

**Planning & Zoning Commission Meeting**  
**May 20, 2021**  
**Via Teleconference**

The regularly scheduled meeting of the Planning & Zoning Commission was held via teleconference. Those in attendance: Chairperson Donald Scholl, Council Member, Commission Members: Beverly Wilson and Rochelle Outten. Key personnel: CDC William Hardin, CEO Liz Peek, and Clerk of Council Vondell Spencer. Guests: Chris Brown, Yazzmine Harcum, Brian Bishop, Rashod Duffy, Richard Haxton, Barry Mehta, Brock Parker and Rena Patel. Absent: Commission member Kemp.

Chair Person Scholl, called the meeting to order at 7:00 p.m. He conducted a roll call of Commission members to confirm a quorum. Three members were present and the quorum was established.

**Approval of Minutes:**

A motion was made and seconded (Wilson/Outten) and carried to accept the April 22, 2021 meeting minutes as circulated by roll call vote with 3 Ayes, 1 Absent (Kemp).

**Old Business – None.**

**New Business –**

- 1. Yazzmine Harcum – New Signage – 605 N. Bi-State Blvd, Delmar, DE** – Ms. Harcum presented new signage as referenced per the attached drawings. Ms. Harcum said she has custom artwork on window as well as her door. CDC Hardin mentioned he has advised her that the name could only be on either the door or the window and Ms. Harcum preferred the custom artwork be on her window. She said the custom artwork on the door would be removed. The door would just show the store hours. Commission Member Wilson commented the percentages of the window look fine even though they do not have measurements of the window. Chairperson Scholl asked Ms. Harcum since she does artwork would the artwork change frequently to draw attention to a particular piece. Ms. Harcum replied no it would stay the same. CDC Hardin stated that Ms. Harcum explained to him that the artwork is a vinyl rendering so it would be permanent similar to others that put it in the window.

A favorable recommendation to the Mayor and Council for the approval of – Yazzmine Harcum – New Signage – 605 N. Bi-State Blvd., Delmar, DE, per the attached drawings contingent on only one sign having the name of the business which is the sign on the window and the sign removed from the door. The motion was made/seconded (Wilson/Outten) and carried by roll call vote of 3 Ayes 1 Absent.

2. **Markeith Miller – New Construction of a Health and Fitness Facility – East of Old State Road, Delmar, MD** – Submittal withdrawn. CDC Hardin mentioned this submittal was withdrawn because what Mr. Miller wanted to do did not require him coming before the Commission for its review. When the plat is recorded and they are ready to actually present a design elevation and design of the structure is when it should come before the Commission. CDC Hardin said he informed Mr. Parker of this and we were in agreement of how it would proceed.
  
3. **Brian Bishop – Install 7 pole flags located on Lot 8640, Ocean Highway, Delmar, MD** – Mr. Bishop presented new install of 7 pole flags as referenced per the attached drawings. Commission Member Wilson asked for CDC Hardin to help determine in the booklet for Planning and Zoning Regulations what exactly the sign falls under. CDC Hardin answered his interpretation of the Regulations says that the applicants are able to have one advertising sign with their name on the face of the building and one free standing sign unless there is a corner building which they are. So, they can have it on two different faces of the building and one standalone sign. What is being requested is 6 total 5 additional to the one allowed standalone sign. The flags will be hanging from the light posts throughout the parking lot of the establishment. CDC Hardin said by his understanding that is not permitted without a variance. Commission Member Wilson inquired if the poles were actually inside the parking lot area or are they fronting a road. Mr. Bishop replied they are actually in the parking lot. The flags are not for beautification but for merchandising with our product we offer and sell to our customers. CDC Hardin responded it does have the name of the business so it is considered by definition within the regulation as a sign so they all constitute signs and they exceed the allowable number by regulation. Mr. Bishop replied which is why I'm here requesting a variance. CDC Hardin further responded which would be a recommendation to the Maryland Board of Zoning Appeals as opposed to a Variance Hearing this evening. Chairperson Scholl asked CDC Hardin if this submittal should go the Maryland Board of Zoning Appeals rather than Planning and Zoning. CDC Hardin answered before Planning and Zoning the regulation says it should be presented to Planning and Zoning for their input to go before the Board of Zoning Appeals. A time is being setup for the Appeals Hearing and this would mean this could carry a favorable or unfavorable recommendation from this body to the Appeals Hearing. Commission Member Wilson said she understands that the signs are already up. Mr. Bishop replied no. We are seeking approval before installing the pole flags. CDC Hardin mentioned the illustration that he included in the packet is from the Salisbury, MD store and he used it for the Commission to be able to see what is being asked. Commission Member Wilson said for clarity the application says 7 pole flags. Mr. Bishop agreed. Chairperson Scholl questioned was this going to be a permanent signage going forward or just temporary while people learn about the warranty plan. Mr. Bishop responded we are looking for permanence if possible. Chairperson Scholl further questioned if this is something that we see regularly at just about every car dealership. Mr. Bishop said yes. CDC Hardin reiterated while it may be common to others, by our jurisdiction regulations, Section 24-

A definition of signs you will see whether it's flags, banners etc. there is many different types but it is advertising, but by our code Regulations of Planning and Zoning it is considered signage and it does fall within the provisions under that particular regulation. Chairperson Scholl commented which is why it needs a variance. CDC Hardin agreed. Commission Member Wilson mentioned to her recollection the only type of sign that we allowed previously was for the Delmar Diner for a short period of time which was like a flag sign which had to be taken down at night and it was a six-month timeline. She asked has there ever been any other approval like this. CDC Hardin responded there was one other occasion which was Verizon which was supposed to be temporary. The flag could be out during day time business hours but it had to be taken down in the evenings. These are requested to be in place permanently. Mr. Bishop commented the way the flags are attached to the poles it would be logistically impossible to remove them on a daily basis. Commission Member Wilson agreed. She commented in her opinion the Town is very strict about our signages in Delmar for a reason. We do not want signs everywhere in our Town. Commission Member Wilson asked for clarity in their duty. Would it be to grant a favorable or unfavorable recommendation to the Board of Zoning Appeals. Mr. Bishop mentioned he recognized the importance of regulation and consistency in following the regulation and in his opinion the light poles are on the property. The flags are not designed draw attention to people driving by it's mainly for the ones that are on the lot. Mr. Bishop said he is hoping we can move forward with a favorable recommendation and either obtain the variance or not obtain the variance and they would like to see all the dealerships match in their branding effort. Chairperson Scholl replied he understood the concept of keeping the dealerships uniform. Also, he understands that we've had sign limitations for a long time because it is a small town. He further replied he does like any idea if we can grow businesses without increasing residential lots. If we can attract businesses as opposed to more development of neighborhoods that is what he thought, we needed to do to get a little variety. Mr. Bishop reiterated he understood the importance of regulations. Commission Member Outten said it's her understanding that the additional sign issue would be because it is naming the name of the business and she is assuming all the other signs in your other businesses in other towns are the same. Mr. Bishop replied the signs that we have currently have the dealership names on them. He described the flags don't really have our business logo when advertising on television or anywhere else, he's not going to use that logo to identify the business. It is the business program that we are offering our customers when they purchase vehicles. Commission Member Outten said to Mr. Bishop, so you are advertising the Certified Advantage Program and the logo is different. Mr. Bishop said correct. The logo looks the same in shape and color but if you look at it one says the Car Store but it is an entirely different logo. CDC reminded the Commission as they consider clarification from the administrative standpoint that if you read the definition of sign in Section 24 it states board, plaquer, poster, figure, device other object which has the effect of or is used or intended to be used to advertise, convey information to stand for a work phase, operation, service or to attract or divert attention when sign is in view from the general public comes under that regulation. Mr. Bishop stated that's a very thorough regulation but the key point is it is not designed to attract

attention from the general public it is really designed to bring attention to the customers that are on our lot, that's the purpose of the sign. Chairperson Scholl asked CDC Hardin just out of curiosity and to speed things along Mr. Bishop mentioned in some of the other locations they do not have the Car Store logo it just says, "Experience the Difference", and has some product information on it and if that's what he had here would that remove the issue of him needing a variance. CDC Hardin responded in his opinion it would not, it's a matter of interpretation. That would lie both with the Planning and Zoning Commission and as it goes forth which Mr. Bishop has the ability and right to go before the Board of Zoning Appeals to make the ultimate determination so they can render their decision and you can decide to send it there with a favorable or unfavorable recommendation.

Commission Member Wilson commented she was not going to make that motion. She said she understood Mr. Bishop's position and her issue is mostly setting a precedence for other businesses to have more signs that are allowed on the property so it would be up to Commission Member Outten to make that motion.

Commission Member Outten stated she would not be making that motion.

Chairperson Scholl asked CDC Hardin how to move forward if there is one favorable and two unfavorable. CDC Hardin answered he encouraged that the motion be put forth and those that wished to send it without a unfavorable recommendation. Also, he is unaware of how else to proceed other than to show that the motion did not carry.

Commission Member Wilson said the technical term is that Chairperson Scholl requested a recommendation for a favorable motion and no motion was received and therefore that does not stop Mr. Bishop from going to the Board of Zoning Appeals. CDC Hardin agreed.

One favorable recommendation and 2 unfavorable recommendations were given to the applicant to the Board of Zoning Appeals – Installation of 7 pole flags located on Lot 8640, Ocean Highway, Delmar, MD, per the attached drawings. This motion was carried by roll call vote of 1 Aye and 2 Nays (Wilson/Outten).

Commission Member Wilson informed Mr. Bishop that we certainly appreciate your business here in Delmar and would hope this doesn't affect negatively of the Town's Zoning Regulations. Mr. Bishop said not at all.

4. **Rashod Duffy – Deck Build (12 x 15) – 30739 Hawks Way, Delmar, MD** – Mr. Duffy presented a deck build as referenced per the attached drawings. Chairperson Scholl inquired if the deck was just off to the side of the existing screening in porch. Mr. Duffy responded yes. Commission Member Wilson stated she wanted noted for the record that Mr. Duffy also has approval from the Heron Ponds HOA. Commission Member Wilson

mentioned CDC Hardin wrote a comment on the form construction plans and drawings are required after approval to build is given. CDC Hardin responded that should be approval Planning and Zoning gives its favorable recommendation and the Council gives its approval he would need to provide my office construction plans or drawings for the build that would be required before he issues the building permit. Commission Member Wilson questioned Mr. Duffy if this is a wood deck. Mr. Duffy replied yes composite wood. Commission Member Wilson further questioned if the deck would have railings. Mr. Duffy further replied yes, the deck would have railings all around.

A favorable recommendation to the Mayor and Commissioners for the approval of – Rashod Duffy – Deck Build (12x x15) – 30739 Hawks Way, Delmar, MD, per the attached drawings. A motion was made/seconded (Outten/Wilson) and carried by roll call vote of 3 Ayes 1 Absent.

5. **Richard Haxton – Replacing existing sign with 50” x 75” Electronic Message Board – 1301 East State Street, Delmar, MD** – Mr. Haxton presented replacing existing sign as referenced per the attached drawings. Chairperson Scholl asked if the new sign is smaller than the existing sign. Mr. Haxton answered yes, they are just updating the look of the sign with a newer board. Chairperson Scholl reminded Mr. Haxton that he needed to attend the Mayor and Commissioners meeting June 14<sup>th</sup> to get approval which then Mr. Hardin can issue the permit.

A favorable recommendation to the Mayor and Commissioners for the approval of – Richard Haxton – Replacing existing signage with 50” x 75” Electric Message Board – 1301 East State Street, Delmar, MD, per the attached drawings. – A motion was made/seconded (Wilson/Outten) and carried by roll call vote of 3 Ayes 1 Absent.

6. **Barry Mehta/Brock Parker – Re-subdivision of existing lots within Woodcreek – Delmar, MD** – Mr. Mehta, Mr. Parker, and Ms. Patel presented re-subdivision of existing lots as referenced per the attached drawings. Chairperson Scholl said as he and Mr. Parker talked before on other projects, he would be happy to give a favorable recommendation to the Board of Zoning Appeals for the original number of lots. He further said he does not want to add anymore lots, he cannot give anymore new lots. CDC Scholl said we can stick with the number of 108 lots. Mr. Mehta responded that would be great. CDC Hardin added to what Chairperson Scholl said stating the issue for the Town is capacity for sewer treatment. As a result of the excessive inflow and infiltration the WWTP daily flows exceed our current permit and as such we have been assessed a pending consent agreement with the State of Maryland which causes limited availability to wastewater capacity. Chairperson Scholl further said which is why he cannot add any new subdivides. Mr. Mehta further responded we will be fine with 108 units.

A favorable recommendation to the Board of Maryland Zoning Appeals for the approval of – Barry Mehta/Brock Parker – Re-subdivision for the 108-lot subdivision within Woodcreek – Delmar, MD per the attached drawings. A motion was made/seconded (Wilson/Outten) and carried by roll call 3 Ayes 1 Absent.

7. **Chris Brown/Ryan Homes – New Home Build – Woodcreek/Hudson – Lot 355, 9339 Mulligan Way, Delmar, MD** – Ms. Brown presented new home build as referenced per the attached drawings. Commission Member Wilson asked are these the lots with zero lot lines. Chairperson Scholl answered on the south side it is pretty close to that lot line. She further asked if this was something that we determined was something they had requested before and was approved. Ms. Brown replied yes when we first started Woodcreek. Commission Member Wilson commented the plan says the side setback is 10 ft. Ms. Brown responded 1.0 ft. She further commented if you look in the bottom right-hand corner the setback says 10 ft. minimum for the side. CDC Hardin replied that would be what it would normally be for that zoning. It has been approved otherwise. Commission Member Wilson asked was it appropriate to ask for a correct setback or a notation of the correct setback to be put on these site plans because to her it's misleading. Mr. Brown agreed and she said she would request for that to be done. Ms. Brown mentioned that Woodcreek has already been approved. Chairperson Scholl said he understands what Commission Member Wilson is saying. He further said just labeling with the setbacks are and R2 which is accurate. It does have a variance to go with it which is why it has the variance it's already been approved for variance. So, if we change that there it would say the setbacks in R2 are 1 f t. and I don't think that we should label that an R2 it would be 1 ft. Commission Member Wilson agreed. Chairperson Scholl asked would Ms. Brown like to include the variance paperwork with each one of these. Commission Member Wilson added or just a comment on the site plan. Ms. Brown asked CDC Hardin if the Town has the copy where it has been approved that it could be put in the submittals. CDC Hardin answered that speaks to what Chairperson Scholl just indicated that we would have to put those copies with every submittal and that is unnecessary paperwork. If the question was raised at some point and time, we could provide the appropriate paperwork indicating but it is on the record. So, that would be something he would have to explore. Commission Member Wilson commented its misleading or possibly change the legend to say setback for which ever parcel. CDC Hardin stated he fully understood and he would bring that point forth and get a formal ruling on whether that would be required in order for the site plan to correctly reflect what's on it. CDC Hardin stated if that is something that Commission Member Wilson would like for him to pursue, he will do so. Commission Member Wilson commented she would appreciate CDC Hardin looking into that and he said he will advise on his findings. She inquired if these documents get recorded in the Sussex County Office. CDC Hardin stated this would be Wicomico County but your correct. Commission Member Wilson further commented anything to make it seem more appropriately noted. Commission Member Outten mentioned the request to be added on the Planning Agenda documents that the Town provides to the applicant has a place for

additional notes. Maybe it would be best if our staff put in a handwritten note that the lot lines were approved on the date that it was approved on and that way it's in the record we see it, the Town sees it and the applicant sees it. It would be easier to go back than to go back and add an additional amount of paperwork and it would be documented in that fashion moving forward. CDC Hardin stated he would note that in his research.

A favorable recommendation to the Mayor and Commissioners for the approval of – Chris Brown/Ryan Homes – New Home Build – Woodcreek/Hudson – Lot 355, 9339 Mulligan Way, Delmar, MD, per the attached drawings. A motion was made/seconded (Wilson/Outten) and carried by roll call vote of 3 Ayes 1 Absent.

8. **Chris Brown/Ryan Homes – New Home Build – Woodcreek/Bramante – Lot 345, 9359 Mulligan Way, Delmar, MD** – Ms. Brown presented a new home build as referenced per the attached drawings.

A favorable recommendation to the Mayor and Commissioners for the approval of – Chris Brown/Ryan Homes – New Home Build – Woodcreek/Bramante – Lot 345, 9359 Mulligan Way, Delmar, MD, per the attached drawings. A motion was made/seconded (Wilson/Outten) and carried by roll call vote of 3 Ayes 1 Absent.

9. **Chris Brown/Ryan Homes – New Home Build – Woodcreek/Bramante – Lot 347, 9355 Mulligan Way, Delmar, MD** – Ms. Brown presented a new home build as referenced per the attached drawings.

A favorable recommendation to the Mayor and Commissioners for the approval of – Chris Brown/Ryan Homes – New Home Build – Woodcreek/Bramante – Lot 347, 9355 Mulligan Way, Delmar, MD, per the attached drawings. A motion was made/seconded (Outten/Wilson) and carried by roll call vote of 3 Ayes 1 Absent.

10. **Chris Brown/Ryan Homes – New Home Build – Woodcreek/Allegany – Lot 359, 9331 Mulligan Way, Delmar, MD** – Ms. Brown presented a new home build as referenced per the attached drawings.

A favorable recommendation to the Mayor and Commissioners for the approval of – Chris Brown/Ryan Homes – New Home Build – Woodcreek/Allegany – Lot 359, 9331 Mulligan Way, Delmar, MD, per the attached drawings. A motion was made/seconded (Outten/Wilson) and carried by roll call vote of 3 Ayes 1 Absent.

11. **Chris Brown/Ryan Homes -New Home Build – Woodcreek/Hudson – Lot 361, 9327 Mulligan Way, Delmar, MD** – Ms. Brown presented a new home build as referenced per the attached drawings.

A favorable recommendation to the Mayor and Commissioners for the approval of – Chris Brown/Ryan Homes – New Home Build – Woodcreek/Hudson – Lot 361, 9327 Mulligan Way, Delmar, MD, per the attached drawings. A motion was made/seconded (Outten/Wilson) and carried by roll call vote of 3 Ayes 1 Absent

- 12. Chris Brown/Ryan Homes – New Home Build – Woodcreek/Hudson – Lot 376, 9306 Mulligan Way, Delmar, MD** – Ms. Brown presented a new home build as referenced per the attached drawings.

A favorable recommendation to the Mayor and Commissioners for the approval of – Chris Brown/Ryan Homes – New Home Build – Woodcreek/Hudson – Lot 376, 9306 Mulligan Way, Delmar, MD, per the attached drawings. A motion was made/seconded (Outten/Wilson) and carried by roll call vote of 3 Ayes 1 Absent.

- 13. Chris Brown/Ryan Homes – New Home Build – Woodcreek/Allegany – Lot 406, 9445 Rolling Green Drive, Delmar, MD** – Ms. Brown presented a new home build as referenced per the attached drawings.

A favorable recommendation to the Mayor and Commissioners for the approval of – Chris Brown/Ryan Homes – New Home Build – Woodcreek/Allegany – Lot 406, 9445 Rolling Green Drive, Delmar, MD, per the attached drawings. A motion was made/seconded (Outten/Wilson) and carried by roll call vote of 3 Ayes 1 Absent.

- 14. Chris Brown/Ryan Homes – New Home Build – Woodcreek/Ballenger – Lot 407, 9443 Rolling Green Drive, Delmar, MD** – Ms. Brown presented a new home build as referenced per the attached drawings.

A favorable recommendation to the Mayor and Commissioners for the approval of – Chris Brown/Ryan Homes – New Home Build – Woodcreek/Ballenger – Lot 407, 9443 Rolling Green Drive, Delmar, MD, per the attached drawings. A motion was made/seconded (Outten/Wilson) and carried by roll call vote of 3 Ayes 1 Absent.

- 15. Chris Brown/Ryan Homes – New Home Build – Woodcreek/Hudson – Lot 411, 9435 Rolling Green Drive, Delmar, MD** – Ms. Brown presented a new home build as referenced per the attached drawings.

A favorable recommendation to the Mayor and Commissioners for the approval of – Chris Brown/Ryan Homes – New Home Build – Woodcreek/Hudson – Lot 411, 9435 Rolling Green Drive, Delmar, MD, per the attached drawings. A motion was made/seconded (Outten/Wilson) and carried by roll call vote of 3 Ayes 1 Absent.



- 16. Chris Brown/Ryan Homes – New Home Build – Heron Ponds/Aviano – Lot 269, 9575 Song Sparrow Circle, Delmar, MD** – Ms. Brown presented a new home build as referenced per the attached drawings.

A favorable recommendation to the Mayor and Commissioners for the approval of – Chris Brown/Ryan Homes – New Home Build – Heron Ponds/Aviano – Lot 269, 9575 Song Sparrow Circle, Delmar, MD, per the attached drawings. A motion was made/seconded (Outten/Wilson) and carried by roll call vote of 3 Ayes 1 Absent.

- 17. Chris Brown/Ryan Homes – New Home Build – Heron Ponds/Alberti – Lot 277, 9515 Song Sparrow Circle, Delmar, MD** – Ms. Brown presented a new home build as referenced per the attached drawings. Commission Member Outten said she was looking at the R4 setbacks for the front setback and it shows 20 required and she was seeing 18 on this particular Alberti. She further said she thought the setbacks were only for the side setbacks. CDC Hardin mentioned he believed it covered the side setbacks as well. Commission Member Wilson replied we could do contingent upon setback information. Chairperson Scholl asked Commission Member Outten if that would be okay. She responded absolutely. Ms. Brown asked would the information be provided for the final meeting. CDC Hardin answered that the information will be verified before you go before the Mayor and Commissioners.

A favorable recommendation to the Mayor and Commissioners for the approval of – Chris Brown/Ryan Homes – New Home Build – Heron Ponds/Alberti – Lot 277, 9515 Song Sparrow Circle, Delmar, MD, per the attached drawings contingent upon a variance previously granted for the front setback to be less than 20 ft. A motion was made/seconded (Outten/Wilson) and carried by roll call vote of 3 Ayes 1 Absent.

- 18. Chris Brown/Ryan Homes – New Home Build – Heron Ponds/Roanoke – Lot 295, 9554 Song Sparrow Circle, Delmar, MD** – Ms. Chris Brown presented a new home build as referenced as per the attached drawings.

A favorable recommendation to the Mayor and Commissioners for the approval of – Chris Brown/Ryan Homes – New Home Build – Heron Ponds/Roanoke – Lot 295, 9554 Song Sparrow Circle, Delmar, MD, per the attached drawings. A motion was made/seconded (Outten/Wilson) and carried by roll call vote of 3 Ayes 1 Absent.

#### **Public Comments –**

Commission Member Wilson said she believed that she would be speaking for the entire Planning and Zoning Group saying we will certainly miss Cpl. Heacock and wish not only the Town Administration but the Police Department all the best wishes. We will keep you in our prayers and thoughts. Chairperson Scholl replied absolutely.

Commission Member Outten wanted to make the public aware of in-person meetings beginning in June. Chairperson Scholl commented we will have some limited capacity and he does think we will still be able to call in if residence want to. Clerk of Council stated there will be an option to call in and still have the GoTo Meetings that we do now because we will have limited seating.

Hearing no Public Comments, Chairperson Scholl called for a motion to adjourn the meeting. The motion was made/seconded (Wilson/Outten) and carried with a roll call vote of 3 Ayes 1 Absent.

Vondell Spencer  
Clerk of Council