

**AGENDA
NEW CASTLE COUNTY
PLANNING BOARD BUSINESS MEETING
DEPARTMENT OF LAND USE - NEW CASTLE ROOM
87 READS WAY, NEW CASTLE, DELAWARE
October 18, 2016
9:00A.M.**

ROLL CALL

MINUTES – September 20, 2016

DEFERRALS

BUSINESS

App. 2015-0651-T: To Amend New Castle County Code, Chapter 40 (“Unified Development Code” or “UDC”) Regarding the Adoption of a New Appendix 7 to Provide Guiding Principles for Development. **Ord. 16-068 is a text amendment that will add a new Appendix 7 to provide Guiding Principles for Land Development Projects.** CC Sponsor: David Tackett

App. 2015-0652-T: To Amend New Castle County Code, Chapter 40 (“Unified Development Code” or “UDC”) Regarding the Establishment of a New Overlay Zoning District to be Known as the Neighborhood Preservation Overlay District (NPOD). **Ord. 16-067 is a text amendment to establish a new overlay zoning district known as Neighborhood Preservation Overlay District (NPOD) to encourage economic development, placemaking, and healthy communities while protecting the character of existing residential neighborhoods.** CC Sponsor: David Tackett

App. 2015-0653-T: To Amend New Castle County Code, Chapter 40 (“Unified Development Code” or “UDC”) Regarding the Establishment of a New Zoning District to be Known as the Economic Empowerment District (EED). **Ord. 16-066 is a text amendment to establish a new overlay zoning district known as Economic Empowerment District (EED) to foster job rich and job retention businesses.** CC Sponsor: David Tackett

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 4, 2016. The tentative date of the business meeting at which the Department and Planning Board will present recommendations is November 15, 2016.

App. 2015-0271-S/Z. West side of Old Harmony Road, north side of Green Ridge Road, east side of Harmony Road and opposite Spring Lake Road. Exploratory Minor Land Development Plan, Rezoning, and PLUS Review for **Harmony Ridge, 330 Old Harmony Road** proposes to rezone 1.83 acre acres from S (Suburban) to ST (Suburban Transition) and to create 5 single family detached residential lots. **Ord. 16-065 will rezone 1.83 acres from S (Suburban) to ST (Suburban Transition)** and amend the Comprehensive Plan consistent therewith. CD 9.

App. 2016-0130-S/Z: West side Valley Road, north of Brook Run and opposite McGrellis Auction Gallery. Exploratory Major Land Development Plan, Rezoning and PLUS Review for **Camoirano Property**. The plan proposes to rezone the property to construct an Open Space Planned Development including 20 semi-detached dwellings and 35 townhouses and subject to the provisions of the Traditional Neighborhood Housing Program. **Ord. 16-082 will rezone 19.84 acres from S (Suburban) to ST (Suburban Transition)** and amend the Comprehensive Plan consistent therewith. CD 3.

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

FINAL

**MINUTES - BUSINESS MEETING
NEW CASTLE COUNTY PLANNING BOARD
87 READS WAY, NEW CASTLE, DELAWARE
October 18, 2016**

The Business Meeting of the Planning Board of New Castle County was held on Tuesday, October 18, 2016 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 Acting Chair Sandra Anderson at 9:00 a.m.

The following Board members were present:

Sandra Anderson	Leone Cahill
William McGlinchey (9:06)	Joseph Montgomery
Linda Porras-Papili	Ruth Visvardis
Robert Snowden	

The following Board members were absent:

Richard Killingsworth	David Sheppard
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Planning Board Attorney, Department of Law

Jordan Perry

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

George Haggerty	Reed Macmillan
Antoni Sekowski	Valerie Cesna
Bradford Shockley	Janet Vinc
Matthew Rogers	

The following members of the public were in attendance:

Tom Dewson	Aman Sharma
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MINUTES

On motion by Mr. Montgomery, seconded by Ms. Cahill, the minutes of the September 20, 2016 meeting were approved as written by a vote of 5-0-1-3 (YES: Anderson, Cahill, Montgomery,

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

DEFERRALS – None.

BUSINESS -

App. 2015-0651-T: To Amend New Castle County Code, Chapter 40 (“Unified Development Code” or “UDC”) Regarding the Adoption of a New Appendix 7 to Provide Guiding Principles for Development. **Ord. 16-068 is a text amendment that will add a new Appendix 7 to provide Guiding Principles for Land Development Projects.** CC Sponsor: David Tackett

The Department reviewed the appropriate UDC standards and public comment. The Department recommended **CONDITIONAL APPROVAL** of Application 2015-0651-T (Ord. 16-068) subject to the following amendments:

1. Any changes to Appendix 7 Guiding Principles will be required to comply with UDC Sec. 40.31.120.
2. References to “parking areas” within the text of Appendix 7 Guiding Principles are to be changed to “parking lots”.

The Planning Board considered the standards, public comment, and the recommendation presented by the Department of Land Use.

On a motion by Mr. Snowden, seconded by Ms. Visvardis, the Board voted to **CONDITIONALLY APPROVE** the text amendment **App. 2015-0651-T (Ord. 16-068)** subject to the conditions made by the Department of Land Use. The motion was adopted by a VOTE of 7-0-2 (YES: Anderson, Cahill, McGlinchey, Montgomery, Porrás-Papili, Snowden, Visvardis; NO: none; ABSENT: Killingsworth, Sheppard).

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

Ms. Anderson asked if there was a defined limit as to how close to the road a building should be placed? Marco Boyce, Planner for the Department of Land Use, explained that the context dictates the distance from the road that the Department would like to see a building placed. He also reminded the Board that any deviation from UDC requirements requires a variance. Ms. Cahill inquired as to the rationale of changing the text in the ordinance from “parking area” to “parking lot.” Marco Boyce, explained that a parking area could be seen as including on-street parking, whereas a parking lot clearly is identified with off-street parking. Mr. McGlinchey inquired as to whether the Department has considered or addressed comments made by Mr. Fortunado with reference to separation of employment uses from commercial and residential uses. George Haggerty, Acting General Manager for the Department of Land Use stated that it will be addressed under the proposed Phase III changes to the UDC.

App. 2015-0652-T: To Amend New Castle County Code, Chapter 40 (“Unified Development Code” or “UDC”) Regarding the Establishment of a New Overlay Zoning District to be Known as the Neighborhood Preservation Overlay District (NPOD). **Ord. 16-067 is a text amendment to establish a new overlay zoning district known as Neighborhood Preservation Overlay District (NPOD) to encourage economic development, placemaking, and healthy communities while protecting the character of existing residential neighborhoods.** CC Sponsor: David Tackett

The Department reviewed the appropriate UDC standards and public comment. The Department recommended **CONDITIONAL APPROVAL** of Application 2015-0652-T (Ord. 16-067) with the condition that Section 40.16.101.E be revised to read as follows:

- Limit on designations. Applications for a NPOD during the first three (3) years after the effective date of this Article will be limited to the initial study areas identified in the New Castle County Department of Land Use Action Plan & Work Program 2014/2015 dated October 7, 2014 (Pike Creek, Concord Pike, Route 9, Kirkwood Highway, Newark / Route 273 Corridor, and Claymont) and where a WILMAPCO study has been conducted.

The Planning Board considered the standards, public comment, and the recommendation presented by the Department of Land Use.

On a motion by Mr. Snowden, seconded by Ms. Visvardis, the Board voted to **CONDITIONALLY APPROVE** the text amendment **App. 2015-0652-T (Ord. 16-067)** subject to the conditions made by the Department of Land Use. The motion was adopted by a VOTE of 7-0-2 (YES: Anderson, Cahill, McGlinchey, Montgomery, Porrás-Papili, Snowden, Visvardis; NO: none; ABSENT: Killingsworth, Sheppard).

In discussion preceding the vote the Board members offered comments pertaining to the proposed ordinance with reference to three (3) themes; 1) the rationale of limiting NPODs to areas where a WILMAPCO study has been conducted, 2) the process for establishing an NPOD and the results that establishing one would have on commercial properties, 3) what an NPOD would look like and its composition.

Ms. Anderson and Mr. McGlinchey inquired as to the rationale for limiting NPODs to areas with WILMAPCO studies. Reed MacMillan, Assistant General Manager and Janet Vinc, Planner for the Department of Land Use explained that since the studies are complete, background information has been researched, and many of these studies speak to site and building design through the community they would require less of expenditure for the applicants.

Planning Board members (Mr. McGlinchey, Ms. Anderson and Ms. Visvardis) asked the Department questions about the process for establishing an NPOD. Members of the Department (Reed MacMillan, Janet Vinc and Matthew Rogers) explained that; 1) an NPOD could be initiated by either the Department or by a community (requires a petition by 2/3 of all property owners, 2) the Planning Board determines at a business meeting it is eligible to become an NPOD based on clear documentation of distinct neighborhood characteristics, 3) all property owners within the proposed NPOD will be notified and a neighborhood-wide meeting will be conducted, 4) the NPOD would proceed through the Planning Board and County Council in

accordance with the requirements of Article 31 of the UDC. The Department also stated that NPODS could not overlap other NPODS or Hometown Overlay districts. Reed MacMillan also explained that should Ordinance 16-067 be adopted, it would be reviewed after three (3) years to determine its effectiveness.

Planning Board members (Mr. McGlinchey, Ms. Anderson and Mr. Snowden) asked the Department what an NPOD would look like with respect to size and composition. Members of the Department (Reed MacMillan, Antoni Sekowski, Janet Vinc and Matthew Rogers) explained that an NPOD's size would be designated in the NPOD Conservation Plan and would include neighborhoods having consistent neighborhood characteristics and nonresidential properties abutting them. Using Concord Pike as an example, the Department explained that it would likely be divided into several NPODS consisting of both the commercial establishments as well as abutting neighborhoods. The distance that the NPOD could extend into the neighborhood would be determined through the process outlined in the Ordinance 16-067, through public meetings, Department and Planning Board Review as well as final approval by New Castle County Council.

In addition to the above comments, Mr. McGlinchey voiced concern about the potential of an NPOD deterring desirable commercial development, and that these properties would be required to be brought into conformity. Matthew Rogers explained that whereas an NPOD could result in a property becoming legally non-conforming, it would be treated the same as all other legally non-conforming with regards to continuation of use and maintenance of the structure. Janet Vinc explained that the ordinance encourages that the property owners develop in a fashion that is compatible with the existing neighborhood and Antoni Sekowski further explained that through the public process involving the community and the neighboring businesses will help make sure that each NPOD is fair for all involved.

App. 2015-0653-T: To Amend New Castle County Code, Chapter 40 ("Unified Development Code" or "UDC") Regarding the Establishment of a New Zoning District to be Known as the Economic Empowerment District (EED). **Ord. 16-066 is a text amendment to establish a new overlay zoning district known as Economic Empowerment District (EED) to foster job rich and job retention businesses.** CC Sponsor: David Tackett

The Department reviewed the appropriate UDC standards and public comment. The Department recommended **APPROVAL** of Application 2015-0653-T (Ord. 16-066).

The Planning Board considered the standards, public comment, and the recommendation presented by the Department of Land Use.

On a motion by Mr. Montgomery, seconded by Ms. Visvardis, the Board voted to **APPROVE** the text amendment **App. 2015-0653-T (Ord. 16-066)** subject to the conditions made by the Department of Land Use. The motion was adopted by a VOTE of 7-0-2 (YES: Anderson, Cahill, McGlinchey, Montgomery, Porrás-Papili, Snowden, Visvardis; NO: none; ABSENT: Killingsworth, Sheppard).

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

Ms Papili asked if an EED would be a vision or an actual plan, and about the process for changes to an EED. Brad Shockley, Development Facilitator for the Department of Land Use explained that an EED would include all of the components required for a Record Plan absent construction documents. He spoke to the requirement for changes to an EED meeting general conformity as determined by the Department or having to return through the Planning Board and County Council for approval. Mr. McGlinchey asked if establishing an EED was owner or Department driven. Mr. Shockley explained that whereas the Department could initiate the process, it will be owner driven in most cases. Mr. McGlinchey also asked about the process for reverting from an EED to the previous zoning district. Matthew Rogers, Planner for the Department of Land Use explained that it would be required to go through the same process as any other rezoning. He also inquired as to the incentive for establishing an EED as well as concern for a business downsizing and utilization of the site. Mr. Shockley explained that an important incentive is that most of the investment and work is performed with the initial establishment of the EED and when each building is to be developed they would be processed as Minor Land Development Plans, in effect streamlining the process. With regard to company downsizing, Mr. Shockley explained that similar uses would be approvable, however significant changes would have to return through the process. Ms. Cahill inquired as to when buildings and structures would be reviewed for conformity to design guidelines set by the EED. Mr. Shockley explained that this would occur during the review of the building permit as well as at the Record Plan inspection.

OTHER BUSINESS

None.

REPORT OF COMMITTEES

None.

REPORT OF GENERAL MANAGER

George Haggerty, Acting General Manager, reported on the following items:

The status of the UDC updates.

REPORT OF CHAIRPERSON

None.

OTHER BOARD MEMBER COMMENTS

None.

COMMENTS FROM THE PUBLIC


None.

ADJOURNMENT

The Board voted to adjourn the meeting at 10:19 a.m.

ATTEST:

George O. Haggerty
Acting General Manager
Department of Land Use


Sandra Anderson
Acting Chair
Planning Board