

FINAL

**MINUTES - BUSINESS MEETING
NEW CASTLE COUNTY PLANNING BOARD
87 READS WAY, NEW CASTLE, DELAWARE
October 17, 2017**

The Business Meeting of the Planning Board of New Castle County was held on Tuesday, October 17, 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	Linda Porras-Papili
Robert Snowden	Ruth Visvardis

The following Board members were absent:

David Sheppard

Planning Board Attorney, Department of Law

Adam Singer

The following Department of Land Use employees were present at the meeting:

Richard Hall	George Haggerty
Valerie Cesna	Antoni Sekowski
Matthew Rogers	Melissa Hughes
Janet Vinc	

The following members of the public were in attendance:

Shawn Tucker

**REVISED AGENDA
NEW CASTLE COUNTY
PLANNING BOARD BUSINESS MEETING
DEPARTMENT OF LAND USE - NEW CASTLE ROOM
87 READS WAY, NEW CASTLE, DELAWARE
October 17, 2017
9:00A.M.**

ROLL CALL

MINUTES – September 19, 2017

DEFERRALS

App. 2016-0790-S/Z: East side South Chapel Street, 835 feet south of E. Chestnut Hill Rd. 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.

BUSINESS

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.

OTHER BUSINESS

REPORT OF COMMITTEES

REPORT OF GENERAL MANAGER

REPORT OF CHAIRMAN

OTHER BOARD MEMBER COMMENTS

COMMENTS FROM THE PUBLIC

ADJOURNMENT

***** 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 November 2, 2017. The tentative date of the business meeting at which the Department and Planning Board will present recommendations is November 21, 2017.

App. 2014-0739-S/Z: South side Boyd's Corner Road, east side Shallcross Lake Road, north side Greylag Road, and west of US 13. Exploratory Major Land Development Plan, Rezoning and PLUS Review for **Baker Farm** proposes to rezone the property to construct an Open Space Planned Development with 182 dwelling units (including 80 village lots, 28 lot line lots and 74 townhouse lots) on 65.39 acres. **Substitute No. 1 to Ord. 15-055 will rezone 65.39 acres from S (Suburban) to ST (Suburban Transition).** CD 12.

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

MINUTES

On motion by Mr. Montgomery, seconded by Ms. Visvardis, the minutes of the September 19, 2017 meeting were approved as written by a vote of 7-1-1 (YES: Anderson, Cahill, Killingsworth, McGlinchey, Montgomery, Snowden, Visvardis; NO: none; ABSTAIN: Papili; ABSENT: Sheppard).

DEFERRALS

App. 2016-0790-S/Z: East side South Chapel Street, 835 feet south of E. Chestnut Hill Rd. 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.

BUSINESS -

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.

The Department considered the *Standards for Zoning Map amendment* in Section 40.31.410, A through E, the proposed plan, and comments received from agencies and the public. Based on this analysis the Department is of the opinion that the standards are met by this proposal.

The Department of Land Use recommended **APPROVAL** of Ordinance 17-079.

The Planning Board considered the analysis and reasoning offered by the Department of Land Use in its recommendation. On a motion by Ms. Anderson and seconded by Mr. McGlinchey, the Board voted to recommend **APPROVAL** of Ordinance 17-079. The motion was adopted by a **vote of 7-1-1** (Yes: Anderson, Cahill, Killingsworth, McGlinchey, Montgomery, Porrás-Papili, Snowden; No: Visvardis; Absent: Sheppard).

In discussion preceding the vote, the following comments were offered:

Ms. Papili inquired about why the 7.63 land preserved (S Zoned), which is to be maintained by LIDL is not included the proposed deed restrictions? Matthew Rogers, Planner for the Department of Land Use explained that the current restrictions only apply to the commercially zoned property and that the owner has stated that private deed

restrictions will govern the residentially zoned property. Ms. Visvardis reiterated the Board's concern pertaining to traffic circulation on the site. She voiced specific concerns with delivery trucks transiting in front of parking spaces and access aisles. Janet Vinc, Planner for the Department of Land Use, stated that the Department requested that the applicant relocate the entrance. The applicant's engineer stated that in order to have the proper turning movements the entrance had to remain in place. They also stated that relocating would require expanding the CN zoned area, and any other modifications might have an impact on the wetland areas. Mr. Killingsworth asked if the Department was satisfied with the applicant's rationale for not relocating the entrance and if they are aware of any similar parking lot layouts in the County. Ms. Vinc stated that the Department has accepted the explanation presented by the applicant and that the only similar parking configuration that she could think of was the LIDL location in Middletown. All other comments directly pertained to the deed restrictions and are found in the Joint Department of Land Use and Planning Board recommendation for **Application 2017-0155-D**.

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.

The Department of Land Use considered the standards in Section 40.31.130.D of the New Castle County Code and other public comments. Based on this analysis the Department is of the opinion that the proposed changes are in the best interest of the parties to the restrictions and that the proposed changes to the existing deed restrictions are consistent with the planning goals for the County. As a result, the Department recommended **CONDITIONAL APPROVAL** of the deed restriction change with the condition that the final restrictions include the changes on the appended deed restrictions.

The Planning Board considered the analysis and reasoning offered by the Department of Land Use in its recommendation. On a motion by Ms. Anderson and seconded by Mr. McGlinchey, the Board voted to recommend **CONDITIONAL APPROVAL** of Application 2017-0155-D subject to the conditions set by the Department of Land Use. The motion was adopted by a **vote of 7-1-1** (Yes: Anderson, Cahill, Killingsworth, McGlinchey, Montgomery, Porrás-Papili, Snowden; No: Visvardis; Absent: Sheppard).

In discussion preceding the vote, the following comments were offered:

Mr. Snowden commented that in previous deed restriction amendments applicants spoke to the rationale for changing the existing restrictions such as a "compelling market reason is overly burdensome for the owner." Matthew Rogers, Planner for the Department of

Land Use stated that while not addressed in the hearing, the Department's recommendation cited a newspaper article which quoted Mr. Santucci stating that the site has become "difficult to maintain, and they are looking to downsize." Mr. Rogers further stated that indoor recreation facilities are arguably less popular than they were 20-30 years ago and that amending the current restrictions permits continued commercial viability of the site. Mr. McGlinchey stated that in the past deed restrictions were used to assist in rezone properties. He stated that the rationale for continued deed restrictions for the site is that the community had assurance before and has the expectations that the protections will remain. He also stated that using new deed restrictions to curry support for a rezoning is not a good practice. All other comments directly pertained to the rezoning application and are found in the Joint Department of Land Use and Planning Board recommendation for **Application 2016-0788-S/Z (Ord.17-079)**.

OTHER 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. A tribute was offered to Mr. Killingsworth thanking him for his service as Planning Board Chairman.

REPORT OF CHAIRPERSON

Mr. Killingsworth thanked everyone for their hard work and support during his time as Chair.

OTHER BOARD MEMBER COMMENTS

None.

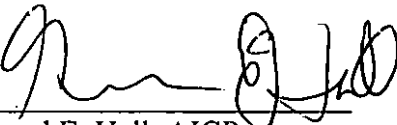
COMMENTS FROM THE PUBLIC

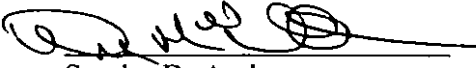
None.

ADJOURNMENT

The Board voted to adjourn the meeting at 9:41 a.m.

ATTEST:


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


Sandra D. Anderson
Acting Chair
Planning Board