

**PLANNING AND ZONING COMMISSION  
PUBLIC HEARING  
FEBRUARY 20, 2013 – 7:00 P.M.  
TOWN HALL**

**I. CALL TO ORDER**

The Planning and Zoning Commission meeting was called to order at 7:00 P.M. by Chairman Bill Atwood. Present: Planning and Zoning Commission members Jack Cannon, Sandie Rementer, John Shockley and ex-officio member Code Enforcement Officer (CEO) Jerry Butler. The Town was represented by Solicitor Dennis Schrader.

**II. QUORUM PRESENT**

Chairman Atwood reported a quorum was present to conduct the business of the Planning and Zoning Commission, despite the absence of members Joe Conaway, Rob Richey and Ruth Ann Tull.

**III. PASSWATERS FARM, LLC – HERITAGE SHORES  
TEXT AMENDMENT  
APPROVAL OF PROPERTY MANAGEMENT PLAN**

**A. Discussion of Application**

Planning and Zoning Commission Chairman Mr. Bill Atwood advised the first application was from Passwaters Farm, LLC for a proposed amendment to the Bridgeville Land Use and Development Code and a request for approval of a Property Management Plan for Heritage Shores. Mr. Atwood advised it is the Planning and Zoning Commission's responsibility to consider this application and then make a recommendation of approval or non-approval to the Commissioners of Bridgeville. Chairman Atwood advised the Commission has the assistance of the Town Solicitor, Mr. Dennis Schrader, the Town Code Enforcement Officer, Mr. Jerry Butler, and the Town Secretary, Mrs. Peggy Smith at the meeting.

Chairman Atwood asked Solicitor Schrader to introduce the first application. Solicitor Schrader advised the application before the Planning and Zoning Commission is from Passwaters Farm, LLC, known as Heritage Shores, requesting the consideration of a Property Management Plan to be approved with the addition of an Ordinance which would add a new section to Chapter 90 of the Bridgeville Code (90-8). If approved by the Commissioners of Bridgeville, it would authorize a review of a Property Management Plan which would exempt certain properties in excess of five acres from the brush and weed Ordinance (commonly known as the grass cutting Ordinance.) The problem which must be addressed is two-fold, one of which is the fact that Solicitor Schrader has introduced a competing Ordinance to the Ordinance submitted by Attorney Showalter on behalf of Heritage Shores. Solicitor Schrader does not necessarily disagree greatly with Solicitor Showalter's proposed Ordinance; however, Solicitor Schrader prefers the Ordinance he has written because it goes further than the other submitted Ordinance. Per Solicitor Schrader, these Ordinances cannot be considered by the Planning and Zoning Commission until the March 20<sup>th</sup> meeting and the Commissioners of Bridgeville cannot address these Ordinances until their March meeting; therefore, in the absence of an adopted Ordinance, the Planning and Zoning Commission has no authority to approve or disapprove

the Property Management Plan. We have our cart and horse running side by side and need to slow down long enough to get an Ordinance in place to either mandate, require or give the Planning and Zoning Commission jurisdictional authority to approve a Property Management Plan. His recommendation is to defer a Public Hearing on the Plan until the March meeting, in order for the Commissioners to act and in order for the Planning and Zoning members to have the opportunity to review the Ordinances Solicitor Schrader has proposed for undeveloped phases of RPC's.

Solicitor Showalter advised he has no objection to Solicitor Schrader's recommendation of deferring the application. Chairman Atwood canvassed the Planning and Zoning members and found that they were also in general agreement with deferring the application.

Chairman Atwood concurred that the Planning and Zoning Commission cannot approve a Property Management Plan without having the underlying Ordinance in effect. It can't be done appropriately and legally.

**B. Decision of the Planning and Zoning Commission**

Planning and Zoning Commissioner Shockley made a motion to defer the consideration of Ordinances and the Property Management Plan until the March 20, 2013 Planning and Zoning Commission meeting. Commissioner Rementer seconded the motion. Motion carried. The votes of the members were as follows:

Commissioner Cannon	Aye
Commissioner Rementer	Aye
Commissioner Shockley	Aye
Chairman Atwood	Aye

The application will be deferred until the March 20, 2013 Planning and Zoning Commission meeting.

**IV. COMMISSIONERS OF BRIDGEVILLE**  
**R-1 to TC Zoning Change – 103 South Main Street, Sussex Tax Map #1-31-10.16-172.00**

**A. Discussion of Request**

Chairman Atwood advised the second application is from the Town of Bridgeville Commissioners requesting a rezoning of the former O'Leary Law Office at 103 S. Main St. from R-1 (single-family residential) to TC (Town Center).

Town Manager Jesse Savage advised the Town is proposing to rezone the property located at 103 S. Main St. It is currently zoned R-1 and has been operating under a Conditional Use for an office. Once the use was abandoned and the property was sold, that Conditional Use was lost. In order for the Town to lease the property for an office or similar use (in the short-term) the Town would be required to rezone the property to TC.

Solicitor Schrader asked Town Manager Savage if the intended use is for professional offices or a similar use. Town Manager Savage answered it would be a permitted use. Solicitor Schrader asked if that would be a condition of the leasing of the property. Town Manager Savage answered in the affirmative. Solicitor Schrader asked if the Town wishes to use the property for retail. Town Manager Savage reported retail is not intended.

Chairman Atwood suggested the Town is looking for the highest, best use of the property, to which Town Manager Savage agreed and added that the Town is rezoning now, rather than waiting for a tenant, for the sake of soliciting the highest possible interest in the property.

Solicitor Schrader advised according to Bridgeville Code Chapter 234-32, "permitted uses with a Development Plan Review" for that site, professional services, such as accounting, architectural, dental, engineering, insurance, land planning, law, medical and real estate could occupy the facility.

## **B. Public Hearing**

With no questions from the Planning and Zoning Commission, Chairman Atwood opened the Public Hearing at 7:10 P.M.

Mr. Larry Skala from 108 Whistling Duck Drive asked how wide-ranging this permitted use would be. Solicitor Schrader advised anything permitted in that Ordinance could be placed at the location, including the above-mentioned list, as well as an apartment, bakery, convenience store, bank, custom shop, dry cleaner, dwelling, gas station, government office, professional services, repair shop, restaurant, retail sales or supermarket. Given the size of the property and the structure, almost none of those uses would fit. Given the expressed intent of the Commissioners, it will likely be rented similar to the previous use, which was a law office.

Mr. James Stephenson from 29 Amanda's Teal Drive questioned the parking. Solicitor Schrader advised it has adequate parking, but that depends somewhat on the usage. For instance, a 5-chair orthodontist would have 5 cars per hour and an accountant would be very busy in March and April. A law office would not have a large turnover. It is a good question; however, it can only be considered at the time of the Development Plan Review before the space is rented. There is a fair amount of land behind the building available for use.

Mr. Russ Beard from 25 Amanda's Teal Drive asked if adequate parking would be taken into consideration at the time a proposed tenant expresses interest in the property. Solicitor Schrader could not speak for the Town, because there are no pending leases for the property; however, he believes the Town is on record as wanting professional offices rather than, for instance, an arcade that might bring in a large rental price, but also more traffic than can be accommodated. When the tenant (profession) is identified, then the Town will go to the Land Use and Development Code and apply the formula that tells them the activity, the square footage necessary and required parking spaces. There is also the requirement of ADA parking at the business.

Mrs. Barbara Kozichousky from 55 Emily's Pintail Drive asked, if it is currently zoned professional, what is the reason for rezoning the property? It was clarified that the property is

currently zoned R-1 (single-family residential); the lawyer was using the space as a Conditional Use or a non-conforming use and the Town would like to put a similar professional office there.

Mr. Don Kover of 7 Canvasback Circle questioned if the long list of possible uses is what is permitted with its current zoning. Solicitor Schrader advised those uses would be possible if the zoning is changed to Town Center (TC). He added he does not believe it is conducive to its current R-1 zoning; it would not be a place where he would want to live.

There being no further comments, Chairman Atwood closed the Public Hearing at 7:15 PM.

**C. Recommendation of Planning and Zoning Commission**

Planning and Zoning Commissioner Shockley made a motion to change the zoning of 103 S. Main Street from Single-Family Residential (R-1) to Town Center (TC). Commissioner Cannon seconded the motion. Motion carried. The votes of the members were recorded as follows:

Commissioner Cannon	Aye
Commissioner Rementer	Aye
Commissioner Shockley	Aye
Chairman Atwood	Aye

Per Chairman Atwood, the Planning and Zoning Commission will submit a letter of Recommendation to the Commissioners of Bridgeville to change the zoning of 103 S. Main St. from R-1 to TC.

**V. ADJOURNMENT**

Planning and Zoning Commissioner Shockley made a motion to adjourn the meeting. Commissioner Rementer seconded the motion. Motion carried. The meeting was adjourned at 7:17 P.M.

Respectfully submitted,

  
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Bill Atwood, Commission Chairman

  
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Peggy Smith, Transcriptionist