

**Supplemental Zoning Paperless Packet**

**October 26, 2020**

**CU 2237 – Filed on behalf of Samuel C. Warrington II**

**Additional Comments Received**



MORTON  
VALIHURA  
& ZERBATO

**FILE COPY**  
Opposition  
Exhibit

Michael P. Morton, Esquire\*  
Robert J. Valihura, Jr., Esquire  
David C. Zerbato, Esquire\*\*  
Jillian M. Pratt, Esquire\*\*\*

\*Members DE & PA Bars

\*\*Member DE, MD & PA Bars

\*\*\*Member DE, NJ & PA Bars

DELAWARE CERTIFIED PARALEGALS

Sherry Thomas Lyons, DCP

Ellen Sebastiani, DCP

Marcella E. Manis, DCP

Marylou Weeks Reith, DCP

Chelsea K. Erace, DCP

October 26, 2020

**BY EMAIL**

The Honorable Members of  
Sussex County Council  
2 The Circle  
Georgetown, DE 19947  
[rgriffith@sussexcountyde.gov](mailto:rgriffith@sussexcountyde.gov)

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OCT 26 2020

SUSSEX COUNTY  
PLANNING & ZONING

Re: C/U 2237 (Samuel C. Warrington II) Ordinance for Boat and RV Storage Facility

Dear Members of Council:

I represent the Heritage Village Condominium Association (the "Association").

On the Public Hearing agenda for tomorrow, Tuesday, October 27, 2020, is an Ordinance to grant a Conditional Use of Land (the "Ordinance") in an AR-1 (Agricultural Residential District) for a boat and recreational vehicle ("RV") storage facility located on a two (2) plus acre portion of a larger parcel of land at 34378 Postal Lane, Lewes, Delaware (the "Property").

On behalf of all of the residential homeowners at Heritage Village and the Association, the Board of Directors of the Association wishes the members of Sussex County Council to know of its strenuous objection to the lightning speed in which this Ordinance has come before you, and respectfully requests, in the interest of justice and during this unprecedented pandemic time, that Council postpone consideration of this Ordinance until the next public meeting of Council, or, at the very least, that Council keep the record open for thirty-days, before Council undertakes the final consideration of this Ordinance.

Two (2) business days ago, the Planning and Zoning Commission (the "Commission"), by a three to one vote, approved this proposed Ordinance. The Commission's recommendation included multiple new, different and changed conditions for approval of the Ordinance application, and the Association has not had the opportunity to canvass the community or to consider whether those additions to the applicant's conditions are acceptable to community or the community at large. There has simply been no time to cogently and intelligently consider whether these additional conditions are worthy of support, or whether any of them, or others, can or will address the substantial concerns of the community. This is compounded by the fact that the applicant has not bothered to reach out to the community to see if there is common ground or whether there are mutually acceptable covenants that would ameliorate the substantial issues of the Association, its owners and the surrounding residential neighborhoods.

Greenville Professional Center • 3704 Kennett Pike, Suite 200 • Greenville, DE 19807  
Telephone: 302-426-1313 • Fax: 302-426-1300 • Web: [www.mvzllc.com](http://www.mvzllc.com)



Accordingly, the Board of Directors of the Association respectfully requests that Council vote to defer consideration and presentation of the Ordinance on Tuesday, October 27<sup>th</sup>, or that, if Council decides to proceed, that the record be left open for another thirty (30) days so that the community will have the opportunity to process the decisions of the Commission and so that this Council will understand exactly what the community's views are after sufficient time to digest the changes proposed by the Commission and as to what they might mean to and for the community.

Should Council not be able to grant this request, the Board of Directors of the Association wishes Council to understand that the Board, on behalf of all of its owners in Heritage Village, opposes this Ordinance, and **respectfully requests that Council vote to deny approval of this Ordinance.**

Heritage Village is a condominium town house community consisting of 145 residential homes located immediately adjacent to the Property. In fact, Heritage Village is the most direct neighborhood to the Property and would be subject to the brunt of the harmful effects of the now prohibited Boat and RV storage yard commercial activity ("Boat Yard") that is proposed to take place on the Property if the Ordinance is granted. The harms which are set forth in this letter are real and will be ongoing if the Ordinance is passed.

This proposed Boat Yard on the Property is **inconsistent** with neighboring and adjacent uses. Heritage Village and the Property are not now in an area which permits the commercial activity of the nature sought in the Ordinance.

The surrounding properties are residential,<sup>1</sup> other than the larger agricultural parcel from which the Property is proposed to be carved out. Indeed, the properties on Postal Lane, on which the Property sits, are all residential. The communities across the street from the Property are residential neighborhoods. The land directly behind and to the south of the Property is residential. The section of Plantation Road, at the end of Postal Lane and which is immediately to the east of the Property, is wholly residential. Thus, this Property is not in a transition area, or an area adjacent to a compatible use, but rather the Property sits firmly in the middle of an area surrounded by residential uses.

Allowing commercial activity in the middle of residential homes and residential neighborhoods is completely inconsistent with the current use patterns in the area immediately surrounding the Property. This alone counsels in favor of the denial of this Ordinance.

This specific commercial activity is **inconsistent** with the expectations of the owners of the surrounding properties, including the owners at Heritage Village. Residential uses in the area are low intensity. The addition of the Boat Yard will bring in a high intensity use, at the wrong time of year, the summer. Because of its location just off the Route 1 corridor, the Boat Yard will

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<sup>1</sup>The golf course which is adjacent to the Heritage Village property, while not owned by Heritage Village, is an integral part of Heritage Village, as the developer of Heritage Village made it apart of the community, and the golf course owner has a seat on Heritage Village's Board of Directors.



not be a "park it and leave it" type facility during the summer. Rather, it will be a daily use facility, providing in-and out storage for owners who cannot park their boats in their driveways or in their communities

This Boat Yard will thus engender day tripping boat owners coming in and out, numerous individuals seeking to access the boats and RVs for the owners while they remained stored on the Boat Yard, and will burden the residential neighbors with all the commercial activities associated with a the Boat Yard, including jarring and property value destroying visual blight, the inevitable illegal waste, motor and bilge discharges, noise, both of mechanical and human creation, unabated access and the disturbances that such access entails and intrusive surveillance systems and, apparently, stockade-type fencing, all of which destroy the residential ambience and character expected by residential owners in a residential neighborhood.

The zoning classification for this area was intended to protect residential owners from the harms associated with commercial operations, and allowing this particular use right in the center of a residential area would render the protections afforded to these homeowners meaningless.

The proposed conditional use is **inconsistent** with the character of the agricultural and residential zoning of this area. Housing and residential uses predominate in this area, with well-maintained homes and properties, including the homes in Heritage Village, which along with the surrounding neighborhoods, create a pleasing and residential family friendly environment.

The site is not capable of shielding the public or semi-public activities that would take place right in the middle of communities with homeowners that purchased with the very real expectation that such use would not be permitted around their homes and that the County and their elected officials would protect them from the unwarranted intrusion of unpermitted and certainly unexpected commercial activity. All of this negatively affects property values and the quality of life of the residents surrounding this currently illegal and proposed permitted commercial outpost.

A 365 day boat and trailer storage facility, even with some limitation on hours, will result in visual disharmony, excessive noise with the constant movement in and out of the facility of boats, trailers, vehicles and people, unwarranted and intrusive employment services required to attempt to maintain the safety and security of the boats and the Boat Yard, and customer traffic in and out that does not currently exist in this area. There is simply no reason why the character of this residential/agricultural area should be "changed," read ruined, with the formal sanctioning of a commercial enterprise which degrades and despoils the fundamental residential character of the community.

The proposed conditional use will **adversely affect** the neighboring properties, communities, roadways and traffic. Your Planning and Zoning Commission has already found that a boat storage facility is "a public or semi-public use." With public use comes additional traffic on roads not built to handle such traffic, and traffic brings congestion and associated issues, all of which is inconsistent with the current use patterns in the area surrounding the Property. The Planning and Zoning Commission was most concerned about traffic to and from



this Property. While traffic is but one objectionable aspect of this proposed Boat Yard, it is nonetheless a troubling one

Postal Lane is a narrow community road that has been transformed, over the last dozen or so years, to a major artery to the beach. Yet, it remains a narrow community road which, if the Ordinance is passed, will serve as a bottleneck, which is unlikely to be fixed given that there is no shoulder room, and little to no space to expand the road except for taking land from the homeowners who live along the road.

Thus, with this unexpected commercial use thrust upon them, the residents along the road will be trapped in endless lines of vehicular traffic, exacerbated by large RVs and trailered vehicles.

**The influx of expensive targets of opportunity on the Property will drive up crime.**

Boat storage facilities are easy targets of criminal activity, as valuable components of boats are left waiting for someone to drop by and steal them. This facility, if it is permitted to exist, will be particularly vulnerable here as it sits within a residential area. It is self-evident that this targeted crime also engenders crimes of opportunity in the surrounding area, if the criminals cannot find or reach those areas which brought them looking to target the Boat Yard in the first instance. Thus, this Boat Yard will act as a crime magnet, bringing the criminal element into Heritage Village, and the other residential areas surrounding the Boat Yard.

Ultimately, and probably most importantly for your analysis, the proposed conditional use is **unnecessary**. There is no fundamental economic study or other professional assessment, and none was offered by this applicant, that shows that this zoning modification to accommodate this facility is necessary, desirable or even in the public interest. There is and can be **no** showing that the area in the immediate vicinity of the Property is underserved or not served with adequate facilities for boat and trailer storage. Nor could such studies or assessments be offered. **Multiple** boat and RV storage facilities, with significant capacity, already are already available in appropriately located areas within a reasonable distance, a mile or two away from the Property.

Convenience cannot serve as a basis to jettison the protections afforded to the owners of surrounding property by consistent zoning classifications. Thus, while this proposed facility may be "convenient" or "desirable" to some as the applicant argues, there is no critical lack of facilities or critical lack of land available in appropriately zoned areas that would counsel in favor of supporting an ordinance that is nothing more than spot zoning, leaving an island of commercial land-based boating activity, in a sea of otherwise residential and agricultural uses. In short, the only necessity here is the desire of the applicant to maximize its return from a property that already provides the applicant with a rental income stream from farming with even more money, a potentially endless income source, all at the direct expense of the surrounding property owners and all on property that was never intended to provide an owner with a commercially-based income stream.

In the end, what is being sought here is a sea change in character of the community through the formal introduction of this island of commercial activity by requesting something

that does not legally exist in the community to date, and is not for the benefit of the community, but rather for the financial enrichment of someone who has long owned the Property well-knowing that its use was strictly limited by law.

In similar circumstances, this Council has denied applications for boat yards directly in the middle of surrounding residential neighborhoods.

Indeed, one such boat yard Conditional Use application was denied for a property just off Robinsonville Road, just east of this site, a little over five years ago, for almost the identical situation here. CU-2025 (Rudy South c/o T&C Properties, LLC).

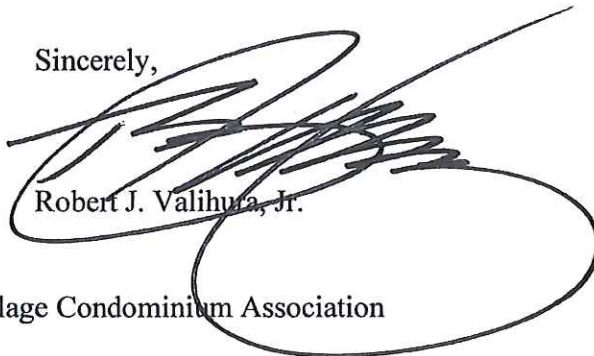
Moreover, Council, just over four years ago, also denied an identical Conditional Use application for a boat yard to be located right in the middle of a residential enclave. CU-2049 (Blue Claw, LLC).<sup>2</sup>

The reasons to reject this Ordinance are more compelling than the reasons for denying these two prior applications, given the horrendous traffic situation on Postal Lane, especially at the very time -- in the middle of summer weekends -- that boaters and recreational vehicle owners will be accessing this facility.

There being no established need for this facility, no community clamor for its existence, no offered legal basis for seeking relief from the current zoning classification, other than as a potential means to bestow upon its owner a personal money-making machine, no prior precedent granting such relief under similar circumstances and no benefit to the surrounding community in which it is proposed to exist, the Association by its Board of Directors respectfully requests that you deny approval for this Ordinance.

Should you have any questions concerning the position of the Association, please do not hesitate to contact the undersigned.

Sincerely,



Robert J. Valihura, Jr.

cc: Board of Directors of Heritage Village Condominium Association

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<sup>2</sup> Council two years ago denied a Conditional Use application for an application that included an outdoor storage area for RVs. C/U 2111 (Michael Moutzalias).



**FILE COPY**

**Opposition  
Exhibit**

RECEIVED

**Jamie Whitehouse**

OCT 26 2020

**From:** Ron Scala <noreply@forms.email>  
**Sent:** Monday, October 26, 2020 1:47 PM  
**To:** Jamie Whitehouse  
**Subject:** Contact Form: Warrington Boat/RV Storage Facility (C/U 2237) Opposition

SUSSEX COUNTY  
PLANNING & ZONING

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Name: Ron Scala  
Email: hrvbod.ronscala@gmail.com  
Phone: 302-200-0878

Subject: Warrington Boat/RV Storage Facility (C/U 2237) Opposition

Message: I am a resident and Board President for Heritage Village Community located right off Postal Lane in Lewes. I am writing to you to ask for the Council's support to oppose the Warrington Boat/RV Storage Facility (C/U 2237) proposal on Postal Lane. This 2.5 acre site sits smack in the middle of five residential communities. These communities are home to families, both old and young, many with children. The proposed entrance on the already narrow Postal Lane will bring boats and RV's in tow coming into and out of the proposed facility. Postal Lane is a narrow road with one lane in each direction. There are no sidewalks and no shoulders on this road. With little to no room, there are no turning or deceleration lanes to handle this influx of large vehicles.

The proposed project is moving rapidly as it was only approved by the Planning and Zoning Committee last Thursday (10/22). The project is scheduled to go before the County Council this Tuesday (10/27). This leaves Heritage Village a mere five days to prepare a defense to oppose the project.

It is my understanding a boatyard conditional use application was denied for a property just off Robinsonville Road, located just east of this site, a little over five years ago, for almost the identical situation we have here. (C/U 2025 Rudy South c/o T & C Properties, LLC). Additionally, about four years ago the Council also denied a conditional use application for a boatyard to be located right in the middle of a residential enclave (C/U 2049 Blue Claw, LLC).

The commercial land use in our area is incompatible with the surrounding residential communities.

On behalf of the 146 homeowner/residents of Heritage Village, and the hundreds of residents of the surrounding communities, I respectfully ask that the council oppose this project. At the very least, postpone for a later date so Heritage Village and the surrounding communities have a fair opportunity to prepare an objection.

Thanking you for your time,

Ron Scala

Board President  
Heritage Village

TO:

Sussex County Planning and Zoning Commission

County Admin Building

The Circle

Georgetown, De. 19947

FROM:

The Undersigned

RE:

Outdoor RV and Boat Storage

**Conditional Use 22237**

We are homeowners in Woods Cove and we're submitting **our written opposition** to this proposal. This is a residential area and we don't want the eyesore you are considering. The recreational vehicles proposed for our neighborhood belong near calm water, farther west from here. They can very well find appropriate land near the bay. We firmly believe this application, if approved, will lower our property values and will be an ugly site. Vote NO!

Thank You.

Frances Corbin

18876 Bent Anchor Ct Unit 3801

Frances R. Corbin 9/15/2020

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Lois Blasczyk Bailey

18876 Bent Anchor Ct Unit 3802

Lois K Blasczyk Bailey 9/15/2020

Jane Lopardo

18880 Bent Anchor Ct Unit 3702

Jane Lopardo 9/15/20

## Chase Phillips

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**From:** Bill Hamilton <billmhamilton@comcast.net>  
**Sent:** Tuesday, October 20, 2020 9:48 AM  
**To:** Jamie Whitehouse; Chase Phillips  
**Cc:** 'Bill Hamilton'  
**Subject:** County Attorney? - Warrington CU2237

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Gentlemen,

Can you tell me the name of the county attorney who spoke during the 9/24 Warrington P&Z hearing and that gentleman's title? He sat across from Jamie's right. He counseled the commissioners that the fact Mr. Warrington was a farmer and the family has owned the farm for over 100 years, should not be considered; the application needs to be addressed on its merits. Our participants who attended the hearing clearly believe a driving reason for recommending this application by several of the commissioners may be simply be their empathy for "the farmer". Notwithstanding county counsel's guidance, this empathy issue for the farmer was addressed again by several commissioners during the 10/8 hearing. Interesting. Heritage Village has 146 townhome owners, Sandy Brae has over 250 single family owners, with many being senior citizens. The community goes back to the 60s. Many cars now drive through their community as a short cut to avoid the traffic light at Plantation Rd. Go ahead and add a couple of pickups with a boat in tow and see how many more cars will enter their community for the short cut. Maybe even the pickup with their boat in tow. How about a little empathy for our over 400 homeowners in placing this two and half acre boat, RV and trailer facility lot in the middle of our residential community?

As an aside, and this would have to be confirmed for sure, locally we do not believe Mr. Warrington is a farmer, he is a CPA. We do not believe the Warrington family farms the land. We believe the family leases the land. Seems to me what is being proposed here is a continued use of land for a commercial enterprise to produce revenue: a boat, RV and trailer storage facility along with the leasing of 40 acres.

In any event, please share the name and title of who I suspect is a retained county attorney? Please do place this email in the record file.

Thank You,  
Bill Hamilton  
Heritage Village Board of Directors

**Opposition  
Exhibit**

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## Chase Phillips

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**From:** Laura McCunney <lmccunne@me.com>  
**Sent:** Thursday, September 24, 2020 5:01 PM  
**To:** Chase Phillips  
**Subject:** RV/Storage off of Postal Lane

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I am voicing my strong opposition to the proposed RV/storage next to Bethpage Dr. I bought my home 18796 Bethpage because of its location and the beauty of open corn fields. Heritage village is a lovely community and this proposal will definitely decrease the value of the homes here, not to mention Sandy Brae as well. The traffic on Postal is already quite busy, don't make it worse!

Thank you for your attention to this urgent matter.

Laura A. McCunney  
Sent from my iPhone

**Opposition  
Exhibit**

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SEP 25 2020

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PLANNING & ZONING

## Russell Warrington

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**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Friday, October 16, 2020 2:28 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Friday, October 16, 2020 - 2:28pm

Name: Barbara Brewer  
Email address: jobsor@aol.com  
Phone number: 302-745-1010  
Subject: C/U 2237 Warrington Conditional Use Request

Message:

Dear members of Sussex County's P&Z commission:

As a resident of the development of Sandy Brae, I am requesting that you deny the conditional use request of Samuel C Warrington II for outdoor RV and boat storage on the SE side of Postal Lane in Lewes. These lands should NOT be permitted use that would increase noise, lighting, increased or large item traffic on Postal Lane immediately across from residential single family homes. This area has already been adversely impacted by increases in traffic (and at higher speeds) and increased noise levels therefrom, and the requested use is not in keeping with the surrounding residential neighborhoods. Several letters and comments opposing this have been submitted and I am adding mine. It is a crucial matter of safety and would also further negate the ability of many residents to the quiet enjoyment of their property, a significant investment for most. Please do not support or grant this conditional use request.

Thank you.

Sincerely,

Barbara Brewer



## Russell Warrington

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**From:** webmaster@sussexcountyde.gov on behalf of Sussex County DE  
<webmaster@sussexcountyde.gov>  
**Sent:** Friday, October 16, 2020 12:49 PM  
**To:** Planning and Zoning  
**Subject:** Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Friday, October 16, 2020 - 12:48pm

Name: Katherine Helen Davison

Email address: mermaids354@comcast.net

Phone number: +11302645793

Subject: Case # CU2237 RV & Boat request on Postal Lane

Message: My name is Kathy Davison and I am the president of the Sandy Brae HOA. I am sending this message to all members of the Commission about the above request for the Boat and RV Storage on Postal Lane. We were very disappointed to hear no mention of the 92 emails against this application in your last discussion meeting on this request. Having this kind of business on Postal Lane will fly in the face of safety for the residents as well as any traffic on Postal Lane. The owners have no history of running a business like this and any boat owner I personally speak to about this say what it will happen is a huge usage of "drop & go" boat owners, which will create lots more traffic than expected, early (5am) noise, and more boats trying to turn into the lot. There is no space to widen Postal safely enough for this business. Please rule against this business and pay attention to the residents not wanting a business like this on Postal Lane. Thank you!

## Jamie Whitehouse

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**From:** Bill Hamilton <billmhamilton@comcast.net>  
**Sent:** Saturday, October 10, 2020 3:53 PM  
**To:** Chase Phillips  
**Cc:** Jamie Whitehouse; 'Bill Hamilton'  
**Subject:** CU2237 Samuel Warrington  
**Attachments:** CU 2237 DelDot Letter.pdf

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Chase,

May I thank you again for your assistance in walking me through this application process. I will give you a call Monday afternoon for a short chat. I viewed Thursday evening's P&Z hearing noting the matter has been deferred with the commissioners requesting a DelDot assessment of needed road reconstruction for a commercial entrance to the proposed storage facility. On that note, attached is the 7/80/20 DelDot letter to Mr. Whitehouse addressing the need, or not, for a TIS study. In part the letter reads "the need for a TIS be evaluated when a subdivision or land development is approved". I assume Mr. Warrington would have to advise the number of units that will have under lease. Since P&Z will be contacting DelDot for the "roadway study" might it make sense to evaluate whether TIS study is warranted.

As an aside, I personally assess, from watching the hearing, that the commissioners will recommend/approve Mr. Warrington's application if DelDot can design an entrance that meets the state's mandated approvals. Surely at the County Council meeting the local residents need to do a much better job in articulating the traffic issues we have on Postal Lane in the summer. Simply stated, the traffic lights on both Coastal Highway and Plantation Rd are constantly backed up. The road issue is such that State Trooper is routinely "hiding" right next to Mr. Warrington's home. Several of the commissioners were aware of the state trooper.

Lastly, recommending this application without a **Business Plan** to review does strike me as quite odd, but maybe that is not necessary in your business, however, this item is of the utmost importance to us. I am sure the local residential communities would like to review the applicant's Business Plan for his proposed storage facility. Review of the Business Plan may well suggest revised recommendations for our Conditional Use observations. We assume the Business Plan would include at least:

- All Conditional Use items the applicant proposes; P&Z and County Council also propose conditions
- The business plan should include the facility management team, names, addresses, telephone numbers
- Name of facility operation; will it be incorporated?
- Insurance: facility needs to be insured for at least 2M (hazardous material on site)
- Employees: *Mr. Willard advised that this proposed facility is a part-time venture for Cody Warrington. We are suspect that this proposed facility will be a well-run storage facility enterprise as we have in Lewes and Rehoboth Beach area. Mr. Willard advised during P&Z hearing presentation that the hours of operation will be 6AM to 10PM. Said another way, that is 16 hours a day, seven days a week. That does suggest that this operation is a part-time job for the facility manager.*
- Security: business plan to articulate the security measures to be installed
- Advice on entrance gate and how it will operate; security management
- Violations: should a Conditional Use item violation be noted, how and to whom should the violation be reported
- Lease will be part of the Business Plan and close review of it is clearly warranted

Thanks again Chase. I'll call you Monday afternoon. Please make this email part of the permanent record. Thank you.



## Jamie Whitehouse

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**From:** Michael Vespe <noreply@forms.email>  
**Sent:** Saturday, September 26, 2020 11:12 AM  
**To:** Jamie Whitehouse  
**Subject:** Contact Form: Warrington

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Name: Michael Vespe  
Email: michaelvespe79@gmail.com  
Phone: 631-796-4766  
Subject: Warrington  
Message: Hi

I am a homeowner in heritage village and I am very concerned about the potential rezoning of the 2.5 acre parcel. I believe Bill Hamilton, another resident, summed up the many reasons why this potential change would be disastrous for the residents in our community and neighboring communities. An RV and boat storage park would result in many dangerous conditions. At the end of the day if you lived next door as a homeowner: ask yourself—would you want this next to your home? Hazardous chemicals, dilapidated vehicles, and making postal lane even more dangerous. This change does not fit in at all with the character of what is surrounding this agricultural land on each side. An RV and boat farm should not boxer any residential community. I strongly urge you to reject this zoning change.

Thank you  
Michael Vespe