FINAL

MINUTES - BUSINESS MEETING NEW CASTLE COUNTY PLANNING BOARD 87 READS WAY, NEW CASTLE, DELAWARE November 19, 2013

The Business Meeting of the Planning Board of New Castle County was held on Tuesday, November 19, 2013, 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 the Chairman at 9:12 AM.

The following Board members were present:

Sandra Anderson, Vice-Chair Richard Killingsworth Robert McDowell Arthur Wilson Ruth Visvardis Leone Cahill David Sheppard

The following Board members were absent:

William McGlinchey Robert Snowden

Planning Board Attorney, Department of Law

Monika Horton

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

Eileen Fogarty General Manager Matthew Rogers George Haggerty

Valerie Cartolano Ken Bieri

The following members of the public signed in:

Lisa Goodman

MINUTES

On a motion by Ms. Anderson and seconded by Mr. Sheppard, the Board voted to approve the October 15, 2013 Business Meeting Minutes.

DEFERRALS

There were no deferrals.

BUSINESS

App. 2013-0294-S/Z. South side Naamans Road (SR 92) and west side Peachtree Road. Exploratory Minor Land Development Plan, Rezoning and PLUS Review for CVS Pharmacy Naamans Road proposes to consolidate three parcels, demolish the existing structures, and rezone the area to CN to construct a 13,281 square foot pharmacy with drive-through. Ord. 13-048 will rezone 3.04 acres from NC21 (Neighborhood Conservation) to CN (Commercial Neighborhood) and will amend the 2012 Comprehensive Plan consistent therewith. CD 8.

The Department of Land Use has 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 recommends CONDITIONAL APPROVAL of Ordinance 13-048 as introduced and subject to the following conditions:

- 1) The revised exploratory plan to accompany the rezoning shall show the redesigned parking area as shown on an exhibit titled Existing Tree Identification Plan and dated October 28, 2013;
- 2) The applicant shall submit a final landscape plan for review and approval that reflects the specifications shown on the exhibit titled Preliminary Landscape Plan, dated October 30, 2013;
- 3) Minor alterations may be made to each of these exhibits, however, the Department reserves the right to review and approve/disapprove such changes as they might alter the intent of this recommendation.

The Planning Board considered the Department's analysis and reasoning and on a motion by Mr. McDowell and seconded by Mr. Wilson, the Board voted to recommend CONDITIONAL APPROVAL of Ordinance 13-048 as introduced and subject to the same conditions as recommended by the Department. The motion was adopted by a vote of 7-0-2 (Yes: Anderson, Cahill, Killingsworth, McDowell, Sheppard, Visvardis, Wilson; NO: none; Absent: McGlinchey, Snowden).

After the vote to approve the rezoning, the chairman issued the following statement:

"The New Castle County Planning Board recommends that DelDOT (prior to its letter of no objection) acknowledge and review the concerns of both the Department and the Planning Board in this report regarding the lack of any discussion or concern on the need for a crosswalk across Naamans Road between the CVS and apartments to the north across SR 92. The Board has a strong opinion that the crosswalk should be considered and implemented. The Board also requests that County Council also consider further review of the issue during the rezoning review."

In a discussion preceding the vote, the Board offered the following comments:

Mr. Sheppard asked for a clarification as to what constitutes a regional commercial node as opposed to a neighborhood commercial retail area. Specifically, he asked why the Carpenter

Station Road commercial area was not considered a commercial node. The Department noted that major commercial nodes or centers have a more regional draw, are located at major arterial highway intersections, and generally have a food store within the area. The Department clarified that while there are smaller commercial centers (Carpenter Station Road retail and the collection of neighborhood stores at Marsh Road) are important in the corridor they are not considered to be commercial nodes.

In response to a question from Mr. Killingsworth, the Department clarified that the future land use classifications generally reflect the existing zoning districts. The NC21 zoning is low density residential, the NCga, NCap, NCth, and NCsd are grouped together as high density residential and ON, OR, CN, CR, BP, and I zoning districts are classified together as Commercial/Office/Industrial Development Area. The 2012 Comprehensive Plan Future Land Use Map does not suggest future rezonings or changes in property use categories.

Mr. Killingsworth and other members of the Planning Board expressed concern with respect to lack of any apparent DelDOT discussion on a potential crosswalk from the Naamans Road Apartments to the new CVS site. Currently, residents of this community will need to cross Society Drive, then Naamans Road, and then back across Peachtree Road. Board members suggested that the shortest route taken will be a Naamans Road crossing without crosswalk protection.

The Department advised the Board that while DelDOT has final say with respect to how rights-of-way are signed, striped and used; both the Boards and the Departments concern on this issue will be further discussed during the next phase of the plans review. However, it must be understood that should DelDOT determine that per its own rules and regulations that the additional crosswalk is not warranted based on its set of parameters, then neither the Department, nor the Board, nor an applicant can force such construction. Mr. Killingsworth requested the Boards permission to draft a statement at the end of the recommendation report to be directed to DelDOT to reconsider or at the very least respond to why such pedestrian infrastructure should not be provided. Board members determined that such a statement by the Chair is appropriate.

Mr. Sheppard suggested that such a statement from the chair on behalf of the Board is important and will prod DelDOT to recognize the problem prior to record plan approval. He is hopeful that as the plan progresses through the record and construction plan review process, that discussions will begin and that the reality of the lack of a planned crosswalk will become clear and DelDOT will reconsider the issue.

Ms. Cahill cautioned that while all the landscaping and fencing proposed is good for visual protection and to minimize adverse impacts, she has concerns that such barriers might also be adversely the sight line of motor vehicles making right turns off Naamans Road and again into and out of the CVS access. The Department noted that all plantings and barriers shown on the plans are outside of the triangular area at these corners and will not obstruct street traffic visibility.

In response to a concern from Ms. Anderson, the Department noted that sidewalks will continue to be provided along the entire CVS street frontage (both Naamans and Peachtree Roads). In addition, there are existing sidewalks on both sides of Peachtree Road through to Naamans Road.

The Board then discussed the merits of Mr. McDowell's initial motion to recommend approval with only the Departments first two conditions. Mr. McDowell explained his reasoning by noting that the minor alterations to the exhibits are generally expected and that the 3rd condition was not necessary. Ms. Anderson suggested that while that may be true, she would be more comfortable with an amended motion that added the 3rd condition if acceptable. More discussion on Roberts Rules of Order ensued and the Mr. McDowell ended up withdrawing his original motion and proposing a new motion that included all of the Departments three conditions. Mr. Wilson again seconded and the vote to approve was conducted.

REPORT OF COMMITTEES

No report.

REPORT OF GENERAL MANAGER

Mr. Bieri reported that the December 3, 2013 Planning Board Public Hearing agenda will include a rezoning, a text amendment, and a major plan review. The text amendment is a proposed moratorium on the submission of new workforce housing plans.

The Department also reported that the December 17, 2013 Planning Board Business Meeting will include recommendations on the moratorium text amendment and for two rezonings (Newtown Square, 2013-0439-S/Z; Wagoner's Row, 2013-0123-S/Z).

REPORT OF CHAIRMAN

Mr. Killingsworth reported that he has been in conversation with Ms. Fogarty to begin a series of Department presentations to the Board on the 2012 Comp Plan and proposed implementation strategies; and on a more in depth look at the UDC.

In response to a question from the Department with regard to the new format for the review of recommendations, Mr. Killingworth noted that the new format went very well. Most Board members agreed that the receipt of the recommendation in advance of the business meeting and the presentation of the report at the hearing using a PowerPoint presentation went well and was much appreciated. Board members noted that the opportunity to review and digest the Departments analysis and recommendation in advance of the business meeting allowed Board members to better understand the issues and to be prepared to have a more meaningful conversation and debate during meeting. Mr. Killingsworth and the Board agreed that it will remain important that the report be kept confidential and not shared with others.

OTHER BOARD MEMBER COMMENTS

Ms. Anderson asked the Department to more fully explain the reason the current CVS applicant was required to mitigate the removal of trees by the former owner. Mr. Haggerty explained that the Unified Development Code (UDC) provides an opportunity for the Department to look back over time to when the UDC was adopted (12/31/97) and to determine the extent of the forest cover that has been removed. If the tree removal is in excess of what is permitted by Code, then when development is proposed on the site, the applicant is required to mitigate.

COMMENTS FROM THE PUBLIC

No comments.

ADJOURNMENT

The meeting was adjourned at 10:45 a.m. on a motion by Ms. Anderson and seconded by Mr. Sheppard.

ATTEST:

Eileen P. Fogarty

General Manager

Department of Land Use

Richard E. Killingsworth

Chairperson Planning Board PB Attorner

Anderson

Mondia Horton

DEFERRALS

BUSINESS

App. 2013-0294-S/Z. South side Naamans Road (SR 92) and west side Peachtree Road. Exploratory Minor Land Development Plan, Rezoning and PLUS Review for CVS Pharmacy Naamans Road proposes to consolidate three parcels, demolish the existing structures, and rezone the area to CN to construct a 13,281 square foot pharmacy with drive-through. Ord. 13-048 will rezone 3.04 acres from NC21 (Neighborhood Conservation) to CN (Commercial Neighborhood) and will amend the 2012 Comprehensive Plan consistent therewith. CD 8.

OTHER BUSINESS

REPORT OF COMMITTEES

REPORT OF GENERAL MANAGER

REPORT OF CHAIRMAN

OTHER BOARD MEMBER COMMENTS

COMMENTS FROM THE PUBLIC

ADJOURNMENT

10:25

*** PENDING APPLICATIONS ***

PUBLIC RECORD OPEN – The application(s) below have already been presented at a public hearing. The public record is now held open for submission of written comments until <u>December 5</u>, 2013. The <u>tentative</u> date of the business meeting at which the Department and Planning Board will present recommendations is <u>December 17</u>, 2013.

App. 2013-0123-S/Z. Southeasterly corner of Montchanin Road (SR 100) and Buck Road intersection. Revised Exploratory Major Land Development Plan, Rezoning, and PLUS Review for Wagoner's Row proposes to rezone a portion of the property from SE to S to create 12 lots for single family detached homes. Ord. 13-047 will rezone 12.01 acres from SE (Suburban Estate) to S (Suburban) and will amend the 2012 Comprehensive Plan consistent therewith. CD 2.

App. 2013-0439-S/Z. West side Bear/Christiana Road (SR 7), north side Newtown Road and south of Rivers End Drive. Exploratory Minor Land Development Plan, Rezoning and PLUS Review for Newtown Square proposes to consolidate four parcels and rezone the area to CN to construct a one-story 10,010 square foot shopping center building. Ord. 13-074 will rezone 1.89 acres from NC10 (Neighborhood Conservation) to CN (Commercial Neighborhood) and will amend the 2012 Comprehensive Plan consistent therewith. CD 7.

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

New Castle County DEPARTMENT OF LAND USE and PLANNING BOARD Bosoness with Public Hearing Register

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CVS, Noomars Rd.

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