

September 10, 2021

VIA: U.S. MAIL & EMAIL to Ann Marie Townshend at atownshend@ci.lewes.de.us

Mayor Theodore W. Becker
Deputy Mayor Andrew Williams
Secretary Timothy Ritzert
Treasurer Carolyn Jones
Councilperson Khalil Saliba
c/o Ann Marie Townshend, City Manager
City of Lewes
114 E. Third Street
P.O. Box 227
Lewes, DE 19958

RE: Olde Town at Whites Pond
SCTM No.: 335-8.00-46.00
Final Major Subdivision Plan

Dear Mayor and Council Members:

During the public hearing for the above-referenced application on August 30, 2021, Showfield, LLC, the applicant/developer for the above-referenced project, was asked the following two specific questions:

- 1-whether the community documents (restrictive covenants) for the existing Showfield development contain any “connectivity” references for the connection between Monroe Avenue and the Showfield community at Battlemixer Drive; and
- 2-whether the fence referenced in the Planning Commission’s Recommendations belonged to the Delaware River & Bay Authority (“DRBA”) or to the owner of the property (Showfield, LLC).

The applicant/developer along with its professionals at Davis, Bowen & Friedel, Inc. and Morris James LLP reviewed their records and files, public records (recorded documents) and other information available to completely answer these two questions.

With respect to the first question, regarding specific reference(s) to the potential “connectivity” of Monroe Avenue with the Showfield community at Battlemixer Drive, the only reference is found in Exhibit B to the Master Declaration of Covenants, Conditions, Easements and Restrictions for Showfield recorded January 28, 2016 in the Office of Recorder of Deeds in and for Sussex County in Deed Book 4500, Page 6 *et seq.* (the “Declaration”). Exhibit B is the “Initial Phase Plan” and describes expansion areas and annexable areas which were not required

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to be built. At the approximate location of Monroe Avenue, the Initial Phase Plan states “Future Road Connectivity.” A copy of that page, as recorded in the Recorder of Deeds is attached for your ready reference.

Please note that the Declaration was amended seven times to add all the “Expansion Property” to the Showfield community (the 4th Amendment was recorded twice to correct an erroneous reference in the first version of the 4th Amendment). In addition to reviewing the Declaration to answer the question, each of the following amendments was reviewed to confirm there was no mention of the future connection between Monroe Avenue and Battlemixer Drive:

	Deed Book	Page
Master Declaration for Showfield	4500	6
1st Amendment to Declaration	4615	280
2nd Amendment to Declaration	4709	106
3rd Amendment to Declaration	4742	120
4th Amendment to Declaration	4871	286
Amendment 1 to 4th Amendment	4910	286
5th Amendment to Declaration	4891	238
6th Amendment to Declaration	4986	290
7th Amendment to Declaration	5049	293

Should the Association desire to amend the Declaration to include an express provision regarding connectivity, the amendment would require the affirmative vote of two-thirds of the members of the Association (lot owners). Specifically, Section 12.8 of the Declaration provides that the covenants, conditions and restrictions may be amended by the affirmative vote of not less than sixty-seven percent (67%) of all the members of the Association (lot owners). Thus, to modify the Declaration, a vote of the membership is required.

The second question relates to the fence. The surveying and other work performed to date shows that the fence is located on the boundary line of the right-of-way and was installed there when Freeman Highway was constructed. The best example of what occurs when a new project is undertaken in this area is the new library directly across the street from this property. During the construction of the library the DRBA fence was reinstalled with a like-kind fence as already existed. Recognizing that the DRBA is likely to replace its existing fence with a like-kind fence, is probably why the Planning Commission recommended that the DRBA be asked to “replace the fence along Freeman Hwy. with a fence more compatible with fences along Freeman Hwy. (ex. split rail).”

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Thank you for your consideration of this information along with the Project Book and presentation made during the August 30th public hearing.

Very truly yours,

MORRIS JAMES LLP


David C. Hutt

Enclosure

Cc: Showfield, LLC

Janelle Cornwell, AICP, City Planner (via email to jcornwell@ci.lewes.de.us)

Glenn C. Mandalas, Esquire (via email to glenn@bmbde.com)

Ring W. Lardner, P.E. (via email to rwl@dbfinc.com)

EXHIBIT "B"

[attach Initial Phase Plan with areas that "need not be built"]



