

PLANNING AND ZONING COMMISSION  
TOWN OF BRIDGEVILLE

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August 3, 2015

Commissioners of Bridgeville  
101 North Main Street  
Bridgeville, Delaware 19933

Dear Commissioners:

The Planning and Zoning Commission of the Town of Bridgeville met on July 21, 2015 to hear applications and make recommendations to the Commissioners of Bridgeville.

(1) A request by Mr. Mark Hunsberger of Pet Realty, LLC for a zoning change from Manufacturing (M-1) to Commercial (C-1) at the 501 Market St. property.

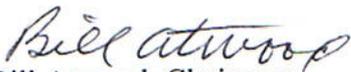
After an evaluation of the request, the Planning and Zoning Commission voted unanimously (all 7 members in attendance) to recommend adoption of the Ordinance to rezone the property from M-1 Manufacturing to C-1 Commercial. The Commission therefore sends a recommendation to the Commissioners of Bridgeville for their approval and adoption.

(2) Consideration of an Ordinance to Amend Chapter 234-72 of the Land Use and Development Code relating to Source Water Protection

After an evaluation of the request, the Planning and Zoning Commission voted unanimously (all 7 members in attendance) to recommend adoption of the Source Water Protection Ordinance, with the condition that the Ordinance be submitted to Town Engineer, Jason Loar from Davis, Bowen & Friedel, Inc. and to the Town Water and Sewer Superintendents for review and any comments forwarded to the Town Commissioners.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

  
Bill Atwood, Chairman  
Planning and Zoning Commission

BA/ps  
Enclosure

**MINUTES**  
**BRIDGEVILLE PLANNING AND ZONING COMMISSION**  
**JULY 21, 2015 – 7:00 P.M.**

**I. CALL TO ORDER**

The meeting was called to order by Chairman Bill Atwood at 7:00 P.M. Present: Planning and Zoning Commission (P&Z) members Tim Banks, Eleanor Bennett, Jack Cannon, Stephen Dell, Ed Lewandowski and Sandie Rementer. The Town was represented by ex-officio member Code Enforcement Officer (CEO) Jerry Butler, Secretary Peggy Smith and Town Solicitor Dennis Schrader.

**II. QUORUM PRESENT**

Chairman Atwood advised a quorum was present to conduct the business of the P&Z; all seven members were in attendance.

**III. ZONING CHANGE ORDINANCE – Mr. Mark Hunsberger, Pet Realty, LLC**

**A. Discussion of Application**

Mr. Mark Hunsberger, owner of the property at 501 Market Street, was present to request a change of zoning from M-1 Manufacturing to C-1 Commercial for the property at 501 Market St. (Tax Map #131-10.15-8.00). Chairman Atwood advised the meeting was advertised in the Delaware State News and property owners in the vicinity of 501 Market St. were informed of this meeting tonight. He added that P&Z is to conduct a Public Hearing and provide a recommendation to the Commissioners of Bridgeville for their consideration.

Mr. Hunsberger purchased the property at 501 Market St., which had previously been Lord's Liquors and Bowers Realty (commercial entities). The previous owner, Jeff Bowers, had done an extensive upgrade, as the building was ready to fall down. Although it has a Manufacturing-1 zoning, it has always had commercial uses. When Mr. Hunsberger purchased the property, he believed it was commercial; however, CEO Butler informed him of the M-1 zoning designation.

As a member of the Historical Society, Commissioner Bennett advised in the early 1900's the building was a store with a hat-making business upstairs. She added that the building has historical value, as it goes back to 1891.

Mr. Hunsberger reported there are not enough parking spaces on the property for a commercial enterprise and he is considering turning the building into apartments. His other businesses surround this property.

Commissioner Rementer asked if Mr. Hunsberger is considering more than one apartment. Mr. Hunsberger advised there would be no more than two apartments (one upstairs/one downstairs.)

Commissioner Bennett asked if there are enough parking spaces to allow two spaces for each apartment. There are six parking spaces on one side and two on the other side. He also owns the property across the street, which is all parking. She questioned any anticipated changes to the outside. He responded that they would like to keep it the same; the only possible change would be a new awning. They have already fixed rotten molding in the upstairs.

Chairman Atwood thought the permitted use only included a single-family dwelling. Solicitor Schrader advised Mr. Hunsberger would have to return to the Planning and Zoning Commission to request a Conditional Use for multiple apartments. He must be re-zoned for Commercial in order to apply for a Conditional Use, which, if approved would allow multiple apartments.

Commissioner Dell questioned Solicitor Schrader about the possibility that this zoning change would be considered "spot zoning," which could open the Town up to a lawsuit. Per Solicitor Schrader, that is not the law in Delaware.

**B. Public Hearing**

There were no members of the public in attendance to hold a Public Hearing.

**C. Recommendation of the Planning & Zoning Commission**

Commissioner Banks made a motion to recommend to the Commissioners of Bridgeville the rezoning of the property at 501 Market Street from M-1 Manufacturing to C-1 Commercial. Commissioner Lewandowski seconded the motion. Motion carried. The votes of the members were recorded as follows:

Commissioner Banks	Aye
Commissioner Bennett	Aye
Commissioner Cannon	Aye
Commissioner Dell	Aye
Commissioner Lewandowski	Aye
Commissioner Rementer	Aye
Chairman Atwood	Aye

Per Chairman Atwood, P&Z will submit a Letter of Recommendation to the Commissioners of Bridgeville to change the zoning of 501 Market St. to C-1 Commercial.

**IV. An Ordinance to Amend Chapter 234-72 of the Land Use and Development Code Relating to Source Water Protection – Ms. Lee Ann Walling, Cedar Creek Planners**

**A. Discussion of Ordinance**

Chairman Atwood advised P&Z has the responsibility to make a recommendation concerning the proposed Source Water Protection Ordinance for the Town to the Commissioners of Bridgeville.

Ms. Lee Ann Walling from Cedar Creek Planners reported this Ordinance will protect Bridgeville's public drinking water sources, including wells and areas of excellent groundwater recharge. According to state law, Towns are required to pass a Water Protection Ordinance when they reach a population of 2,000. She has researched similar Sussex County Towns for assistance in preparing this Ordinance and has been conservative concerning protecting the Town's drinking water, while continuing development throughout Town.

Ms. Walling advised the dots on the picture represent existing wellheads. Pictsweet has 4 wells, Perdue, O.A. Newton and the State Police barracks also have wells and are in the Town's future annexation area. She has worked with DNREC to make certain nothing has been left out. DNREC is satisfied that this picture describes what is going on in Bridgeville concerning drinking water. The table on pages 9 and 10 represents her proposal, which can be adjusted and fine-tuned by the Town. The 150 feet surrounding the wellhead should always be protected.

Ms. Walling highlighted 4 wells that are a part of Bridgeville Mall (2 fire protection wells and 2 drinking water wells). This well protection area was likely not identified in the past. It is currently undeveloped and would require the guidance of this SWP Ordinance, should development be considered. Ms. Walling indicated it is directly south of the Walgreens. Future development may be difficult in this area due to well protection; impervious surfaces (buildings, parking lots, etc.) may create difficulties (20-50% impervious cover is allowed). Engineers would have to prove that the post-development recharge is no less than the pre-development recharge. There is a challenge process in the Ordinance allowing engineers to delineate and offer substantive data to prove their point.

Commissioner Dell asked if the Heritage Shores commercial aspect is already recorded/grandfathered. Solicitor Schrader clarified it is grandfathered and the development has been subject to the state's Plus process, which goes through the development in great detail.

Ms. Walling added the previously developed areas of the Town, which are already served by infra-structure, are allowed to exceed the 50% threshold with no cap because they are already built-out with sidewalks, streets, sewer and other impervious areas.

Chairman Atwood questioned whether this Ordinance is the result of a recent directive from the state. Ms. Walling believes it went into effect in 2007 for Towns with 2,000 or higher population. All of the Towns have complied and Bridgeville is one of the last to do so. She added that Bridgeville is overdue for a Comprehensive Plan update, as well.

Commissioner Lewandowski added that in order for the Comp Plan to be certified by the state, this SWP Ordinance requirement must be satisfied.

Commissioner Dell expressed concern that a future developer might decide to locate his business further north or south of Bridgeville, due to extra requirements to build in the Bridgeville Mall area. This would be a significant detriment to Bridgeville development.

Solicitor Schrader suggested there are additional inevitable issues other than SWP that would also be in play, such as wastewater, stormwater, etc.

Commissioner Dell wondered if the wells in question could be capped, as he is concerned that the economic development of Bridgeville will be hampered. It was clarified the wells belong to Tidewater Utilities, which claimed that territory in the past.

Chairman Atwood expressed concern that the Town Engineer, Water Superintendent and Wastewater Superintendent, who have duties as a part of this Ordinance, have not reviewed this document. He believes it is appropriate for them to review the Ordinance and comment before it is considered at the August Town Commission meeting. Ms. Walling is willing to meet with them if that

would be helpful. Chairman Atwood also believes elements of the SWP Ordinance should be added to the checklists that are already in the Town Code and the engineer should also be aware of them.

Solicitor Schrader added that the engineering firm reviews all development plans and the developer is also charged with knowing the law.

Per Ms. Walling, there is a full engineer's manual that accompanies this Ordinance. She believes it is possible to work around the engineering issues of the Bridgeville Mall area and develop there (i.e. recharge basin to decrease impervious rate to less than 50%, etc.).

CEO Butler suggested that Chairman Atwood's concerns could be taken care of by the engineer updating the application process that a proposed development would need to follow. He would like the Engineer and Public Works Departments to review the Ordinance and determine if a meeting is required to fully understand the requirements of this Ordinance. It was clarified our Engineer is likely already well aware of the requirements of this Ordinance.

Solicitor Schrader will contact Town Manager Savage concerning the P&Z members' concerns regarding making the Public Works Department and the Town Engineer fully aware of all aspects of this proposed Ordinance.

Commissioner Cannon questioned the excellent groundwater recharge areas that are outside Town limits. Ms. Walling advised the Town doesn't need to be concerned about them, only about the one that is within Town limits. It is located in a previously developed area, which means it is virtually exempt from the requirements of the Ordinance. He also asked how they determined the wellhead protection areas. Ms. Walling reported they were determined by how the water flows out from the well or into the well from the aquifer and the types of soils involved. The Delaware Geological Survey from the University of Delaware determined the delineations.

It was clarified the map is part of the Ordinance and the Town boundaries are in a cream color.

## **B. Public Hearing**

There were no members of the public in attendance to hold a Public Hearing.

## **C. Recommendation of the Planning & Zoning Commission**

Commissioner Dell believes the P&Z doesn't have enough information to make a recommendation on this application and that they should hear comments from Town Department Superintendents in order to adequately advise the Town Commissioners.

Ms. Walling advised this Ordinance is "in line" with other Sussex County Towns, including Georgetown and Seaford – not overly- or under-protected.

Commissioner Dell's concern is that other Towns don't have a wellhead protection area right in the middle of the best commercial development area Bridgeville has to offer. Ms. Walling does not believe this circumstance means the Town can't build at that location.

The P&Z discussed the possibility of tabling the application until the Engineer and Superintendents (likely only the Water Superintendent) are able to review the Ordinance. CEO Butler is anxious that the employees be educated concerning this Ordinance.

The P&Z members generally agreed that it would be acceptable to approve the application with conditions.

Commissioner Bennett made a motion to recommend to the Commissioners of Bridgeville the adoption of Ordinance #2015-D with the condition that the Source Water Protection Ordinance be submitted to Town Engineer, Jason Loar from Davis, Bowen & Friedel, Inc. and to the Town Water and Sewer Superintendents for review and any comments forwarded to the Town Commissioners. Commissioner Rementer seconded the motion. Motion carried. The votes of the members were recorded as follows:

Commissioner Banks	Aye
Commissioner Bennett	Aye
Commissioner Cannon	Aye
Commissioner Dell	Aye
Commissioner Lewandowski	Aye
Commissioner Rementer	Aye
Chairman Atwood	Aye

Chairman Atwood does not believe the Ordinance should have come before the P&Z members without previous review by the above-mentioned individuals.

Commissioner Dell requested that an upcoming Agenda include discussion of a Memorandum of Understanding (MOU) with Sussex County's Planning Commission, as a follow-up to one of the recommendations in the Master Plan.

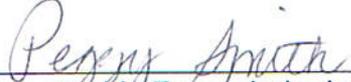
The P&Z members have received updated copies of the Town Code and Chairman Atwood reminded the P&Z members that he would like them to review the code for errors or needed updates in the information.

Commissioner Lewandowski thanked Ms. Walling and CEO Butler for their efforts on behalf of the Town concerning this Ordinance.

There being no further business, the meeting was adjourned by Chairman Atwood at 7:59 P.M.

Respectfully submitted,

  
Bill Atwood, Chairman

  
Peggy Smith, Transcriptionist