

**AGENDA
NEW CASTLE COUNTY
PLANNING BOARD BUSINESS MEETING
DEPARTMENT OF LAND USE - NEW CASTLE ROOM
87 READS WAY, NEW CASTLE, DELAWARE
February 21, 2017
9:00A.M.**

ROLL CALL

MINUTES – January 17, 2017

DEFERRALS

BUSINESS

App. 2016-0734-S/Z. Southeast side I-95, northwest side Eagle Run Road, and 0.3 mile east of SR 273. Exploratory Major Land Development Plan and Rezoning Review for **Promenade at Christiana**. The purpose of this plan is to revise a previously approved and recorded Major Land Development Plan with Rezoning (App. 2007-0722-S/Z) and to reconfirm the CR zoning approved by County Council in July 2008 by Ord. 08-003. Former Section 40.31.114 of the *New Castle County Code* (which applies to former process plans) requires that all subsequent land development plans to a previously approved preliminary and rezoning plan be in strict conformity with the plan that was relied upon by County Council when it granted the rezoning. This plan proposes to revise the previous plan by altering the layout of the formerly proposed 443,300 GFA retail center and redesigning it to a 403,110 GFA retail center pursuant to the redevelopment provisions in Section 40.08.11B of the *New Castle County Code*. **Ord. 16-136 will approve a revised exploratory plan for Promenade at Christiana to supersede the existing record plan (20130213-0010164) and reconfirm the rezoning of 45.71 acres from BP (Business Park) to CR (Commercial Regional).** CD 1.

2017-0035-D. East side Montchanin Road, south side Barley Mill Road (SR 141), and north of Brecks Lane (TP 07-030.10-015), at **20 Montchanin Road**, Greenville vicinity. **To Amend Declarations of Restrictions**, dated September 9, 1968 and January 17, 1969 by Columbia Gas Corporation and Dorcas and Donald Farquhar and associated with a rezoning of the property to O-2 (office use) in January 1969 which limited the use of the property to an office building and accessory uses. The proposed amendment will expressly allow a yoga/physical fitness studio and a hair salon/spa as additional permitted uses. OR (Office Regional) zoning. CD 2.

OTHER BUSINESS

REPORT OF COMMITTEES

REPORT OF GENERAL MANAGER

REPORT OF CHAIRMAN

OTHER BOARD MEMBER COMMENTS

COMMENTS FROM THE PUBLIC

ADJOURNMENT

***** PENDING APPLICATIONS *****

There are no pending applications.

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

BUSINESS MEETING

New Castle County
DEPARTMENT OF LAND USE and PLANNING BOARD

~~Public Hearing Register~~

FEB. 21, 2017

(date)

IMPORTANT: PLEASE PRINT

Application No. _____

1. Wendie Stabler
Name
PO Box 1266
Street Address
Wilm DE 19899
City State Zip

8. _____
Name

Street Address

City State Zip

2. _____
Name

Street Address

City State Zip

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14. _____
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Street Address

City State Zip

FINAL

**MINUTES - BUSINESS MEETING
NEW CASTLE COUNTY PLANNING BOARD
87 READS WAY, NEW CASTLE, DELAWARE
February 21, 2017**

The Business Meeting of the Planning Board of New Castle County was held on Tuesday, February 21, 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 Acting Chair Sandra Anderson at 9:00 a.m.

The following Board members were present:

Sandra Anderson	Leone Cahill
Richard Killingsworth (9:15)	William McGlinchey
Joseph Montgomery	Linda Porras-Papili
David Sheppard (9:10)	Robert Snowden
Ruth Visvardis	

The following Board members were absent:

None.

Planning Board Attorney, Department of Law

Jordan Perry

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

George Haggerty	Antoni Sekowski
Reed Macmillan	Valerie Cesna
Matthew Rogers	

The following members of the public were in attendance:

Wendie Stabler	Tom Dewson
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MINUTES

On motion by Mr. Montgomery, seconded by Ms. Visvardis, the minutes of the January 21, 2017 meeting were approved as written by a vote of 6-0-1-2 (YES: Anderson, Cahill, McGlinchey, Montgomery, Snowden, Visvardis; NO: none; ABSTAIN: Papili; ABSENT: Killingsworth, Sheppard).

DEFERRALS – None.

BUSINESS -

App. 2016-0734-S/Z. Southeast side I-95, northwest side Eagle Run Road, and 0.3 mile east of SR 273. Exploratory Major Land Development Plan and Rezoning Review for **Promenade at Christiana**. The purpose of this plan is to revise a previously approved and recorded Major Land Development Plan with Rezoning (App. 2007-0722-S/Z) and to reconfirm the CR zoning approved by County Council in July 2008 by Ord. 08-003. Former Section 40.31.114 of the *New Castle County Code* (which applies to former process plans) requires that all subsequent land development plans to a previously approved preliminary and rezoning plan be in strict conformity with the plan that was relied upon by County Council when it granted the rezoning. This plan proposes to revise the previous plan by altering the layout of the formerly proposed 443,300 GFA retail center and redesigning it to a 403,110 GFA retail center pursuant to the redevelopment provisions in Section 40.08.11B of the *New Castle County Code*. **Ord. 16-136 will approve a revised exploratory plan for Promenade at Christiana to supersede the existing record plan (20130213-0010164) and reconfirm the rezoning of 45.71 acres from BP (Business Park) to CR (Commercial Regional).** CD 1.

The Department of Land Use recommended **APPROVAL** of Ordinance 16-136.

The Planning Board considered the recommendation offered by the Department of Land Use. On a motion by Mr. Montgomery, seconded by Ms. Cahill, the Board voted to recommend **APPROVAL** of Ordinance 16-136 (App. 2016-0734-S/Z). The motion was adopted by a vote of **8-0-1** (YES: *Anderson, Cahill, McGlinchey, Montgomery, Porrás-Papili, Sheppard, Snowden, Visvardis*; NO: none; ABSTAIN: *Killingsworth*).

Mr. Sheppard and Mr. McGlinchey both confirmed they had read the January 3, 2017 hearing transcript for this application, as both had been absent from the hearing.

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

Mr. Sheppard asked about the meaning of the dotted outline in the parking lot adjacent to I-95 on the land development plan and was advised by Department staff that it shows the outline of the warehouse that was demolished.

2017-0035-D. East side Montchanin Road, south side Barley Mill Road (SR 141), and north of Brecks Lane (TP 07-030.10-015), at **20 Montchanin Road**, Greenville vicinity. **To Amend Declarations of Restrictions**, dated September 9, 1968 and January 17, 1969 by Columbia Gas Corporation and Dorcas and Donald Farquhar and associated with a rezoning of the property to O-2 (office use) in January 1969 which limited the use of the property to an office building and accessory uses. The proposed amendment will expressly allow a yoga/physical fitness studio and a hair salon/spa as additional permitted uses. OR (Office Regional) zoning. CD 2.

The Department of Land Use recommended **APPROVAL** of the deed restriction change, as proposed.

The Planning Board considered the recommendation offered by the Department of Land Use. On a motion by Ms. Anderson, seconded by Mr. Montgomery, voted to recommend **APPROVAL** of the Declaration of Restrictions change application. The motion was adopted by a vote of **5-3-1** (Yes: Anderson, Cahill, Killingsworth, McGlinchey, Montgomery; No: Porras-Papili, Snowden, Visvardis; Abstain: Sheppard).

In discussion preceding the vote the Board discussed a number of topics with regards to the application. Mr. Sheppard identified typographical errors in the Department of Land Use Recommendation section of the report. Matthew Rogers, Planner for the Department of Land

Use stated that the errors would be corrected on the final draft. Ms. Papili asked whether the two (2) businesses would be considered accessory uses. Mr. Rogers responded that based on changes to the NAICS the yoga studio is considered an office use and that absent the existing deed restrictions the hair salon/day spa would be approvable being that it is proposed to occupy less than 10% of the building's GFA. In addition to the above the Board discussed a number of topics: including; business based limitations on the proposed restrictions, the definition of "successors and assigns," and if changes to deed restrictions would be considered precedent setting

Ms. Visvardis, Ms. Papili and Mr. McGlinchey voiced concern with regards to the deed restrictions being limited to two (2) specific businesses and their assigns. Mr. Killingsworth spoke to the core uses described on Exhibit A of the proposed deed restrictions and their relation to the businesses and their assigns permitted at the site. George Haggerty, Assistant General Manager for the Department of Land Use explained that Plexus Fitness LLC and Michael Christopher Designs, Inc., two longstanding community businesses approached the property owner about locating at the site. The property owner reached out to the community to discuss changing the existing deed restrictions to accommodate permitting the two uses. The community asserted that they would be more comfortable with the two (2) specific businesses, due in part to their relationship with the community. Mr. Sheppard asked whether a deed restriction that the County is party to, has ever limited the uses based on business owner. Mr. Haggerty stated that he could not recollect any such instance. Mr. McGlinchey stated that the fact that 2 businesses can remain viable in the community is great, and that his primary concern was that the County remains party to the restrictions. Mr. Snowden stated that although the process involving the community was good, he felt that the overriding factor is the scenic and historic nature of the area, which raises the standard.

Planning Board members inquired as to the legal definition of "successors and assigns." Mr. Haggerty, discussed including successors as a means of providing stability and protection for the business should the owner pass away. Mr. Sheppard stated that the provisions would include those who succeed in interest to the business. Jordan Perry, Attorney for the Planning Board, further explained that the business would have to have a relationship to the businesses included in restriction, however there would be the potential to sublet.

The final topic discussed by the Planning Board was whether a recommendation made by the Planning Board pertaining to deed restrictions would set a precedent. Mr. Haggerty stated that the Department evaluates the merit of a request to change a deed restrictions

based on the conditions that resulted in the restrictions being made as well as those effecting the site and community today. Mr. Killingsworth also stated that the Planning Board has historically evaluated deed restriction changes on their own merit.

OTHER BUSINESS

None.

REPORT OF COMMITTEES

None.

REPORT OF GENERAL MANAGER

George Haggerty, Assistant Land Use Manager, reported on the following items:

- On Wednesday, February 22, 2017 the Department will hold a focus group meeting on the UDC Phase III updates.
- In the past 6 months the Department has hired several new employees, including some in the Planning Section. This situation leaves only 10 vacant positions in a Department with more than 100 staff members.
- The Department's procedures for reviewing demolition permits for historic buildings have come under discussion recently and may result in a text amendment to clarify the existing procedures.

REPORT OF CHAIRPERSON

Richard Killingsworth raised the following subjects:

- He queried the other members regarding a date for the Board's annual social get-together. It was the consensus that a casual outdoor venue, perhaps in May, would suit most members.
- He reminded the Board that staff from the University of Delaware and Nemours had offered presentations on topics relating to planning for healthy communities last year and asked if there is interest in continuing to invite them to address the Board. The other members did express interest. In addition, Leone Cahill suggested that the University of Delaware, Institute for Public Administration offers a variety of good training courses that would be beneficial to the Board.

OTHER BOARD MEMBER COMMENTS

There was continued discussion from last month's meeting regarding considerations and procedures for recusing one's self from an application due to conflict of interest. Jordan Perry, counsel to the Board, offered to contact the Ethics Commission to set up a training session since it has been a few years since the last training session. In addition Ms. Perry distributed a "cheat sheet" summarizing

Robert's Rules of Order. Sandra Anderson suggested it is time for the Board to review its bylaws and special hearing rules to consider whether revisions are needed.


COMMENTS FROM THE PUBLIC

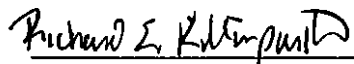
None.

ADJOURNMENT

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

ATTEST:


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


Richard E. Killingsworth
Chair
Planning Board