

Planning & Zoning Commission Meeting
September 26, 2024
MEETING HELD IN-PERSON & VIA TELECONFERENCE

The regularly scheduled meeting of the Planning & Zoning Commission was held at Delmar Town Hall and via teleconference. Commission Members in attendance: Deputy Mayor Lenox, Vice Mayor Jones, Jonathan Layton, and Shawn Johnson. Key Personnel: Town Mgr. Jeff Fleetwood, Planning and Zoning Director Twain Evanson, Code Enforcement Officer Liz Peek and Clerk of Council Vondell Spencer; via teleconference Commission Member Shawn Johnson. Guests: Mark Keely, Brock Parker, Andy Warfish, Kyle Lankford, David Hutt, Jim Eriksen, Bobby Horsey, and Nick Nistazos. Absent: Commission Member Beverly Wilson.

Called to Order:

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

Approval of Minutes –

A motion was made and seconded (Jones/Layton) to approve the August 22, 2024 meeting minutes as circulated by a vote of 4 Ayes 1 Absent (Wilson).

New Business –

Deputy Mayor Lenox noted a slight change in the agenda. He said Mr. Brown from Ryan Homes will be first on the agenda with eight submittals.

1. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Spruce/Elevation K – Lot 108, 38510 Barberry St., Delmar, DE** – Mr. Brown presented a new home build as referenced per the attached drawings. Deputy Mayor Lenox noted Mr. Brown changed the elevation from K to L. The house type is still the same. Commission Member Layton noted there is a vacant lot to the left and the setbacks are in order.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chirs Brown/Ryan Homes – New Home Build – Stillwater/Spruce/Elevation L – Lot 108, 38510 Barberry St., Delmar, DE, per the attached drawings. A motion was made/seconded (Jones/Layton) and carried by a vote of 4 Ayes 1 Absent (Wilson).

2. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Cedar/Elevation L – Lot 111, 38478 Barberry St., Delmar, DE** – Mr. Brown presented a new home build as referenced per the attached drawings. Commission Member Layton noted there is a vacant lot to the right and a Tupelo to the left. The setbacks are correct.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Cedar/Elevation L – Lot 111,

38478 Barberry St., Delmar, DE, per the attached drawings. A motion was made/seconded (Jones/Layton) and carried by a vote of 4 Ayes 1 Absent (Wilson).

3. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation K – Lot 121, 38511 Barberry St., Delmar, DE** – Mr. Brown presented a new home build as referenced per the attached drawings. Commission Member Layton noted this a corner lot, a Spruce is to the left. The setbacks are correct.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation K – Lot 121, 38511 Barberry St., Delmar, DE, per the attached drawings. A motion was made/seconded (Layton/Jones) and carried by a vote of 4 Ayes 1 Absent (Wilson).

4. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Spruce/Elevation K – Lot 115, 38360 Center Circle, Delmar, DE** – Mr. Brown presented a new home build as referenced per the attached drawings. Commission Member Layton noted there are vacant lots on both sides. The setbacks appear in order.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Spruce/Elevation K – Lot 115, 38360 Center Circle, Delmar, DE, per the attached drawings. A motion was made/seconded (Jones/Layton) and carried by a vote of 4 Ayes 1 (Wilson).

5. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Cedar/Elevation K – Lot 21, 11751 Silverbell Dr., Delmar, DE** – Mr. Brown presented a new home build as referenced per the attached drawings. Commission Member Layton noted there is a vacant lot to the right and a Spruce to the left. The setbacks are correct.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Cedar/Elevation K – Lot 21, 11751 Silverbell Dr., Delmar, DE, per the attached drawings. A motion was made/seconded (Layton/Jones) and carried by a vote of 4 Ayes 1 Absent (Wilson).

6. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation K – Lot 22, 11755 Silverbell Dr., Delmar, DE** – Mr. Brown presented a new home build as referenced per the attached drawings. Commission Member Layton noted there is a Cedar on the left and a Spruce on the right. The setbacks are correct.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation K – Lot 22, 11755 Silverbell Dr., Delmar, DE, per the attached drawings. A motion was made/seconded (Jones/Layton) and carried by a vote of 4 Ayes 1 Absent (Wilson).

7. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Dogwood/Elevation K – Lot 150, 11740 Silverbell Dr., Delmar, DE** – Mr. Brown presented a new home build as

referenced per the attached drawings. Commission Member Layton noted there is a Spruce on the left and a Cedar on the right. The setbacks are correct.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Dogwood/Elevation K – Lot 150, 11740 Silverbell Dr., Delmar, DE, per the attached drawings. A motion was made/seconded (Layton/Jones) and carried by a vote of 4 Ayes 1 Absent (Wilson).

8. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation K – Lot 152, 11728 Silverbell Dr., Delmar, DE** – Mr. Brown presented a new home build as referenced per the attached drawings. Commission Member Layton noted there is a Dogwood to the right and a Cedar to the left. The setbacks are correct.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation K – Lot 152, 11728 Silverbell Dr., Delmar, DE, per the attached drawings. A motion was made/seconded (Layton/Jones) and carried by 4 Ayes 1 Absent (Wilson).

Planning and Zoning Director, Twain Evanson noted currently Ryan Homes has five new home builds remaining for calendar year 2024. Sixty-one new home builds have previously been permitted for Ryan Homes this year.

9. **Andrew Warfield/Nistazos Holdings – Preliminary Plan (Dunkin Donuts) – Lot 5, 3 Gerald Court, Delmar, DE** – Parker and Associates, Brock Parker, Andrew Warfield, Nick Nistazos, and Traffic Engineer, Mark Keeley presented a preliminary plan for Dunkin Donuts. Mr. Parker gave the measurements of the building that is divided into three different suites/cells. He said the main tenant will be Dunkin Donuts. Mr. Parker said the plans are identical to the conceptual plans that were presented months prior to this commission.

Mr. Parker stated a traffic study has been done and has been submitted to both SHA (State Highway Association) as well as DelDot because the business is on the frontages of both roads. The SHA had one issue with the westbound lane over Rt.13. He said the SHA wanted to restripe it with a westbound lane and two southbound lanes. He further stated SHA responded they were going to make that change and they approved. DelDot wanted them to attend one of their meetings to review the right in and right-out intersection off of Rt.13. Mr. Parker expressed they have a level of confidence through their expert doing the traffic study as well as the comments received from both municipalities making them comfortable moving forward.

Mr. Parker said the preliminary approval will give them confidence moving forward to start vesting some of the engineering that it takes to work out the other municipalities other than traffic such as sediment control, storm water management, and the town's engineers.

Mr. Parker described and explained the site plan and their intent. A discussion occurred.

Deputy Mayor Lenox noted the concept plan review was March 21, 2024. He said reviewing the minutes from that meeting the traffic was the biggest condition that was asked from the Planning and Zoning Commission which Mr. Parker is presenting. Deputy Mayor Lenox asked Mr. Parker if there was a free-standing sign. Mr. Parker answered yes and it will be in the front of the building. Deputy Mayor Lenox further asked Mr. Parker if there will be a Public Works Agreement worked out through the town and Mr. Parker will be awaiting final DelDot and MDOT approval. Mr. Parker answered they will not appear back to Planning and Zoning until DelDot and MDOT have responded. Town Mgr. Fleetwood stated the status of the street light fixtures on Thornton Blvd. and Gerald Court.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Andrew Warfield/Nistazos Holdings – Preliminary Plan (Dunkin Donuts) – Lot 5, 3 Gerald Court, Delmar, DE, per the attached drawings. A motion was made/seconded (Jones/Layton) and carried by a vote of 4 Ayes 1 Absent (Wilson).

10. **David Hutt, Esq./Bobby Horsey – Preliminary Site Plan Approval/Whitetail Run – Subdivision 225 Single-Family Homes Detached Homes – South of Intersection of Old Stage Rd., & Iron Hill Rd., Delmar, DE** – Mr. David Hutt presented a preliminary site plan as referenced per the attached drawings. Deputy Mayor Lenox stated the Planning and Zoning Commission began reviewing the submission of the preliminary site plan on July 25, 2024 and continued action was requested. Since then, this commission has received a review by DBF (Davis, Bowen, and Friedel), the town’s engineer. Mr. Hutt stated he received the town’s engineer review as well. A conversation ensued about the engineer’s report. Deputy Mayor Lenox stated he is aware there has been an issue with this plan for a while due to water and sewer services. Town Mgr. Fleetwood gave an update on the status of the INI project and the Adequate Public Facilities Ordinance (APFO). A discussion occurred.

A discussion occurred in reference to property annexation and concerns pertaining to annexation. Mr. Bobby Horsey noted the property where Perdue was coming five years ago between Stage Rd. and Rt.13 was annexed at the same time with the exact same clause in their annexation agreement. A discussion occurred.

Mr. Hutt discussed and noted the binder of materials/information submitted in the previous meeting with the Planning and Zoning Commission.

Mr. Hutt discussed and answered the questions and concerns raised in the last meeting such as feedback/review from the town’s engineer, the average requirement for a lot size, and placement and lot development. Mr. Hutt addressed the other concerns of the commission from the previous meeting such as setbacks, garages, driveway parking, public works agreement, and front yard setbacks. A conversation occurred.

Commission Member Johnson stated his biggest concerns are the schools, fire, and EMS. Deputy Mayor Lenox agreed.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – David Hutt, Esq./Bobby Horsey – Preliminary Site Plan Approval/Whitetail Run – Subdivision 225 Single-Family Homes Detached Homes – South of Intersection of Old Stage Rd., & Iron Hill Rd., Delmar, DE with the following conditions: 1.) Compliance with the review by the town engineer, DBF (Davis, Bowen and Friedel) dated September 19, 2024 subject to the terms of a Public Works Agreement to include resolution of the issue regarding provision of private water and waste water as referenced in the annexation agreement. 2.) Street trees to be included in the 225 lots, that the plan referenced a front yard building setback minimum of 28 feet for each home. A motion was made/seconded (Jones/Johnson) and carried by a vote of 4 Ayes 1 Absent (Wilson).

- 11. Kyle Lankford/Ampz Electric – New Pole Building – Lots 39, Bi-State Blvd., and Stage Rd., Delmar, MD** – Mr. Lankford presented a new pole building as referenced per the attached drawings. Mr. Lankford said he and Mr. Darrin Wyatt, owner of Seal Tech are dealing with DBF (Davis, Bowen and Friedel) and they are counting the electric services and sewer pipes against the square footage of his building which is a temporary disturbance. He further said if it is a temporary disturbance he has a 12 by 12-foot building. To count this against him is unreasonable. Deputy Mayor Lenox provided further background.

Deputy Mayor Lenox asked Mr. Lankford if he proposed to pave anything. Mr. Lankford answered not currently, he would just like to use asphalt millings. Deputy Mayor Lenox said the town does not have a paving requirement in Delmar, MD or Delmar, DE.

A discussion occurred in reference to occupants of the building, fire marshal/fire suppression system, water supply for the building, health department, apron paving, land use, fencing, site plan, and building permit. A conversation occurred.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Commissioners for a preliminary site plan approval for – Kyle Lankford/Ampz Electric – New Pole Building – Bi-State Blvd. and Stage Rd., Delmar, MD, per the attached drawings with the conditions that it is approved by the town engineer and the final site plan provides detail as to fencing, parking, landscaping, other site considerations once the tenants are identified, and the driveway apron off of Stage Rd. be of asphalt material to the town’s specifications. A motion was made/seconded (Layton/Jones) and carried by a vote of 4 Ayes 1 Absent (Wilson).

Commission Comments –

There were no commission comments.

Adjournment –

Deputy Mayor Lenox called for a motion to adjourn the meeting. The motion was made/seconded (Jones/Layton) and carried by a vote of 4 Ayes 1 Absent (Wilson).

Submitted by:

Vondell Spencer

Clerk of Council