

**MINUTES  
BUSINESS MEETING  
NEW CASTLE COUNTY PLANNING BOARD  
DEPARTMENT OF LAND USE - NEW CASTLE ROOM  
87 READS WAY, NEW CASTLE, DELAWARE  
February 19, 2019  
9:00 A.M.**

The Business Meeting of the Planning Board of New Castle County was held on Tuesday, February 19, 2019 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 Chairperson Karen Peterson at 9:28 a.m.

The following Board members were present:

Sandra Anderson  
Leone Cahill  
William McGlinchey  
Karen Peterson  
Linda Porras-Papili  
Kiana Williams

The following Board members were absent:

Joseph Daigle  
Robert Snowden  
Ruth Visvardis

Planning Board Attorney, Office of Law

Adam Singer

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

|                 |                 |
|-----------------|-----------------|
| Richard Hall    | Andrea Trabelsi |
| Antoni Sekowski | Matthew Rogers  |
| George Haggerty | Marisa Lau      |

The following members of the public were in attendance:

Shawn Tucker and Jerome Heisler

**MINUTES**

January 22, 2019

## DEFERRALS

None.

## BUSINESS

**App. 2018-0531-S/Z.** Ordinance 18-130 will revise a previously approved and recorded Major Land Development Plan with Rezoning (App. 2014-0700-S/Z) and reconfirm the CR zoning approved by County Council in July 2015 by Ord. 15-004. Sections 40.31.113 and 40.31.114 of the New Castle County Code requires that any record plan submitted after County Council adopts a rezoning shall be in general conformance with the development depicted on the approved exploratory or preliminary plan that was relied upon by County Council when it granted the rezoning.

The Department has considered the *Standards for Zoning Map Amendment* in Section 40.31.410 of the *New Castle County Code* and comments received from agencies and the public. Based on this analysis, the Department recommends **APPROVAL** of Ordinance **18-130**.

At a business meeting held on February 19, 2019 the Planning Board considered the recommendation offered by the Department of Land Use. On a motion by Mr. McGlinchey, seconded by Ms. Williams, the Planning Board voted to recommend APPROVAL of Ordinance 18-093 as introduced. The motion failed to pass by a vote of 4-0-1-4 (Yes: McGlinchey, Peterson, Porras-Papili, Williams; No: none; Abstain: Cahill-Krout; Absent: Anderson, Daigle, Snowden, Visvardis).

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

Ms. Papili asked for more information about the development rights retained to build a movie theater and restaurants on a nearby parcel. Antoni Sekowski, Planning Manager for the Department of Land Use, replied that the site she referred to is part of a plan that includes a parcel adjoining the existing CarMax lot. The redevelopment rights for the site have not been exercised yet.

Mr. McGlinchey asked what changes had been made to the conditions in the Departmental recommendation. Ms. Lau replied that the conditions were condensed into three (3) rather than four (4) statements. A condition stating that the applicant should work with the Department to create design guidelines is no longer applicable since the guidelines have been completed.

At 10:00 a.m. Ms. Peterson asked if the earlier vote on App. 2018-0531-S/Z (Avon Commons) could be rescinded for two reasons. First, the motion was made on the recommendation and not the application. Second, Ms. Anderson had arrived after the vote, and this was her final board meeting. Adam Singer, Planning Board attorney, asked for a motion to reopen the Avon recommendation. Ms. Peterson made a motion. Mr. McGlinchey asked if Ms. Anderson required any additional information about the application. She stated she had read the transcript and did not.

On a motion by Mr. McGlinchey, seconded by Ms. Williams, the Planning Board voted to recommend APPROVAL of App. 2018-0531-S/Z with the conditions as stated by the Department. The motion was adopted by a vote of 5-0-1-3 (Yes: Anderson, McGlinchey, Peterson, Porras-Papili, Williams; No: none; Abstain: Cahill-Krout; Absent: Daigle, Snowden, Visvardis).

It was agreed that the Department will inform the applicant of the outcome of the vote. Mr. Singer noted that Ms. Anderson had been unable to attend the original vote due to several traffic accidents in New Castle County. Ms. Peterson added that the meeting had started late because the board didn't have a quorum for the same reason.

**App. 2018-0643-D.** Former Three Little Bakers Golf Course as bounded by Skyline Drive, New Linden Hill Road, Pike Creek Road and Mermaid Boulevard. **To Amend Declarations of Restrictions**, dated September 10, 1964 and an amendatory agreement to those restrictions dated December 22, 1969 to eliminate the requirements for an 18-hole golf course, increase the amount of open space required for the development to 235 acres, to construct no more than 224 residential dwelling units on parcels 08-036.10-109, 08-036.40-058 and 08-042.40-134 and to permit uses approved by the Department of Land Use and New Castle County Council on the open space set aside for the 18-hole golf course. This application is associated with the land development plan for **Terraces at Pike Creek** (App. 2010-0757-S) S zoning. CD 3. Mill Creek Hundred.

The Department of Land Use has 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 not in the best interest of the parties to the restrictions and that the proposed changes to the existing deed restrictions are not consistent with the planning goals for the County. As a result, the Department recommends **DENIAL** of the deed restriction change as proposed.

At a business meeting held on February 19, 2019 the Planning Board considered the recommendation offered by the Department of Land Use. On a motion by Ms. Papili, seconded by Ms. Anderson, the Planning Board voted to recommend **DENIAL** of the Declaration of Restrictions change application based on the rationale provided by the Department of Land Use. The application was denied by a vote of 0-6-0-3 (Yes: none; No: Anderson, Cahill, McGlinchey, Peterson, Porras-Papili, Williams; Abstain: none; Absent: Daigle, Snowden, Visvardis).

Prior to the vote, Ms. Peterson disclosed that prior to the application coming to the Board, she was approached by a resident who spoke as to her views on the application. Ms. Peterson made the Board aware that she did not engage in any conversation about the application, and the incident did not enable her to form an opinion as to the merits of the application, and was not materially different from comments presented at the public hearing, and did not impact her ability to fairly and impartially evaluate the application based upon the proper record that has been developed, notwithstanding that conversation she stated that she'd be able to vote on the application in an impartial manner, based solely on the public record that has been developed. There was no additional discussion that preceded the vote.

## **OTHER BUSINESS**

### **Planning Board By-Laws and Special Rules of Order:**

On a motion by Ms. Cahill-Krout, seconded by Ms. Williams, the Planning Board voted to amend the New Castle County Planning Board By-laws. The motion was adopted by a vote of 6-0-0-3 (Yes: Anderson, Cahill-Krout, McGlinchey, Peterson, Porras-Papili, Williams; No: none; Abstain: none; Absent: Daigle, Snowden, Visvardis).

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

Ms. Peterson called the Board's attention to a mistake in the draft that had been circulated prior to the meeting. At the January 22, 2019 business meeting, the Board had agreed to amend the language in Article III, Sections 4 and 5 referring to the policy for forfeiting membership on the Board. It should state that any member who has three unexcused absences "in a one-year period" forfeits membership. That change had not been made to the final draft and should be incorporated into the official version. There were no additional questions or comments.

On a motion by Ms. Cahill-Krout, seconded by Ms. Williams, the Planning Board voted to amend the New Castle County Planning Board Special Rules of Order. The motion was adopted by a vote of 6-0-0-3 (Yes: Anderson, Cahill-Krout, McGlinchey, Peterson, Porras-Papili, Williams; No: none; Abstain: none; Absent: Daigle, Snowden, Visvardis).

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

Ms. Anderson noted that the draft that had been circulated prior to the meeting did not indicate that the Special Rules of Order had been amended on May 18, 2010. She asked that the official version include this date.

Ms. Papili asked how long the record could be held open on Deed Restriction Change applications under the current Special Rules of Order, and what the new procedure would be once these were amended. Ms. Peterson responded. Currently, the Board can approve a motion to hold the record open on this type of application for three (3) days. At the public hearing on December 4, 2018, the Board suspended the Special Rules of Order to allow the record to remain open for App. 2018-0643-D for thirty (30) days. The proposed amendment would automatically hold the record open for at least three (3) days on applications for *Statutory Text Amendments* and *Deed Restriction Changes*. To hold the record open for a longer period would require an audience member at the public hearing to make that request; the Planning Board would then have to make a motion to that effect. In such a case, the amendment would also make it unnecessary for the Board to make a motion to suspend the Special Rules of Order first.

On a motion by Ms. Cahill-Krout, seconded by Ms. Anderson, the Planning Board voted to amend the New Castle County Planning Board Special Rules of Order with the correction to add the May 18, 2010 date of amendment. The motion was adopted by a vote of 6-0-0-3

(Yes: Anderson, Cahill-Krout, McGlinchey, Peterson, Porrás-Papili, Williams; No: none; Abstain: none; Absent: Daigle, Snowden, Visvardis).

### **REPORT OF COMMITTEES**

None. Ms. Peterson acknowledged the work of the by-laws committee. The Board thanked the committee and the committee chair, Ms. Visvardis.

### **REPORT OF GENERAL MANAGER**

Richard Hall, General Manager of the Department of Land Use, reported that County Council Land Use Committee will vote on the septic moratorium ordinance at their upcoming meeting this afternoon. The draft ordinance will then be heard by Council the following week. As mentioned before, the Level of Service (LOS) draft ordinance will be presented at the April public hearing. It was introduced in Council on January 22<sup>nd</sup>. The Department expects the ordinance to generate a conversation about Transportation Improvement Districts (TIDs). A visioning session for the Southern New Castle County plan that was held a few weeks ago had a very good turnout. A second public meeting for the Route 202 corridor plan will be scheduled soon. The Department will formally reach out to the Planning Board with an update on how it will move forward with the Route 9 corridor and North Claymont plans. Work on the sub-area plans is part of the larger process of updating the Comprehensive Plan, which is due in 2022. The Department also recently held an outreach event called Reality Check. Attendees played a land development game described as a cross between Monopoly and Sim City, using a custom game board developed for the County with the help of a consultant. The game was well received by stakeholder groups. The Department expects to conduct more of these events and would like to show this new tool to the Planning Board.

Mr. Hall introduced Andrea Trabelsi, new Assistant Manager for the Department of Land Use. She comes to New Castle County from Whitman, Requardt and Associates, LLP and her background is in land use, transportation planning, and landscape design. Ms. Trabelsi mentioned that she is a County resident and looks forward to working with local groups and organizations.

### **REPORT OF CHAIRPERSON**

Ms. Peterson announced that a prospective member for the Planning Board, Darryl Parson, would be interviewed at this afternoon's Council Land Use Committee meeting. He could join the board as early as next week, if approved by Council. She will make sure to keep Ms. Anderson informed of the outcome.

### **OTHER BOARD MEMBER COMMENTS**

Ms. Anderson observed that the minutes from the previous business meeting had been approved before she arrived. The minutes reported that she had agreed to stay on until a new board member was approved; it seems that will happen shortly.

### **COMMENTS FROM THE PUBLIC**

None.

