

Planning & Zoning Commission Meeting
October 21, 2021
Delmar Town Hall & Via Teleconference

The regularly scheduled meeting of the Planning & Zoning Commission was held via teleconference. Those in attendance: Mayor Mike Houlihan, Commission Members: Beverly Wilson and Rochelle Outten. Key personnel: CDC William Hardin, CEO Liz Peek, and Clerk of Council Vondell Spencer. Guests: Jonathan Street, William Houlihan, Kennedy Wilson, Kristina Wickey, Bill Krapf, Heather Estep, Chris Brown, AJ Tucker and Ryan Conway. Absent: Commissioner Lenox.

Called o Order:

Mayor Houlihan, 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. Mayor Houlihan stated he was sitting in for Maryland Commissioner Jack Lenox who is the Chairman of this Commission and he is on vacation. He further stated his Delmar, Delaware representative Doug Kemp, effective November 1st, is being switched with Council Member Odell Jones. Council Member Kemp's work prohibited him from attending these meetings.

Old Business – None.

New Business –

1. **Zeke Wing – Sign Replacement – 502 N. Bi-State Blvd., Delmar, DE** – Mr. Wing was not in attendance. CDC Hardin stated this business houses several businesses. There was a standard already on the building. The standard sign replacement that is asked for as displayed in the attached picture as well, they have the right to have a standalone which houses the names of all the businesses at the location. Mayor Houlihan asked does this fit within the Zoning Code. CDC Hardin answered yes.

Mayor Houlihan called for a favorable recommendation to the Mayor and Council for – Zeke Wing – Sign Replacement – 502 N. Bi-State Blvd., Delmar, MD, per the attached drawings. A motion was made/seconded (Wilson/Outten) and carried by roll call vote of 3 Ayes 1 Absent.

2. **Kristina Wickey – Permanent Sign – 8 E. Grove Street, Delmar, DE** – Ms. Wickey presented with permanent sign request as referenced per the attached drawings.

CDC Hardin said if the Commission looked at the picture with the bracket on the roof you can see below on the wall face of the building a smaller sign which is a temporary sign. It was granted with new business opening until such time they can

come forward and request a new sign which is going up in that bracket, the last page of that document shows what that sign will contain. Commission Member Wilson commented the sign looks very nice. Mayor Houlihan applauded Ms. Wickey for a nonvacant building.

Mayor Houlihan called for a favorable recommendation to the Mayor and Council for – Kristina Wickey – Permanent Sign – 8 E. Grove Street, Delmar, DE, per the attached drawings with the removal of the temporary sign. A motion was made/seconded (Wilson/Outten) and carried by roll call vote of 3 Ayes 1 Absent.

CDC explained to Ms. Wickey she will receive notification and the attendance in person or teleconference for the next meeting. Depending on approval he will sign off on the sign permit.

3. **Kennedy Wilson – New Business (Milk & Honey) – 500 N. Bi-State Blvd., Delmar, DE** – Ms. Wilson presented for new business request as referenced per the attached drawings. Commission Member Wilson asked Ms. Wilson did she have a site plan for the parking. Ms. Wilson answered at this time no, we are hoping there won't be as much parking. Probably our next request, there are three spots on the front side of our building that we are hoping to have marked. Currently we have about 35 spaces in that area right now and we are working with Delmarva Performance and Repair to have a lot of those cleared out. There are some vehicles that are sitting there. Commission Member Wilson inquired about the drive-thru. Ms. Wilson responded we are hoping to have a drive-thru window or at least a pick-up area on the building side that's facing the Little Red Hen building. We obviously need to configure what would work as far as cars coming in and out of Little Red Hen and coming around that circle per your advising. Commission Member Wilson questioned if the driver pulls up to the window, they're on the wrong side of the street. Ms. Wilson responded that is correct, however, we still are going to make some arrangements to have a tray that goes through the window into the vehicle or have them come and pull up front for somewhat like a curbside pick-up which a lot of smaller coffee entities utilize for example Panera Bread or Outback.

Mayor Houlihan asked does this type of business fall under the Zoning Code. CDC Hardin answered it's zoned community business which will accommodate for retail sales as a use permitted inherently. He mentioned he too had concerns about the parking. There is a parking provision in the regulations. It goes by the size of the business as well as number of employees. It has to be off street parking it cannot be on street parking. Ms. Wilson also mentioned they have investigated possible arrangements to have additional parking put in that area if you guys are familiar with how many parking spaces are allotted for a business with perhaps one to two employees; can we be informed and we can talk with Delmarva Performance and Repair and see what arrangements can be made. CDC Hardin responded he would be

glad to assist with that. There is a supplemental sheet in the packet that shows the regulation provisions and he explained the provision. He said he is glad she is arranging something with Delmarva Performance and Repair because he is aware most days when he passes that business it has most of the parking spaces. Ms. Wilson agreed and said she would speak on behalf of them as well; she is aware just within the last week they were able to clear out four to five spaces that are otherwise occupied so we are definitely headed in that direction for the safety of everyone involved and try to do everything we can to make it work. We've actually already investigated Delmarva Performance insurance and security company as well how we can add additional parking safely. CDC Hardin responded he is unaware if DelDot has jurisdiction over Bi-State because it is a multiple state route. So, if they do then the proposal for the drive-thru window will probably have to be addressed by the business to DelDot. Ms. Wickey asked moving forward should the window not be permitted by other authorities, let her know if it's approved without it; that would be amazing because we might decide not to move forward with that should that be an obstacle or hurdle. CDC Hardin replied part of that is up to the Commission but he will contribute from the staff standpoint any information that he has. Commission Member Wilson inquired who is responsible for informing the Commission that there is ample parking for everyone. CDC Hardin replied some of those businesses have existed as grandfathered, they haven't been required to necessarily come forward. That lot has been used primarily by Delmarva Performance. Now that another business is coming and now that there is possibility room for other businesses we would need a calculation of each business footage, type of business which the regulation gives the regulations. Ms. Wilson mentioned she is the owner of that building as well and also owns Delmarva Performance Repair, she can tell the Commission there are six other businesses in that building two of which are ghost offices and explained what they are. Probably four fourths of that parking are Delmarva Performance vehicles most certainly. CDC Hardin responded the only problem is the regulation standpoint. The regulation doesn't speak to the presence or absence, it speaks to the requirement as designated by its provision for a specific business type. Ms. Wilson inquired if the Town has considered additional parking for that area based on the frequented population of the brewery across the street as well as our area. We are always struggling for parking there even with Little Red Hen employees; we share some of our spots with them and vice versa. Part of Milk and Honey's goal is to actually have kids with Down's Syndrome partner in their once a week; so, it is really important to keep our kids safe by the road if we can. CDC Hardin replied that is an issue that would have to be addressed by the Commission and Council in that if she were to try to designate parking spaces off the lot of the business. It takes a special accommodation and approval by the Council. Ms. Wilson responded okay. Commission Member Wilson asked on the front door it says Be Well Bi-State Counseling is that an existing business. Ms. Wilson answered that is a former business. CDC Hardin said 30 days from their exit from the space that sign should be removed by regulation. Ms. Wilson responded yes sir. Commission

Member Wilson further asked if Ms. Wilson would have a different sign. Ms. Wilson answered with your permission. Ms. Wilson mentioned she wanted to put four outdoor tables on the right side of the brick building where the landscaping is facing Bi-State Blvd. It should be an entry from that side; at some point especially in regards to the COVID uncertainties, again she is unsure of the zoning requirements for that. CDC Hardin responded that would be an issue that would probably require some additional research. He further responded he is thinking that area has been grandfathered. As this Commission may be aware once what's grandfathered is changed then it has to comply with the latest provisions of the code and he would be glad to research it. Ms. Wilson replied sorry and thank you. Commission Member Outten commented the drive-thru would be an issue for her because of the way the traffic is moving and looking at the curbing on the street side, the cars going off the road. She further commented she liked the idea of the outdoor seating. Commission Member Wilson mentioned there would also be allowable street parking there. Ms. Wilson commented she thought CDC Hardin said the decision would be up to DelDot. Commission Member Wilson responded but right now literally if someone pulled up there and parked on the side of the street they could park there. CDC Hardin and Ms. Wilson agreed. CDC Hardin further responded but, there is a requirement for that number. The revision speaks to off street parking and any on street parking is only by approval from this Commission and the Council. Ms. Wilson asked is there a possibility that the actual business itself without the drive-thru umbrella table idea would be able to be approved so that we can move forward with proper licensing for a coffee type shop under the condition that we would re-entertain the drive-thru window and parking at a later date once we get some more information from DelDot to see what their recommendations are. If DelDot says it's not a good idea then we'll just move forward without a drive-thru window at that point. Commission Member Outten commented she wouldn't have any objections to that. DelDot will probably look at the on-street parking on the corner. She said she is certain they have some type of requirement where there has to be a distance from the corner/site distance. Commission Member Wilson said her only issue is the actual parking that is literally available offsite for all of the businesses and if it would be something acceptable to the Council that could be provided at the next meeting assuming the parking is felt to be adequate than she would have no problem with moving forward either without the drive-thru and without the outside tables. She asked if there was going to be any signage on the standalone monument sign. Ms. Wilson answered she does not think there is going to be any room on the standalone monument sign. There is one open space right now but she believed they would just probably rely on other means of advertisement, if we could get some kind of sign on the front door that would be huge for us. Commission Member Wilson replied that is certainly allowed. CDC Hardin mentioned because it's a corner building your allowed one on the front face and one on the side face. He further mentioned she could even have a sign where Delmarva Performance is on the lit sign. Ms. Wilson responded she thought that was a wise decision.

Mayor Houlihan suggested there is a lot of moving parts with this request i.e., the DelDot preceding parking issues. He said he understood she wanted to get her business license and at least get an approval. He further said he has no problem with the concept with the business going into that building and approving just the concept but he did think she had to do more research and CDC Hardin can help you with DelDot and some of these other issues. Then come back next month. Ms. Wilson agreed. Commission Member Wilson also agreed. Commission Member Outten suggested for Ms. Wilson to contact Access Management section of DelDot and show them what she provided for us she could probably get some verbal comments.

Mayor Houlihan called for a favorable recommendation to the Mayor and Council for – Kennedy Wilson – New Business (Milk & Honey) – 500 N. Bi-State Blvd., Delmar, DE with the contingencies of further investigation of outstanding issues regarding parking and DelDot with the drive-thru. We will come back at another time with more in-depth information. A motion was made/seconded (Outten/Wilson) and carried by roll call vote of 3 Ayes 1 Absent.

4. **Heather Estep or Mickie Hughes – New Modular Home – Lot 6, 702 S. Maryland Avenue, Delmar, MD** – Ms. Estep presented with a new home build as referenced per the attached drawings. Commission Member Wilson commented this is very similar to the one next door. It's a modular home with a permanent foundation. She recommended a signed or stamped site plan. CDC Hardin stated this is a revisit, Lots 6 and 7. Lot 7 is already under construction the house has been placed on the foundation. He further stated he did the placement inspection. Both lots had approval. Lot 6, they found out after the fact that the driveway entrance was at the same location as electrical wires going into the ground. So, it had to be reconfigured to move the driveway. This presentation tonight is that reconfiguration otherwise everything else is the same. Commission Member Wilson noted it has the sprinkler system provisions accounted for. CDC Hardin said the house does not require sprinklers because it is a modular home per the Fire Marshall. If this home has sprinklers, it's discretionary as opposed to the normal mandate by Maryland.

Mayor Houlihan called for a favorable recommendation to the Mayor and Commissioners for – Heather Estep or Mickie Hughes – New Modular Home – Lot 6, 702 S. Maryland Avenue, Delmar, MD, per the attached drawings with a registered site plan be produced for the permit. A motion was made/seconded (Wilson/Outten) and carried by roll call vote of 3 Ayes 1 Absent.

Ms. Estep asked if this is approved because of the delay in paperwork is it okay to with getting a construction of the entrance and a foundation in place pending the approval. CDC Hardin answered no. The answer in terms of existing regulations and

ordinance provisions is that a building permit must be issued before any site work is done. An exception would have to be approved by the Council.

5. **Chris Brown/Ryan Homes – New Home Build – Wood Creek/Ballenger – Lot 80, 9431 Rolling Green Drive, Delmar, MD** – Ms. Brown presented with a new home build as referenced per the attached drawings. Commission Member Wilson thanked Ms. Brown for providing the setback information and asked her to pass that along because it is so helpful.

Mayor Houlihan called for a favorable recommendation to the Mayor and Commissioners for – Chris Brown/Ryan Homes – New Home Build – Woodcreek/Ballenger – Lot 80, 9431 Rolling Green Drive, Delmar, MD, per the attached drawings. The motion was made/seconded (Wilson/Outten) and carried by roll call vote of 3 Ayes 1 Absent.

6. **Chris Brown/Ryan Homes – New Home Build – Wood Creek/Allegheny – Lot 259, 9186 Clubhouse Drive, Delmar, MD** – Ms. Brown presented with a new home build as referenced per the attached drawings.

Mayor Houlihan called for a favorable recommendation to the Mayor and Commissioners for – Chris Brown/Ryan Homes – New Home Build – Woodcreek/Allegheny – Lot 259, 9186 Clubhouse Drive, Delmar, MD, per the attached drawings. A motion was made/seconded (Wilson/Outten) and carried by roll call vote of 3 Ayes 1 Absent.

7. **AJ Tucker – Final Plans – 500 Maryland Avenue, Delmar, MD** – Mr. Tucker presented with a new home build as referenced per the attached drawings. Commission Member Wilson asked Mr. Tucker to approach. She asked about the dotted setback lines and she is questioning if they are going in the correct direction. Mr. Tucker explained about the setback lines and the way they are recorded. CDC Hardin explained about the corner lot and setbacks. Mr. Tucker said that he showed this request to the MBOZA and they said the setbacks were a non-issue and it was approved. CDC Hardin agreed with Commission Member Wilson in reference to the drawing being incorrect. Mr. Tucker asked what the side setbacks are. CDC Hardin replied the side setbacks are 15 feet, 30 feet to the rear and 15 feet to the front. Commission Member Wilson commented the survey does not really have a setback for the rear. CDC Hardin responded the site plan has the verbiage but it does not have the drawing. CDC Hardin stated Mr. Tucker was approved by the MBOZA to have the ability to have a buildable lot that was under the provisions minimum lot size and explained the entire process after approval. CDC Hardin further stated the home style and it should show on the site plan. There may be some modifications since the lot is not full size. Mr. Tucker agreed. Commission Member Wilson said the minimum square feet for R2 is 9,000 square feet and this is less than 8,086.4

square feet. Also, the proposed driveway needs to be on the site plan. Mr. Tucker responded okay. Commission Member Outten mentioned Mr. Tucker wanted to put the driveway on the side street and asked him was that still his intention. Mr. Tucker answered yes. CDC Hardin said having read the decision and refreshed his recollection he explained what was granted in the MBOZA Decision from, October 2020. Commission Member Wilson read from the MBOZA minutes what Attorney Benson informed Board Member Wells and said she agreed according to what is drawn mostly on the survey presented tonight. She said she is asking that Mr. Tucker revisit with the surveyor and provide him this decision because she is unsure where he is getting the information for the setback lines that are drawn. Mr. Tucker said he thought the setback lines for the side street was 5 feet. Commission Member Wilson replied it's 15 square feet and that is what he has written. CDC Hardin explained the ruling and explained the side corner lot setbacks. Mr. Tucker asked what would it take to ask for a variance. CDC Hardin answered you have to go back before the MBOZA. Mayor Houlihan commented that he agrees with Commission Member Wells that he meets the setbacks. Mr. Tucker said okay so the surveyor just needed to remove the setback lines on the survey and show the driveway in the back of the house. CDC Hardin agreed and commented he just thinks the survey just needs to be redrawn correctly. Mr. Tucker inquired if he gets the survey redrawn and submitted to CDC Hardin can he get issued a permit. CDC Hardin replied no you have to go before the Council for the final approval. Commission Member Wilson said he had one more meeting anyway and he needed to present the correct survey with the corrections along with this recommendation. Commission Member Wilson asked do we know if this home required a sprinkler system. CDC Hardin answered yes, only a modular home, all other homes built after 2015 in the State of Maryland by mandate have sprinkler systems.

Mayor Houlihan called for a favorable recommendation to the Mayor and Commissioners for – Final Plans – 500 Maryland Avenue, Delmar, MD, contingent upon a revised site plan with correct setback lines especially including a rear setback and driveway annotated on the site plan itself. A motion was made/seconded (Wilson/Outten) and carried by roll call vote of 3 Ayes 1 Absent.

8. **Ryan Conway – 83 Single Family Lot Subdivision – Kiltel Estates – Gordy Mill Road, Delmar, MD** – Mr. Conway presented with an 83 single family lot subdivision as referenced per the attached drawings. Mr. Conway said this subdivision was approved in 2007 and what they have done is updated the stormwater and streets to the Towns standards. It's zoned R1 which would be a minimum lot size of 7, 000 square feet. Our sizes are from 9, 000-20, 000 square feet. The subdivision is going to have sidewalks. Commission Member Wilson stated the only issue she has is number 22. She said as she read it, it said by Heron Ponds. Mr. Conway responded it was designed before Heron Ponds was built. So, the pumpstation is there now and in place. Commission Member Wilson said okay. Commission Member Outten

inquired if Kildeel Estates would tie into Heron Ponds. Mr. Conway replied yes it will tie into that pumpstation. Commission Member Wilson mentioned she liked several things about the subdivision which was the entrance, cul-de-sac design, lot sizes, landscaping and the two ponds. Commission Member Wilson mentioned there is an EDU issue and she assumed he was aware. Mr. Conway responded he was. She noted that this is the second development that has come up for her having been aware of the EDU issue and the last time she did not make a motion or no one did on the Planning & Zoning because she felt that it could be years before he was even able to build. She has more information and as long he was aware that he could have a very long wait now she is not opposed to making a motion but she doesn't want the last one to come back and haunt her and someone say she didn't vote then but now she was voting for this subdivision and there is a reason for that. Commission Member Wilson inquired if this was preliminary. Mayor Houlihan replied it's already been finalized. This is more like a tune-up based on the updates and timeframe from the final approval. CDC Hardin said from staff standpoint the only issue that has raised and he hasn't gotten an answer back yet, by regulation provisions when a final approval has been given you have 18 months to begin construction so with the restriction of the INI and the issuance of the EDU's he was unsure if that moves that timeframe or not. That's something that probably needs to be addressed because it's verifying the term provision and regulation. Commission Member Wilson said the prior plan technically expired so basically; he is starting over. CDC Hardin mentioned only the approval for the project itself happened previously.

Mayor Houlihan called for a favorable recommendation to the Mayor and Commissioners for – Ryan Conway – 83 Single Family Lot Subdivision – Kildeel Estates – Gordy Mill Road, Delmar, MD, per the attached drawings. A motion was made/seconded (Wilson/Outten) and carried by roll call vote of 2 Ayes 1 Absent 1 Abstain (Houlihan).

- 9. William Krapf, LC Management – Construction Review – Phase 2, Residential Portion of the Ponds Edge Development, Delmar, MD** – Representative Mr. Street presented with a construction review for Ponds Edge Phase 2, residential portion of the Ponds Edge Development as referenced per the attached drawings. He described Ponds Edge as currently under construction and change in future ownership. They would like to do a facelift on the buildings that were proposed. The square footage of the buildings will change as well, the new buildings are all within 10, 600 square feet previously they were 10, 000 and 14, 000 square feet. We have been working with DBF and the biggest change is confirming stormwater, making sure it is still in compliance with the streets and we've sent all of our calculations to DBF but all sewer and water remains as is. The entrances to the buildings are changing, size, elevations, parking spaces, garage locations to have them further on the pavement. The biggest change to the overall facility itself would probably be the townhomes are a little bigger but we are still keeping within the same developed area. All the

infrastructure is staying the same, the curbing is staying the same with the exception where we have added some parking spaces from 42 to 44 parking spaces and some draining changes just to accommodate some extra spots. All the sewer water and sewer are remaining as is with some slight tweaks based on any location of the building, they have shifted 10 or 15 feet just to have a better parking layout. That was the biggest change Elsie Homes has. Their parking for each unit is almost down to a science because that's what is most important to their tenants. Commission Member Outten asked when they were tweaking the size of the units, how many units and how many bedrooms because in her opinion it would make a difference in parking. Mr. Krapf said he is unsure. The buildings are 24 units. Our typical suburban mix is 10% 3 bedrooms, 60% 2 bedrooms, and 30% 1 bedrooms. She further asked if Mr. Krapf has a MDSHA entrance permit, it says that you did. She mentioned she was employed by the MDSHA Access Management Engineer and as far as she is aware it seemed like work was done but not up to the highway. She reminded Mr. Krapf to check into MDSHA permit. Mr. Karpf said the previous owners cut the road down because that's how we are going to have utilities, we are going to have natural gas from Chesapeake Utilities. Commission Member Wilson noted the EDU's were previously approved and it's just a change in a little format but nothing to do with the water and sewer.

Mayor Houlihan called for a favorable recommendation to the Mayor and Commissioners for – William Krapf, LC Management – New Drawings/Construction Review – Phase 2, Residential Portion of the Ponds Edge Development, 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 –

1. Tony Russo – commented at the most recent Mayor and Commissioners meeting there was an issue about the Ryan Homes folks saying that the owners can get homes but the owners are not aware that there is a process for getting decks and they were surprised when they show up and say they have to get permits for decks. He further commented, he was under the impression that was going to get addresses tonight. Also, if all of the homes were approved with decks would that change the new home owner's responsibility on putting it up or would they still need a building permit when it came time to put it up. CDC Hardin explained the process, steps that should be taken and provisions. Mr. Russo inquired if all the homes were approved with decks would that change the new home owner's responsibility when putting it up or would they still need a permit when it's time to put it up.
2. Commission Member Wilson – thanked Jerome Reid for his service for the Town of Delmar. He retired this month and he was more than helpful on many many occasions to her and to the Town and we wish him the best on his retirement.

Mayor Houlihan called for a motion to adjourn the meeting. The motion was made/seconded (Outten/Kemp) and carried by roll call vote 3 Ayes 1 Absent.

Vondell Spencer
Clerk of Council