

PLANNING AND ZONING MEETING

FEBRUARY 20, 2020

**ATTENDEES: David Chillas, Chairman
Todd Frey, Duffield Associates, Engineer
Frank Bailey, Fire Chief
Gene Bloemker
Donald Dibert
Robert Hutchison
Joe Pontak
Gretchen Rachko
Charles Roberts
Craig Sherman
Scott Unruh**

AGENDA:

- 1. 29 Haggis Road – Conditional Use Permit request for a home office selling firearms and accessories using catalogs and business website, in an R-1B zoned area. Items purchased will be shipped to the home office and distributed to individual clients once all background checks have been verified. CU-01-20. Tax Parcel No. 23-045.00-119.**
- 2. 1070 Industrial Drive, Suite 4 – Conditional Use Permit request for a vehicle wrap business (Wraps by JC) in an M-I zoned area. The wide-format printing business would also print wall wraps and signs. CU-02-20. Tax Parcel No. 23-012.00-020.**
- 3. Review Ordinance 20-02-01 for the rezoning of 120 E. Lake Street from R-2 to R-3. Tax Parcel No. 23-006.00-141.**
- 4. 200 S. Ridge Avenue – Preliminary Minor Subdivision Plan for the Tommy’s Express Car Wash, a 4,504-square-foot automated car wash business with 16 parking spaces. The project is located at the southeast corner of the intersection of South Ridge Avenue and Lake Seymour Drive. This revision is to add a subdivision line to split the parcel into two parcels. Tax Parcel No. 23-021.00-578.**
- 5. Armstrong Corner Road – Preliminary Major Land Development Plan for a residential community of 87 single-family attached townhouse lots in an R-3 zoned area. Tax Parcel No. 23-075.00-001.**
- 6. 610/611 Tower Lane (Parcel N and Parcel S in the M.O.T. Auto Park) – Record Re-Subdivision Plan to reduce Parcel N’s area from 2.039 acres to 1.406 acres and add the .633 acres to Parcel S, resulting in an area of 3.970 acres for Parcel S. Tax Parcel Nos. 23-008.00-111 and 23-010.00-049.**

1. 29 Haggis Road – Conditional Use Permit request for a home office selling firearms and accessories using catalogs and business website, in an R-1B zoned area. Items purchased will be shipped to the home office and distributed to individual clients once all background checks have been verified. CU-01-20. Tax Parcel No. 23-045.00-119.

Hector Sanchez, resident requesting Conditional Use approval, stated the request was tabled last month in order to get the attorney's opinion on whether or not the code allowed the business under the Conditional Use classification.

Moved by Charles Roberts and seconded by Gene Bloemker to lift the item previously tabled and open it up for discussion. Motion Carried Unanimously.

David Chillas read a paragraph from the Town Solicitor's response: "In my estimation, this Conditional Use is authorized under 4B.(2)(d)(i)(h). This section pertains to neighborhood retail and services used to support the surrounding residential community. It specifically includes as a permitted use retail sales and specialty stores. The use of a Federal Firearms License to facilitate the retail sale of firearms falls squarely within this Section. In my opinion, there is nothing in the Zoning Code that would preclude the issuance of a Conditional Use for this purpose, subject to the other requirements of this Section." According to the attorney, it is permitted.

Gretchen Rachko added that according to St. Anne's HOA's Bylaws, it is not permitted. Ms. Rachko read a paragraph from the Bylaws: "Each lot shall be used for private, single-family, residential purposes only. No use of any lot which creates a nuisance or which is dangerous or offensive to the neighborhood is permitted. Without limiting the generality of the foregoing, no unit shall be used for manufacturing, business, trade, sales activities or any other use other than residential."

Robby Hutchison questioned whether or not the Deed Restrictions supersede zoning regulations. Deed restrictions are to protect the residents and ensure that purchasers will conform to a certain standard....the restrictions clearly state sales activities are not permitted in the neighborhood.

Charles Roberts said the Commission bases its decision on the interpretation of the Town's Zoning Code; not the Homeowner's Association's regulations. The Town Solicitor's opinion is that the business is allowed under the Conditional Use provision. The final approval is Mayor and Council's decision.

Moved by Craig Sherman and seconded by Joe Pontak to recommend Mayor and Council approve 29 Haggis Road Conditional Use Permit request for a home office selling firearms and accessories, CU-01-20. Tax Parcel No. 23-045.00-119. Members voting against the Conditional Use were asked to provide a reason for their vote:

Robert Hutchison – No, based on the deed restrictions.

Gretchen Rachko – No, based on the deed restrictions.

Donald Dibert – No, based on the deed restrictions and a gun store should not be in a residential area.

Charles Roberts – No, based on the deed restrictions; however, the Town's Code can supersede the deed restrictions.

Motion Carried 5 to 4 to approve.

2. 1070 Industrial Drive, Suite 4 – Conditional Use Permit request for a vehicle wrap business (Wraps by JC) in an M-I zoned area. The wide-format printing business would also print wall wraps and signs. CU-02-20. Tax Parcel No. 23-012.00-020.

Josh Cullen requested approval to open a vehicle/wall wrap and signage business at 1070 Industrial Drive. The business will design, manufacture and install the wraps. The business is currently located in Maryland and will relocate to Middletown.

Gretchen Rachko asked if any hazardous material was involved.

Mr. Cullen said the machines put out very little ink and the ink is collected and taken to a disposal facility.

Moved by Robert Hutchison and seconded by Gretchen Rachko to recommend Mayor and Council approve 1070 Industrial Drive, Suite 4, Conditional Use Permit request for a vehicle wrap business in an M-I zoned area. The wide-format printing business would also print wall wraps and signs. CU-02-20. Tax Parcel No. 23-012.00-020.

3. Review Ordinance 20-02-01 for the rezoning of 120 E. Lake Street from R-2 to R-3. Tax Parcel No. 23-006.00-141.

Anthony Andrews with MOD Squad and Michael Blaisdell, owner of the property, presented the plan proposing to replace the previous structure with a 3-unit modular apartment building. The previous structure had three units and was destroyed by fire. The building was approximately one hundred years old and did not have the R-3 zoning designation. This parcel sits between the Congo property and Habitat for Humanity property, which were both re-zoned to R-3.

Mr. Andrews said the new structure will meet or exceed existing construction standards.

- The building will look like a single-family residential home.
- Each unit will have two-stories with sidewalks and separate entrances.
- The homes are manufactured in Selinsgrove, Pennsylvania.

Mr. Blaisdell said he plans to rent the units.

Moved by Robert Hutchison and seconded by Gene Bloemker to recommend Mayor and Council approve Ordinance 20-02-01 for the rezoning of 120 East Lake Street from R-2 to R-3. Tax Parcel No. 23-006.00-141. Motion Carried Unanimously.

4. 200 S. Ridge Avenue – Preliminary Minor Subdivision Plan for the Tommy’s Express Car Wash, a 4,504-square-foot automated car wash business with 16 parking spaces. The project is located at the southeast corner of the intersection of South Ridge Avenue and Lake Seymour Drive. This revision is to add a subdivision line to split the parcel into two parcels. Tax Parcel No. 23-021.00-578.

Doug Liberman with Larson Engineers presented a revision to the previously approved Tommy’s Express Car Wash plan.

- The revision subdivides the 2.69 acre parcel into two lots.
- Lot 1, 1.263 acres, is the Car wash site; Lot 2 is 1.43 to be developed in the near future.
- A cross-access easement will be provided so both parcels can use the same access points.
- Utilities from Lot 1 will be extended to Lot 2.

Moved by Robert Hutchison and seconded by Joe Pontak to recommend Mayor and Council approve the Preliminary Minor Subdivision Plan for 200 S. Ridge Avenue, to split the parcel into two parcels. Tax Parcel Number 23-021.00-578. Motion Carried Unanimously.

5. Armstrong Corner Road – Preliminary Major Land Development Plan for a residential community of 87 single-family attached townhouse lots in an R-3 zoned area. Tax Parcel No. 23-075.00-001.

Dev Sitaram with Karins & Associates and Tony Basara with Rockwell Development Group presented the plan.

- The site is part of a parcel located at Armstrong Corner Road and Summit Bridge Road, behind the proposed Wawa on the corner.
- The parcel is 31 acres; 15.5 acres will be used for a townhouse community with 87 homes.
- Concept plan approval was received from Mayor and Council in January.
- The entrance to the development, located on Armstrong Corner Road, was designed and constructed by DelDOT.
- Several concerns brought up at the Concept Plan presentation to Mayor and Council have been addressed:
 - a) The width of the roads has been widened to 32 feet to meet Town standards.
 - b) In addition to two off-street parking spaces and a garage, additional overflow parking spaces have been added.
 - c) Per the request of Mr. Ciamarcone, a fence will be installed to help prevent car lights from shining onto his property.
- A sanitary sewer pump station will be constructed.
- The stormwater management facility will be constructed per new State regulations.
- Approximately 7 acres of open space are provided.
- An easement will be provided for the property being retained by the owner.
- The project will comply with current Town Codes.

Robby Hutchison asked if the Town required a traffic study.

Mr. Sitaram said a study was not required by the Town; however, DelDOT was represented at the PLUS hearing. It was pointed out that the volume of traffic to be generated did not warrant a Traffic Impact Study. The development will pay a fee toward a regional study. As part of the SR1 interchange and improvements, the intersection was designed and built to handle both the Wawa and the proposed development's traffic. The project will continue to go through the DelDOT process.

Craig Sherman asked if the street size is designed for on-street parking.

Mr. Sitaram said the Town standard is 32-feet wide; it's adequate for parking on one side, but parking is not proposed for the street.

Concerns from nearby residents:

Jimmy Ciamarcone, resident bordering the project, expressed concern with the number of units and the additional traffic it will generate, along with all the Wawa traffic. The existing merge lane on Summit Bridge Road is inadequate. He feels the development will reduce property values and increase crime in the area.

Josh Foraker, resident near the development, voiced objection to the project based on concern for property values, additional traffic and 87 homes on 15 acres. He objects to the size of the project and recommended fewer homes (5 to 10) on larger parcels.

JoAnn Armstrong, resident bordering the development, expressed concern with the merge lane being inadequate and unsafe; security issues; people cutting through her lot to go to the Wawa, and drainage from the development onto her property. She asked for more information on the fence; how close the nearest home is to Summit Bridge Road; what the time frame is from start to issuing a certificate of occupancy; are walkways provided from the development to the Wawa and what is proposed for the parcel being retained by Wittig. Ms. Armstrong said she would appreciate having the fence along the side and around the back of her property for additional security.

Dev Sitaram explained that Mr. Ciamarcone requested a fence around his property at the concept plan presentation to Mayor and Council. The developer agreed to install an 8-foot high vinyl fence at the end of the cul-de-sac next to his property (Andrew Court), 400 feet back; it will not extend to Summit Bridge Road. Additional comments were provided:

- Landscape screening is proposed to be installed in the back of the Armstrong property.
- Drainage currently on the Armstrong property will actually be reduced.
- The closest home is about 180 feet from the road.
- Final Land Development Plan approvals should be received this fall and infrastructure construction could begin at that time. It would probably be spring of 2021 before any homes are completed for residents to move into.
- Tony Basara said completion of the homes would be about 6 months from start to finish.
- Sidewalks are required on each side of the street in the development, per Town of Middletown specifications. Residents could possibly walk to Wawa.
- Street lighting is required per the Town's code.
- No development is proposed at this time for the parcel being retained by Rockwell Development Group.
- Mr. Sitaram said he would relay the concerns expressed by the residents to the owner of the property.

William Shahan, nearby resident, expressed concern with 87 houses being proposed, which will increase the current traffic situation, add to the merge lane problem, and affect property values. He feels there are too many houses and the development will have a large impact in the small area.

Robby Hutchison commented that he doesn't recall any opposition with the zoning at the time the property was annexed and requested the R-3 and C-3 zoning designation. The R-3 zoning allows townhomes.

Mr. Ciamarcone said he attended the (annexation) meeting and voiced his concerns.

Mr. Sitaram said they actually could have had an exit off Summit Bridge Road, but chose to use the access off Armstrong Corner Road because they felt it would be safer to direct everyone to the main intersection.

A question was raised regarding the price of the townhouses. Mr. Basara said the price has not been determined at this time.

Gretchen Rachko commented that the residents in attendance voiced their opposition to the development and suggested they attend the Council meeting on March 9th.

Members pointed out that the Planning and Zoning Commission is only a recommending body; Mayor and Council authorize final approval. Projects meeting the regulations and guidelines of the Zoning Code cannot legally be denied.

Moved by Robert Hutchison and seconded by Charles Roberts to recommend Mayor and Council approve the Armstrong Corner Road Preliminary Major Land Development Plan for a residential community of 87 single-family attached townhouse lots in an R-3 zoned area. Tax Parcel No. 23-075.00-001.

Note: Not all attendees spoke at the podium; therefore, some comments were not recorded.

6. 610/611 Tower Lane (Parcel N and Parcel S in the M.O.T. Auto Park) – Record Re-Subdivision Plan to reduce Parcel N’s area from 2.039 acres to 1.406 acres and add the .633 acres to Parcel S, resulting in an area of 3.970 acres for Parcel S. Tax Parcel Nos. 23-008.00-111 and 23-010.00-049.

Matt Brickley requested approval to subdivide 610/611 Tower Lane into two parcels. The lots comply with zoning. A Land Development Plan will be presented in the near future for Nick Gadaleta, who currently operates an auto mechanics shop on Peterson Road. Mr. Gadaleta would like to relocate his business to Tower Lane.

Moved by Robert Hutchison and seconded by Joe Pontak to recommend Mayor and Council approve the Record Re-Subdivision Plan to reduce Parcel N’s area from 2.039 acres to 1.406 acres and add the .633 acres to Parcel S, resulting in an area of 3.970 acres for Parcel S. Tax Parcel Nos. 23-008.00-111 and 23-010.00-049. Motion Carried Unanimously.

We believe these minutes accurately reflect what transpired; however, we will appreciate comments involving a different understanding of what occurred. Unless we are notified in writing to the contrary within 10 days after receipt, we will assume all in attendance concur with the accuracy of this transcription.

Respectfully Submitted,

Morris Deputy, Town Manager

Ry 2/28/20
Cc: Mayor and Council
Planning and Zoning Members
All Attendees
Duffield Associates