

**AGENDA  
NEW CASTLE COUNTY  
PLANNING BOARD BUSINESS MEETING  
DEPARTMENT OF LAND USE - NEW CASTLE ROOM  
87 READS WAY, NEW CASTLE, DELAWARE  
September 19, 2017  
9:00A.M.**

**ROLL CALL**

**MINUTES –** June 20, 2017  
(July 5, 2017 was canceled)  
(August 15, 2017 was canceled)

**DEFERRALS –**

**BUSINESS**

**App. 2017-0293-T:** To Amend Chapter 40 of the *New Castle County Code* (also known as the Unified Development Code or “UDC”), Article 3 (“Use Regulations”), Article 31, (“Procedures and Administration”), and Article 33 (“Definitions”) regarding Solar Energy Systems and Utilities. **Ord. 17-044 is a text amendment that will create provisions relating to any solar energy system and will amend provisions relating to major and minor utilities.** CC Sponsors: Ms. Kilpatrick, Mr. Tackett.

**OTHER BUSINESS**

New Castle County Ethics Commission: Training Session

**REPORT OF COMMITTEES**

**REPORT OF GENERAL MANAGER**

**REPORT OF CHAIRMAN**

**OTHER BOARD MEMBER COMMENTS**

**COMMENTS FROM THE PUBLIC**

**ADJOURNMENT**

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**\*\*\* PENDING APPLICATIONS \*\*\***

**PUBLIC RECORD OPEN –** The application below has already been presented at a public hearing. The public record is now held open for submission of written comments until October 5, 2017. The tentative date of the business meeting at which the Department and Planning Board will present recommendations is October 17, 2017.

**App. 2016-0788-S/Z:** Southwest Corner E. Chestnut Hill Rd. (SR 4) and Gender Rd. Exploratory Major Land Development Plan, Rezoning and PLUS Review for **Lidl – Gender Road** proposes to reconfigure parcel boundaries and rezone a portion of the property from S (Suburban) to CN (Commercial Neighborhood) to construct a 35,962 s.f. grocery store, a 5,000 s.f. restaurant and associated improvements on 9.44 acres. **Ord. 17-079 will rezone 6.11 acres from S (Suburban) to CN (Commercial Neighborhood) and amend the Comprehensive Plan consistent therewith.** CD 5.

**App. 2017-0155-D:** Southwest Corner E. Chestnut Hill Rd. (SR 4) and Gender Rd. **To Amend a Declaration of Restrictions**, dated September 1, 1983 by Vincent J. and Frances T. Santucci and associated with a rezoning from R-1-C to C-2 by Ord. 83-088 which limited the use of the property to indoor recreation uses. The proposed amendment will limit the property to grocery store and restaurant uses as permitted in the CN (Commercial Neighborhood) zoning district. This application is associated with a land development plan and rezoning for **Lidl – Gender Road** (App. 2017-0788-S/Z). CN (Commercial Neighborhood) and S (Suburban) zoning districts. CD 5.

**App. 2016-0790-S/Z:** East side South Chapel Street (SR 72), 835 feet south of E. Chestnut Hill Rd. (SR 4). Exploratory Major Land Development Plan, Rezoning, and PLUS Review for **South Chapel Street Dunkin' Donuts** proposes to rezone the parcel from ON (Office Neighborhood) to CN (Commercial Neighborhood) to construct a 2,168 s.f. restaurant and associated improvements. **Ord. 17-045 will rezone 1.2 acres from ON to CN.** CD 5.

**Address comments to: Department of Land Use, Zoning Section, 87 Reads Way, New Castle DE 19720 or [LandUse@nccde.org](mailto:LandUse@nccde.org)**

New Castle County  
DEPARTMENT OF LAND USE and PLANNING BOARD  
BUSINESS METERED Public Hearing Register

SEPT. 19, 2017  
(date)

IMPORTANT: PLEASE PRINT

Application No. \_\_\_\_\_

1. Wendie Stabler  
Name  
2019 R 266 120 N Market  
Street Address  
WIL DE 19899  
City State Zip

2. Casey Carroll  
Name  
16150 Man Center Suite 310  
Street Address  
St. Louis MO 63017  
City State Zip

3. Jeff Bross  
Name  
Duffield Assoc. Inc.  
Street Address  
City State Zip

4. Mark Dunkle  
Name  
Parkway Gurnee Swartz  
Street Address  
Dover  
City State Zip

5. Julie Sebring  
Name  
Ethics Council  
Street Address  
77 Read's Way  
City State Zip

6. \_\_\_\_\_  
Name  
Street Address  
City State Zip

7. \_\_\_\_\_  
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Street Address  
City State Zip

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City State Zip

*FINAL*

**MINUTES - BUSINESS MEETING  
NEW CASTLE COUNTY PLANNING BOARD  
87 READS WAY, NEW CASTLE, DELAWARE  
September 19, 2017**

The Business Meeting of the Planning Board of New Castle County was held on Tuesday, September 19, 2017 in the New Castle Room of the Government Center Building, 87 Reads Way, Corporate Commons in New Castle, DE.

The meeting was called to order by Chairman Richard Killingsworth at 9:00 a.m.

The following Board members were present:

Sandra Anderson (9:02)	Leone Cahill
Richard Killingsworth	William McGlinchey
Joseph Montgomery	Robert Snowden
Ruth Visvardis	

The following Board members were absent:

Linda Porras-Papili	David Sheppard
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Planning Board Attorney, Department of Law

Jordan Perry	Adam Singer
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The following Department of Land Use employees were present at the meeting:

Richard Hall	Reed Macmillan
George Haggerty	Valerie Cesna
Antoni Sekowski	Matthew Rogers
Melissa Hughes	

The following members of the public were in attendance:

Councilwoman Janet Kilpatrick	Wendie Stabler
Jeff Bross	Casey Carroll
Mark Dunkle	Julie Sebring, Ethics Commission Counsel

**MINUTES**

On motion by Mr. Montgomery, seconded by Ms. Visvardis, the minutes of the June 20, 2017 meeting were approved as written by a vote of 4-2-3 (YES: Killingsworth, McGlinchey,

Montgomery, Visvardis; NO: none; ABSTAIN: Cahill, Snowden; ABSENT: Anderson, Papili, Sheppard).

**DEFERRALS** – None.

**BUSINESS -**

**App. 2017-0293-T:** To Amend Chapter 40 of the *New Castle County Code* (also known as the Unified Development Code or “UDC”), Article 3 (“Use Regulations”), Article 31, (“Procedures and Administration”), and Article 33 (“Definitions”) regarding Solar Energy Systems and Utilities. **Ord. 17-044 is a text amendment that will create provisions relating to any solar energy system and will amend provisions relating to major and minor utilities.** CC Sponsors: Ms. Kilpatrick, Mr. Tackett.

The Department considered the Standards for Text Amendment in Section 40.31.420 of the *New Castle County Code* and comments received from other agencies and the public. Based on this analysis, the Department recommended **CONDITIONAL APPROVAL** of Ordinance No. 17-044 with the conditions the final Ordinance be revised as a substitute ordinance to include the following changes:

1. Large-Scale SES shall be subject to Limited Use review.
2. The following changes to the Large-Scale SES review standards be made:
  - a. In the S and SR zoning district, up to 85% of a site can be dedicated to SES uses.
  - b. An aggregate cap of 1,000 acres shall apply to SES use in the SR zoning district.
  - c. SES cannot be located within fifty (50) feet of a lot line or 150 feet of dwelling unit.
  - d. Specific warning signage requirements are eliminated and signage must comply with applicable state or Federal standards.
  - e. A non-operational SES shall be removed and the site restored within six (6) months (increased from three (3) months) from date of abandonment
  - f. The required surety shall be 100% of the removal costs but must be renewed every ten (10) years.
  - g. A Large-Scale SES shall not be located upon any land that is subject to a conservation or preservation easement that is funded or required by a government agency to the extent the SES would interfere materially with any purpose of the easement.
3. The accessory use standards applicable to accessory SES shall be changed to:

- a. Remove the requirement that the SES be located behind the principle structure and be limited in height.
  - b. Require that all district and bulk standards applicable to accessory uses shall apply to accessory SES except that for residential uses, accessory SES shall be located no closer than six (6) feet from a lot line.
4. Definitions relating to SES shall be modified as follows:
- a. The accessory SES definition shall be modified to recognize a property owner's right pursuant to 26 *Del. C.* § 1014 to participate in net energy metering.
  - b. Large-scale SES definition shall be modified to capture any SES that is not defined as an accessory SES.
  - c. The definition of SES shall be modified to recognize that depending on the size of the system, other approvals may be necessary to install and operate the system.
  - d. The definitions for ground mounted and rooftop SES should read as follows:
    - Solar energy system, ground-mounted. Any SES that has its electricity-generating solar panels mounted or resting on the ground.
    - Solar energy system, rooftop. Any SES that has its electricity-generating solar panels mounted or resting on the rooftop of a building or structure.
5. The definitions of minor and major utility shall be modified as follows:
- a. The cutoff between major and minor utility shall be 230 kV (increased from 115 kV).
  - b. Changes to the footprint of an existing facility shall be reviewed as a minor utility.
  - c. Only new substations with a rating that exceed 230 kV are to be considered major utilities.
  - d. Poles and wires shall be specifically excluded from the definitions for both major and minor utility.
6. The definition for minor land development shall be revised to include a new utility substation that is used to transmit or distribute more than 139 kV of electricity; or an elevated storage tank or standpipe

The Planning Board considered the Department of Land Use recommendation.

On a motion by Mr. Montgomery, seconded by Ms. Anderson, the Planning Board voted to recommend **CONDITIONAL APPROVAL** of Ordinance No. 17-044 subject to the conditions made by the Department of Land Use by a **VOTE of 7-0-2** (YES: Anderson,

Cahill, Killingsworth, McGlinchey, Montgomery, Snowden, Visvardis; NO: none; ABSENT: Papili, Sheppard).

In discussion preceding the vote the Board members offered the following comments:

Ms. Visvardis questioned as to protections from a solar business going bankrupt and not restoring the site to its previous condition. Matthew Rogers, Planner for the Department of Land Use, explained that the Department requires a bond equal to 100% of the anticipated removal cost. Mr. Snowden inquired about the requirements to install solar panels on parking lots. Mr. Rogers explained that they would be reviewed as accessory structures. He also explained that panels attached to proposed parking structures would still be subject to the provisions of 40.03.528 (Parking Structures). Ms. Anderson voiced concern about prime farmland being converted to solar facilities and asked if the 1,000 acre cap is adequate. Mr. Rogers explained that based on the analysis performed by the Department, that the 1,000 acre cap in the SR zoning district would provide adequate protection. He also explained that the solar facilities would locate within a close proximity to substations (1 mile for the primary SES, 2 miles for the secondary SES). Mr. Snowden asked if the Department considered this in their analysis and establishment of the 1,000 acre cap. Mr. Rogers confirmed that those factors included in the analysis and factored in to the 1,000 acre cap. Ms. Visvardis asked if the current ordinance would impact existing solar facilities in the County. Mr. Rogers explained that the additional requirements would only affect new facilities. Reed MacMillan, Assistant General Manager for the Department of Land Use further explained that the Limited Use standards only apply for facilities exceeding the net metering requirements as found in the proposed definition for accessory solar energy systems.

## **OTHER BUSINESS**

New Castle County Ethics Commission: Training Session

Julie Sebring, Ethics Commission Counsel, gave a presentation focusing on how to handle potential conflict of interest and considerations when deciding to recuse oneself from participating in an item of business.

## **REPORT OF COMMITTEES**

None.

## **REPORT OF GENERAL MANAGER**

Mr. Hall reported on the following items:

1. A panel discussion on traffic Level of Service requirements will be held October 18, 2017 at the new Route 9 Library and Innovation Center from 4:00 to 6:00 p.m.

2. The Department is beginning to consider when and how to update the Comprehensive Land Use Plan.

**REPORT OF CHAIRPERSON**

None.

**OTHER BOARD MEMBER COMMENTS**

None.

**COMMENTS FROM COUNSEL**

Jordan Perry announced that she has been assigned other duties and Adam Singer will take over as counsel to the Planning Board.

**COMMENTS FROM THE PUBLIC**

None.

**ADJOURNMENT**

The Board voted to adjourn the meeting at 10:34 a.m.

**ATTEST:**



Richard E. Hall, AICP  
General Manager  
Department of Land Use



Richard E. Killingsworth  
Chairman  
Planning Board