel: CDC William Hardin, CEO Liz Peek and Clerk of Council Vondell Spencer. Guests: Tim Metzner, Mr. & Mrs. Wyatt, Tom Bauer; via teleconference Chris Brown, Mr. & Ms. Ahlers and Adrian Mason.

Called to Order:

Deputy Mayor Lenox called the meeting to order at 7:00 p.m. and performed the pledge of allegiance.

Approval of Minutes –

A motion was made and seconded (Wilson/Jones) to approve the June 23, 2022 meeting minutes amended as noted by roll call vote with 5 Ayes.

Old Business –

None.

New Business –

- 1. Thomas & Anna Ahlers – Accessory Building (Garage) – 300 Lincoln Avenue, Delmar, DE** – Mr. & Ms. Ahlers presented a new garage as referenced per the attached drawings. Deputy Mayor Lenox noted the Ahlers are in attendance via telephone due to technical difficulties. CDC Hardin said everything he saw in the review in the placement by the site plan should be in compliance with the requirements.

Commission Member Wilson questioned if there is a driveway extending to park a vehicle; will this basically be used as a shed. She asked CDC Hardin was he aware that no driveway was shown on the site plan. He answered he was unaware of the use; it's called a garage maybe because of the size of it as opposed to it being used for vehicular storage.

Deputy Mayor Lenox commented there appears to be an ingress and egress to the adjoining property. Deputy Mayor Lenox asked Ms. Ahlers is there an existing shed? Ms. Ahlers answered that the ingress and egress was there before her home was built and that's why they needed to get a new survey with the house on it and updated measurements. He further asked is there an existing shed. Ms. Ahlers further answered there never was.

Deputy Mayor Lenox asked how the Ahlers would get to the proposed garage from Lincoln Ave.? Mr. Ahlers answered they have the driveway that goes up the side of the house and the garage is going to be at the beginning at the backyard.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Thomas & Anna Ahlers – Accessory Building (Garage) – 300 Lincoln Avenue, Delmar, DE, per the attached drawings. A motion was made/seconded (Outten/Johnson) and carried by roll call vote of 5 Ayes.

2. **Tim Metzner/Davis, Bowen and Friedel – Final Plan Approval (Starbucks) – State Line Plaza – 38666 Sussex Highway, Delmar, DE** – Mr. Metzner presented a final plan approval as referenced per the attached drawings. Mr. Metzner explained the plan was approved by the Planning and Zoning Commission in January and the Mayor and Council in February of this year. He further explained that they have the agency approvals to go to the final plan approval as well. He said as far as color schemes and architectural features, they are also in the Commission’s mail packet.

Mr. Metzner said there was a concern this body had for the January approval in reference to the parking spaces for the shared development. He further said they confirmed there are 66 additional surplus parking spaces at this site as it is proposed which comes about with the numbers that were approved with the original design. An additional number of parking spaces were created from the Food Lion addition in 2003. Mr. Metzner further said they subtracted what was going to be removed. Essentially everything else was consistent with everything that was previously approved in February.

Commission Member Johnson asked are there any barriers going in front of the shopping center? Mr. Metzner answered it’s curved around the entire perimeter except for where there is parking on the north side and they have parking bumpers. Commission Member Johnson further asked is the front flat? Mr. Metzner further answered it’s flat but it has an overhang. The rear loading area is the dedicated area for the shopping center.

Commission Member Wilson asked Mr. Metzner if he was aware where the supply trucks would park? Mr. Metzner answered the trucks will either pull up in the front or actually use the rear loading area. However, there is space out front adjacent to Rt. 13 that has 28 to 30 feet available.

Commission Member Wilson asked were there any substantial changes. Mr. Metzner answered just the building footprint; it’s less square footage by 74 square feet. Previously the building was rectangular and now it’s square because Starbucks wanted a longer queue from the pickup window to the drive thru order window.

Council Member Jones asked Mr. Metzner what the timetable was once given the final approval? Mr. Metzner answered Starbucks has the contract to open by the end of January.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Tim Metzner/Davis, Bowen and Friedel – Final Plan Approval (Starbucks)– State Line Plaza – 38666 Sussex Highway, Delmar, DE, per the attached drawings. A motion was made/seconded (Outten/Jones) and carried by roll call vote of 5 Ayes.

3. **Adrian Mason – New Deck – 9371 Mulligan Way, Delmar, MD** – Mr. Mason presented a new deck as referenced per the attached drawings. Deputy Mayor Lenox noted the HOA approval letter has been received.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Adrian Mason – New Deck – 9371 Mulligan Way, Delmar, MD, per the attached drawings The motion was made/seconded (Jones/Johnson) and carried by roll call vote of 5 Ayes.

4. **Jeffrey Lang/Edward Owens– New Deck and Railing – 9548 Song Sparrow Circle, Delmar, MD** – Mr. Owens presented a new deck and railing as referenced per the attached drawings. Deputy Mayor Lenox mentioned the site plan was a year and a half old. He asked CDC Hardin was he aware; has the Commission seen this before? CDC Hardin answered they went back to MRA which would have done the original site plan for Heron Ponds and had MRA add the proposed deck on it. Commission Member Wilson questioned if the Commission was looking at the correct site plan?

Commission Member Outten inquired about an approval letter from the HOA. CDC Hardin responded he did not have a letter in his packet; a building permit will not be issued until a letter from the HOA is produced with their approval of the associated construction.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Jeffrey Lang/Edward Owens – New Deck and Railing – 9548 Song Sparrow Circle, Delmar, MD, with the condition that a HOA approval letter is submitted. The motion was made/seconded (Wilson/Jones) and carried by roll call vote of 5 Ayes.

5. **Chris Brown/Ryan Homes – New Home Build – Wood Creek/Pisa Torre/Elevation A – Lot 365, 9319 Mulligan Way, Delmar, MD** – Ms. Brown presented a new home build as referenced per the attached drawings. Commission Member Wilson noted there is a Hudson on one side and a vacant lot on the other. She further noted all the arrows appear to be appropriate for the setback lines.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Chris Brown/Ryan Homes – New Home Build – Lot 365, 9319 Mulligan Way, Delmar, MD, per the attached drawings. The motion was made/seconded (Wilson/Johnson) and carried by roll call vote of 5 Ayes.

6. **Chris Brown/Ryan Homes – New Home Build – Wood Creek/Allegheny/Elevation A – Lot 372, 9305 Rolling Green Drive, Delmar, MD** – Ms. Brown presented a new home build as referenced per the attached drawings. Commission Member Wilson noted there is a vacant lot on one side and an existing dwelling on the other assuming it's not an Allegheny. She further noted the setbacks appear to be appropriate.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for – Chris Brown/Ryan Homes – New Home Build – Lot 372, 9305 Rolling Green Drive, Delmar, MD, per the attached drawings. The motion was made/seconded (Johnson/Jones) and carried by roll call vote of 5 Ayes.

7. **Darrin Wyatt /SealTech of Delmarva, LLC – Concept Plan Review – Bi-State Blvd. & Stage Road, Delmar, DE** – Mr. & Ms. Wyatt presented a concept plan as referenced per the attached drawings. Commission Member Wilson asked if Town Mgr. Fleetwood had any comments in reference to this concept plan? CDC Hardin answered Town Mgr. Fleetwood questioned and had concerns about the EDU capacity.

Deputy Mayor Lenox inquired about the zoning for this concept plan. CDC Hardin responded it is community business.

Mr. Wyatt explained that he would like to relocate his business of twenty-five years and all the business work is done onsite. He further explained he needed a home base office and a shop which will occupy half an acre. The other half acre will be fenced in. The other half they want to do RV and outside boat storage to start generating money. He commented eventually they want to put a second dwelling on the property for the contractors with rentals maybe five years down the road. Mr. Wyatt mentioned they have a contract on the property but before moving forward and settling they needed approval that they can do what they want to do on the property. Mr. Wyatt said it would be a small business that would need a shop space or a bay which is 20 by 24, 1,000 or 1,200 square feet within an office space and maybe a bathroom; he could rent office space out. He further said he is unsure what size that office space maybe.

Deputy Mayor Lenox asked how big is the property. Mr. Wyatt answered 1.17 acres. Deputy Mayor Lenox further asked what is on either side of the property? Mr. Wyatt further answered on the right it's all vacant with Old Rt.13 frontage, the location is in the middle of Stage Road and Old Rt. 13, it's a triangle lot. CDC Hardin added some of the properties to the north are in the county, not in Town limits. Commission Member Wilson said there are two different tax records. She asked is the property two different lots? Mrs. Wyatt answered 1-9, 117A and 120. Deputy Mayor Lenox said he did not see a sight plan or layout. Ms. Wyatt further answered all they have is a rough copy because they did not spend money on an engineer until they know they can bring their business here.

Mr. Wyatt said his main concern is the existing Community Business in the Zoning Code said no equipment. He further said they considered their sealing trailers equipment and a lot is needed for parking their equipment outside of the shop. Commission Member Wilson asked is this Community Business? CDC Hardin answered yes. Mr. Wyatt added later he would like to have another pole building on the property. Commissioner Member Wilson said for clarification Mr. Wyatt wanted a 30 x 50 pole building and the only other building that he wanted was another pole building in the future at the other end of the lot. Mr. Wyatt responded at the time the second building put up the RV and boat storage would go away. No residential at all. Commission Member Wilson asked was his first pole building for his asphalt shop? Mr. Wyatt answered yes. She further clarified the second use would initially be RV storage. Mr. Wyatt further responded which would be no buildings just fenced in area.

CDC Hardin suggested the office portion is not in question. He said when Mr. Wyatt mentioned they wanted to service their vehicles at this location, there is nothing there that permits either inherently or special exception specifically written that would allow for garage services. They would need light industrial or highway regional. That zone doesn't speak to a garage facility other than automobile sales and related garage. It's a matter of interpretation if what they want to do fits in the uses for Community Business.

Commission Member Outten asked if Mr. Wyatt would be looking for access on Old Rt.13? Mr. Wyatt answered we are unsure. She further asked would he also be looking for access on Stage Road? Mr. Wyatt further answered we would probably like to have access on each side but if we only get one side then what this Commission decides we will work with. Mr. Wyatt said from what he understands they will have to tie into Town water and sewer.

Commission Member Wilson said she would like to study what zoning allows that fits into what Mr. Wyatt is requesting. She asked CDC Hardin what in the zoning code falls into the work that Mr. Wyatt is proposing and is it a different zoning? CDC Hardin answered unless there is an interpretation made that one of these uses would encompass what he wants to do; reading it literally it does not, it would have to be an interpretation that the use somehow could be extrapolated into what exists or a variance would have to be granted allowing for that use in that zone. Commission Member Outten asked was Mr. Wyatt cooking asphalt. Mr. Wyatt answered no.

Commission Member Wilson said having not being able to review everything currently this does not meet light industrial zoning code. She further said as far as the concept request, she does not have a problem with the concept itself being in that area in particular.

Deputy Mayor Lenox said he did not think it fits in the zoning code categories. He further said if Mr. Wyatt wanted to fit into categories this Commission might have to draft a new category. Deputy Mayor Lenox asked CDC Hardin if the Commission is going to consider this type of use but has issues with the language that exists; is it appropriate to entertain an amendment to the code to include a category like they are discussing and probably look over the contractor section of industrial etc., come back to see if we can add in this and then advertise a public hearing. CDC Hardin explained the concept procedure. He further explained drafting the Commission's recommendations from the review as to what should happen, then they would come back for a preliminary. Deputy Mayor Lenox further asked if the codes change? CDC Hardin answered correct. Deputy Mayor Lenox inquired if amendments like that come from prospective property owners? CDC Hardin responded if the property owners present to the Commission, then the Commission deems that is what they recommend they want done.

Deputy Mayor Lenox asked the Wyatt's their time table for moving. Mr. Wyatt answered they were supposed to settle 30 days ago. He further answered they put the settlement off for 30 days.

Deputy Mayor Lenox said to Mr. Wyatt if he would like to propose an amendment to the zoning to do the things that they want to do, that is something he can propose to this Commission then they would go through the process. He further said the proposal and procedures would be in writing. CDC Hardin explained a change to the regulations would require a public hearing in front of Mayor and Commissioners.

Deputy Mayor Lenox suggested to Mr. Wyatt; review what he wanted to do and speak to the property owners. If there is a proposal have their signature on it as well, see if they can live with the time schedule, see if CDC Hardin is available and try to figure out some language. CDC Hardin suggested to be on stronger footing, is to notify Attorney Robert Benson of this recommendation and ask him the procedural aspects to then get a better timeframe.

Public Comments –

1. Tom Bauer commented about a month ago Mayor Houlihan, himself and few others attended a Sussex County Dispute Resolution in Dover, DE concerning the Delmar area. This week he and Linda Morris attended another meeting for the results. Mr. Bauer explained the property is not Delmar but it is next to Delmar; Providence Church Road. There will be two units per acre and the other units are four per acre so you're looking at 2,800 more units that will be built on this road and about 5,000 new families will be in these units which will affect out PD, schools, Fire Dept. EMS, roads, etc. Mr. Bauer encouraged the Commission to lookout for their county council because Sussex County Agriculture Chairman, Michael T, Scuse said these units will be approved. He further

said we wanted to make sure this does not happen because it would be an adverse effect on this community.

Deputy Mayor Lenox added that he mentioned to the Mayor and Commissioners last month about getting a briefing about the status of water, sewer capacity and where the Town stands. He commented everyone was very receptive to that including the UT Commission, Mayor and Council as well as the new Town Mgr. Fleetwood. Town Mgr. Fleetwood will probably be joining us in an upcoming meeting. Hopefully we will have a better grasp on water and sewer issues. There will also be a discussion in reference to improvements in the Town as well.

Deputy Mayor Lenox called for a motion to adjourn the meeting. The motion was made/seconded (Jones/Johnson) and carried by roll call vote of 5 Ayes.

Vondell Spencer

Clerk of Council