

The Mayor and Council of Middletown

General Administration

19 W. Green Street
Middletown, DE 19709



PLANNING AND ZONING MEETING MAY 20, 2021

ATTENDEES: David Chillas, Chairman
Morris Deputy, Town Manager
Frank Bailey, Fire Chief
Gene Bloemker
Donald Dibert
Bruce Orr
Joe Pontak
Gretchen Rachko
Charles Roberts

AGENDA:

1. 128 Patriot Drive, Unit 3 – Conditional Use Permit request for a business that creates hair tie cards and packages and ships them throughout the U.S. from online orders (2SistersLittleShop, LLC) in an M-I zoned area. Tax Parcel No. 23-0412.00-015. CU-05-21.
2. 5350 Summit Bridge Road – Conditional Use Permit request for Bright Stars Childcare and Preschool to expand into Suites 107 and 108 of the Cricklewood Grove Shopping Center, in a C-2 zoned area. The business currently occupies Suites 105, 106, 109 and 110. CU-06-21.
3. 693 Industrial Drive – Conditional Use Permit request for an automotive detailing shop (Detail Works) to locate in an M-I zoned area. CU-07-21. Tax Parcel No. 23-010.00-041.
4. 700 & 710 Hedgelawn Way – Revised Record Major Land Development Plan for a 9,950 square-foot restaurant and associated parking and access ways in a C-3 zoned area. The revision adds a drive-thru lane and related parking revisions. Tax Parcel Nos. 23-005.00-007 and 23-065.00-008.
5. 929 Middletown-Warwick Road – Preliminary Major Land Development Plan for a proposed distribution center in a C-3 zoned area. The proposed employment center would include a 181,500 square-foot building, 1,246+/- parking spaces, a loading area for trucks and vans, drive aisles and three (3) proposed points of ingress/egress. Tax parcel No. 23-065.00-010.
6. 1999 Middle Neck Road – Preliminary Major Subdivision Plan for Wellington Estates (formerly known as Money Farms), a 376-unit (174 single-family and 202 attached units) age-restricted community. Tax Parcel Nos: 13-026.00-042 and 13-026.00-027.
7. Review Ordinance 21-04-02 to annex the property at 336 Brick Mill Road. Tax Parcel No. 13-023.00-008.

8. 950 Levels Road – Preliminary Major Land Development Plan and Conditional Use Permit request for a pharmaceutical manufacturing campus on +/-187 acres, in an M-I zoned area. Tax Parcel Nos: 23-044.00-385, 23-042.00-011 and 23-018.00-002.

1. 128 Patriot Drive, Unit 3 – Conditional Use Permit request for a business that creates hair tie cards and packages and ships them throughout the U.S. from online orders (2SistersLittleShop, LLC) in an M-I zoned area. Tax Parcel No. 23-0412.00-015. CU-05-21.

Wanda Meadows requested Conditional Use approval to allow a business that creates hair tie cards and packages for sale to various boutiques in the M-I zoning district. The cards can also be printed with a business name and used as marketing tools for retailers.

Moved by Gene Bloemker and Charles Roberts to recommend Mayor and Council approve 128 Patriot Drive, Unit 3, Conditional Use Permit request for a business that creates hair tie cards and packages and ships them throughout the U.S. from online orders (2SistersLittleShop, LLC) in an M-I zoned area. CU-05-21. Motion Carried Unanimously.

2. 5350 Summit Bridge Road – Conditional Use Permit request for Bright Stars Childcare and Preschool to expand into Suites 107 and 108 of the Cricklewood Grove Shopping Center, in a C-2 zoned area. The business currently occupies Suites 105, 106, 109 and 110. CU-06-21.

Carl Wells, owner of Bright Stars Childcare and Preschool requested approval to expand into Suites 107 and 108. Bright Stars currently occupies 105, 106 and 110; Suite 109 received conditional approval for future use. The additional space will allow for the separation of age groups as well as accommodate an additional 10 to 15 children. The center is currently licensed for 84 children; office space will occupy Suite 107; Suite 110 is used for before and after school child care.

The handicap ramp is situated between units 107 and 108; the space is located on the first floor.

Moved by Joe Pontak and seconded by Donald Dibert to recommend Mayor and Council approve 5350 Summit Bridge Road Conditional Use Permit for Bright Stars Childcare and Preschool to expand into Suites 107 and 108 of the Cricklewood Grove Shopping Center, in a C-2 zoned area. CU-06-21. Motion Carried Unanimously.

3. 693 Industrial Drive – Conditional Use Permit request for an automotive detailing shop (Detail Works) to locate in an M-I zoned area. CU-07-21. Tax Parcel No. 23-010.00-041.

Brandon Parrott requested approval to allow an automotive detailing shop to locate at 693 Industrial Drive.

- No employees are proposed.
- Small amounts of acetone will be stored on-site; no large quantities
- A garage door will separate the work area from the storage area.
- Some jobs will take only a day; vehicles requiring more than a day's work will be stored in the storage area, which can hold ten to twelve vehicles.
- Approximately 2200 square-feet of space will be occupied (the wash bay occupies approximately 800 square-feet).
- No lifts are proposed to be installed.

Moved by Gretchen Rachko and seconded by Joe Pontak to recommend Mayor and Council approve 693 Industrial Drive Conditional Use Permit request for an automotive detailing shop (Detail Works) to locate in an M-1 zoned area. CU-07-21. Motion Carried Unanimously.

4. 700 & 710 Hedgelawn Way – Revised Record Major Land Development Plan for a 9,950 square-foot restaurant and associated parking and access ways in a C-3 zoned area. The revision adds a drive-thru lane and related parking revisions. Tax Parcel Nos. 23-005.00-007 and 23-065.00-008.

Tim Anderson represented Hedgelawn Way LLC, the property owner. The plan proposes a revision to the record plan approved by Mayor and Council December 2019 for a single restaurant user. The plan is revised to reflect the addition of a drive-thru lane to accommodate a restaurant, and/or multiple retail tenants. The building square-footage remains the same, parking is slightly reduced but still meets the code requirement. The area on the plan marked for “Future Development” is not being considered at this time.

Joe Pontak asked when the sites marked for “future development” would be developed. Anderson responded at this time the site is undeveloped; the “future development” is only an illustration and no plans are proposed for that area at this time – development will be based on demand. All the shaded area on the plan will be constructed under this project including the two aisle ways and parking.

Gene Bloemker asked if a truck turning diagram had been done for fire trucks. Anderson said a truck can circulate around the building.

Moved by Bruce Orr and seconded by Joe Pontak to recommend Mayor and Council approve 700 & 710 Hedgelawn Way Revised Record Major Land Development Plan for a 9,950 square-foot restaurant and associated parking and access ways in a C-3 zoned area. The revision adds a drive-thru lane and related parking revisions. Tax Parcel Nos. 23-065.00-007 and 23-005.00-008. Motion Carried Unanimously.

5. 929 Middletown-Warwick Road – Preliminary Major Land Development Plan for a proposed distribution center in a C-3 zoned area. The proposed employment center would include a 181,500 square-foot building, 1,246+/- parking spaces, a loading area for trucks and vans, drive aisles and three (3) proposed points of ingress/egress. Tax parcel No. 23-065.00-010.

Jeff Zyglar from Dermody Acquisition Co. presented the plan proposing to acquire the 52-acre site bordering Middletown-Warwick Road and Middle Neck Road, near the 301 Truck Stop.

- A 181,500 square-foot warehouse/distribution center is proposed, including approximately 400 auto parking stalls, 960 van stalls, 17 loading docks and 13 trailer stalls.
- Construction should start late summer.
- Three curb cuts are proposed off Middletown-Warwick Road; could be reduced to two, based on DelDOT approval; discussions on-going.
- Vans will load in the morning and leave between 10 a.m. and noon to make deliveries.
- Tractor Trailers (approximately 15) will arrive in the evening with packages. These packages are unloaded and sorted in the building, then loaded into the vans for distribution.

Joe Pontak asked when DelDOT will make a decision on the number of curb cuts. Mr. Zyglar said they should have a decision within a week.

Pontak asked how many employees are anticipated.

Zygler said they are only the developer, not the employer, but parking is proposed for 960 vans and 400 automobile stalls.

Bruce Orr asked if a traffic study was done with DelDOT based on the number of vans and trucks. Anthony Caponigro, engineer with Kimley-Horn, said the property was included in a study previously done by DelDOT a while back. The traffic data presented to DelDOT conforms to their analysis and the associated road improvements have been incorporated with the infrastructure. Most of the proposed traffic will happen off-peak: employees using the vans will arrive between 4 to 7 a.m. prior to peak trip hours; they will return late afternoon between 3 to 5 p.m. The trucks to unload arrive around 9 p.m. to midnight.

Don Dibert asked how many vans would be leaving around 10 a.m.

Caponigro said there are 17 docks – so probably about 8 trucks throughout the 4-hour time frame. The delivery vans arrive around 4 a.m. to be loaded and leave between 6 and 8 a.m.

Frank Bailey questioned that no improvements are required at the three access points such as a signal?

Caponigro said no signal is required, but deceleration lanes are proposed at the right-in turns.

Moved by Gene Bloemker and seconded by Bruce Orr to recommend Mayor and Council approve 929 Middletown-Warwick Road Preliminary Major Land Development Plan for a proposed distribution center in a C-3 zoned area. The proposed employment center would include a 181,500 square-foot building, 1,246+/- parking spaces, a loading area for trucks and vans, drive aisles, and three (3) proposed points of ingress/egress. Tax Parcel No. 23-065.00-010. Motion Carried Unanimously.

6. 1999 Middle Neck Road – Preliminary Major Subdivision Plan for Wellington Estates (formerly known as Money Farms), a 376-unit (174 single-family and 202 attached units) age-restricted community. Tax Parcel Nos: 13-026.00-042 and 13-026.00-027.

Bill Rodunda on behalf of Middle Neck Investments LLC, presented the plan for Wellington Estates, an age-restricted, 55 and older community proposed on +/-125 acres with 54 acres of open space and club house.

- Unit breakdown: 174 single family and 202 attached units.
- Single family lots will be 7,400 square-feet, 65-feet wide; attached unit lot size is 4,000 square-feet and 32-feet wide per unit.
- Road paved area will be 32 feet.
- Two entrances on Middle Neck Road meet DelDOT requirements.
- Stormwater facility will be developed further in the process.
- The plan was reviewed by PLUS with no major concerns; concept plan went before Council in April.
- Discussions are proceeding with the Town to coordinate utility construction in conjunction with the proposed distribution center just presented.
- Landscape buffer is provided for residents on Middle Neck Road.
- A 300-foot Delmarva Power buffer is located to the north on the plan as well as a large buffer to the east.

Gretchen Rachko asked how much parking is proposed.

Mr. Rodunda said two parking spaces per lot are proposed and street parking will be available.

Bruce Orr asked if on-street parking is throughout the community.

Rodunda said there are two off-street spaces per unit and it appears the width of the lots will enable on-street parking.

Frank Bailey said parking wouldn't be available in front of the townhomes.

Bruce Orr asked if the DNREC study for bog turtles has been completed.

Randy Mitchell said DNREC indicated a bog turtle study didn't have to be done because the construction is 300 feet from the habitat.

Attorney Wali Rushdan and Michael Isaacs with Fox Rothschild representing the Puglisi Egg Farm, presented a Letter of Objection to the proposed Subdivision Plan for Wellington Estates. In summary: "Puglisi Farms LLC, owners of Tax Parcel No. 13-021.00-010, adjoins and is located immediately to the west of the proposed development. Puglisi Farm acknowledges and appreciates the project owner's rights to develop, and is not lodging an objection to any development of the lands, rather an objection to the plan as it currently exists. The proposed plan represents what the developer can do, not what it should do in the long term interests of all stakeholders, including the residents of the proposed "Wellington Estates" community.

The Puglisi Egg Farm is the only egg farm in Delaware; the largest animal feeding operation that houses over a million birds on site and has an agricultural utilization permit. Since the egg farm is in an Agricultural Preservation District, its operations are protected by a permanent agricultural preservation easement as set forth in the Delaware Code. As such, they are afforded the highest use status.

The PLUS Report highlights that 9 chicken houses are located adjacent to the west of the proposed subdivision. The Department of Agriculture states that a significant buffer area should be required between the Puglisi farm and the development to protect all prospective homeowners from noise, odors and air quality. The farm generates dust, noise and odors.

The Delmarva Power buffer is an open field with high power tension lines and ineffective to mitigate the impact of the egg farm. The Department of Agriculture suggests an actual forested buffer with a variety of canopy and lower trees. Nothing can be built inside the easement to create that effective buffer.

The PLUS Report offers recommendations on Traffic, Storm Water Management and Historic Preservation.

It is respectfully requested that the Zoning Commission does everything in its power to protect both the Puglisi Egg Farm operation and the future Wellington Estates community by requiring that all of the mitigation measures set forth in the PLUS Report are adopted into the plan."

Senator Bruce Ennis commented that he has always supported economic and housing development; however, as Senator and Chairman of the Agriculture Committee, he opposes the proposed development as presented, because of its close proximity to the egg farm and the "Right to Farm" law. He feels a lot of complaints will be lodged from the new subdivision because of the odor.

Bill Rodunda said the issues presented were taken into consideration when the plan was being designed. The property has been for sale for a long time and the egg farm made no effort to purchase it. The stormwater management area, approximately 4 acres, was relocated based on the egg farm's concern.

Mike Puglisi stated he tried to make contact several times to discuss the purchase of the property. A vegetative buffer is required between the properties; the proposed development will create problems for a long time in the future.

Joe Pontak asked the Town Manager if the Town should proceed to consider the request since the attorney has stated objections to the plan and the possibility that the Town could be sued. Town Manager Deputy pointed out the Planning and Zoning Commission makes a recommendation to Council. Mayor and Council take into consideration public comment, PLUS comments and whether it's a by-right plan. Their decision will be based on how the plan meets code versus any potential law suit.

Bruce Orr asked Mr. Deputy if the plan is in compliance with the Town Code. Mr. Deputy replied that he understands there are no outstanding issues that cause it not to be a by-right plan.

Gene Bloemker asked if the purchasers will be made aware of the egg farm issues it may present. Randy Mitchell said the deeds will include a paragraph stating the purchaser is aware of the egg farm operation. Mr. Mitchell commented the stormwater management facility was moved because of Puglisi's concern for the chickens. A larger buffer could have been created if that facility hadn't been relocated.

It was noted that the Department of Agriculture provided wording for a document prospective purchasers would receive and sign when the Casapulla property proposed an age-restricted community on Middle Neck Road. That same document would apply to this development.

Frank Bailey commented that trees probably cannot be planted under the Delmarva Power lines and asked if the developer could work with the Department of Agriculture to make the plan acceptable to them. Mr. Mitchell said they haven't talked with the Dept. of Ag yet.

Mr. Rodundo said the plan has been modified based on comments received. They will talk with the Dept. of Ag, as well as have further conversations with the egg farm owner before going to Council.

Gretchen Rachko suggested tabling the plan until it is modified due to the "Right to Farm" law, PLUS comments, the objections presented by the attorney, etc.

Moved by Gretchen Rachko and seconded by Joe Pontak to table the project until revisions are made based on the PLUS comments and issues presented. Motion Carried Unanimously.

Randy Mitchell commented that the plan submitted complies with the Town Code.

7. Review Ordinance 21-04-02 to annex the property at 336 Brick Mill Road. Tax Parcel No. 13-023.00-008.

Tim Anderson presented the request to annex 3.1 acres on Brick Mill Road. The property is currently an enclave, surrounded by Town property. The requested zoning is C-3; the proposed use is a day care and medical office building. A single family residence sits on the parcel at this time.

Moved by Gretchen Rachko and seconded by Joe Pontak to recommend Mayor and Council approve Ordinance 21-04-02 to annex the property at 336 Brick Mill Road. Tax Parcel No. 13-023.00-008. Motion Carried Unanimously.

8. 950 Levels Road – Preliminary Major Land Development Plan and Conditional Use Permit request for a pharmaceutical manufacturing campus on +/-187 acres, in an M-I zoned area. CU-08-21. Tax Parcel Nos: 23-044.00-385, 23-042.00-011 and 23-018.00-002.

David Fleisher with Delaware Prosperity Partnership represented Project Dragonfly.

- The project proposes to acquire +/-187 acres located on Industrial Drive and Levels Road.
- Proposed is a pharmaceutical manufacturing campus, if the site is selected by the client.
- The project will be constructed in phased over several years.
- Approximately 1.74 million square-feet under roof is proposed.
- The campus will manufacture pharmaceutical active ingredients with labs to test products.
- They will manufacture and package solid dose products (pills, etc.).
- About 1,100 to 1,500 parking spaces will be available.
- Stormwater will be managed on-site. Ponds will be located upon final building layout.
- DelDOT and the Town will be consulted on the final alignment of the Merrimac Avenue extension.
- Phase I will include the administration building, central utility plant and the manufacturing facility for both the active pharmaceutical ingredients and drug product.
- Industrial Drive will be landscaped; additional berming will be constructed in the back to provide a buffer for the residents from the facility and process equipment.
- The company has a global sustainability program that will be part of the final engineering and site development plan as it moves forward.
- The plan is currently going through the process with DNREC and PLUS.
- Some flammable solvents will be stored on the premises; storage and processing areas will be properly rated for their use.
- Pharmaceutical solvents will be in a closed process system.
- The site will resemble a small business park (renderings were presented).
- With approvals, construction should start by the beginning of next year; phase I construction should be completed by the end of 2023. Construction of the whole facility will be based on demand.

Joe Pontak asked how close the residential development is to the project.

Mr. Fleisher said it's several hundred feet and a large buffer will separate the two developments.

Frank Bailey commented that the address is Levels Road but most of the buildings will face Industrial Drive. He asked if the road going through the complex will be private.

Morris Deputy said the Levels Road address was used for the agenda; the road going through the complex will be the extension of Merrimac.

Mr. Fleisher explained the site has three addresses - the 1091 Industrial Drive address will be the main entrance on Industrial Drive. The site does not propose an additional exit to Levels Road.

Frank Bailey asked if the 1100 parking spaces represent 1100 employees per shift.

Mr. Fleisher said 1100 employees represent multiple shifts and additional parking is needed for overlap parking.

Bailey questioned the purpose of the two cylinder-type units by the pond and the proposed height of the buildings.

Fleisher said the cylinder-type units are for wastewater pre-treatment and the buildings will be three to four stories; one building could be higher. Approval will be obtained for any buildings over the height regulation.

Moved by Joe Pontak and seconded by Gene Bloemker to recommend Mayor and Council approve 950 Levels Road – Preliminary Major Land Development Plan and Conditional Use Permit request for a pharmaceutical manufacturing campus on +/-187 acres in an M-1 zoned area. CU-08-21. Tax Parcel Nos. 23-044.00-385, 23-042.00-011 and 23-018.00-002. Motion Carried Unanimously.

Moved by Donald Dibert and seconded by Joe Pontak to adjourn. 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 6/1/21

Cc: Mayor and Council
Planning & Zoning Members
All Attendees
Duffield Associates