

PLANNING & ZONING MEETING

APRIL 20, 2023

ATTENDEES: Dave Chillas, Chair
Morris Deputy, Town Manager
Frank Bailey, Fire Chief
Donald Dibert
Billy Duck
Chuck McCausland
Jenn Parrish
Joe Pontak
Gretchen Rachko
Charles Roberts
Keith Thompson

AGENDA:

1. 215 N. Cass Street – Conditional Use Permit request for a compost bin project (The Nest) in an R-2 (residential) zoned area. The project proposes to host a community compost site in partnership with the Delaware Community Compost Project. CU-05-23. Tax Parcel No. 23-005.00-094.

Ryan Scott presented the conditional use request. They currently have a three-bay composting system in their yard for their personal use; most of the produce is given away. The approval for a partnership with the Delaware Community Compost Project, will help to improve the site to meet the best practices that DNREC recommends for doing the composting correctly. It will also enable some of their neighbors to put their food wastes in the system. The Town's code currently does not address composting systems. Since DNREC requires written approval, it was suggested to apply for a Conditional Use Permit.

- A detailed Operations Plan was submitted.
- All members using the system will be trained.
- All soil will be used on-site.
- Not more than 2½ cubic yards of compost will be on-site at any one time.
- Everything will be enclosed and locked to keep odor down and pests out.
- With Conditional Use approval DNREC will provide expertise and funding for setting up the project.

Jenn Parrish asked if the neighbor whose house is for sale has been contacted about the potential of a composting site nearby. She said she thinks the project is a good idea.

Mr. Scott said he hasn't contacted them yet; the house has been under contract 5 times since it was for sale. They currently have a visible composting system at their residence and it shouldn't be any different.

Ms. Parrish commented that more people will be using it and asked how much traffic is expected for people coming by to drop off waste, etc. She asked if certain days and times will be assigned for dropping off waste material.

Mr. Scott said that can be set as the project gets going, and the approval is needed before they can move forward with the project. The Agreements suggest a generic timeframe of 7am-7pm, but that will be changed as needed. Not more than 6 or 8 people are expected to be involved with this project. Anybody involved will have to go through training – they might stop by once a week to drop off waste.

Ms. Parrish asked if a notification system will be in place to notify members if the facility is at compacity. She asked if it will be open to “all of Middletown”.

Mr. Scott said there will be regular communication with members. With the three-bay system, there are three different levels of decomposition going on at any one time.

Scott said the maximum number to be trained on the system is 30 people for larger systems. The capacity at their residence will not be for more than 6 or 8 members.

Gretchen Rachko asked if there are plans to increase the current bays. She asked if the other sites in Delaware are in residential areas.

Mr. Scott said the system works with three bays. The compost gets moved to a different bay as decomposition happens. He said some sites are in residential areas but the program targets urban areas where space isn't available.

Ms. Rachko said it sounds like a good idea but she doesn't think a residential area is the best place for it because of the smell and additional traffic.

Mr. Scott said he has been composting for a while and doesn't think there is much odor.

Ms. Rachko said expanding the usage could create more odor. She asked if other neighbors are aware of the expansion plans.

Scott said he believes so, but most of the houses around him are for sale.

Don Dibert asked if lime will be used in the composting.

Mr. Scott said no, it's an all-natural process. No chemicals are used.

For clarification, Joe Pontak questioned that anyone dropping off waste would be trained on the operation of composting, and not just anybody would be dropping off waste.

Mr. Scott said that is correct. Everyone will be trained to know what, how and where to drop off waste. The facility will also be locked and only members will have access.

Joe Pontak suggested it would be beneficial for everyone if Mayor and Council would consider amending the zoning code to include regulations for composting.

Moved by Keith Thompson and seconded by Charles Roberts to recommend Mayor and Council approve 215 N. Cass Street – Conditional Use Permit request for a compost bin project (The Nest) in an R-2 (residential) zoned area. The project proposes to host a community compost site in partnership with the Delaware Community Compost Project. CU-05-23. Motion Carried 8 to 1. Gretchen Rachko voted Nay.

2. 107 Patriot Drive, Suite B – Conditional Use Permit request for an energy solutions company (Unison Energy) to store energy materials and products in addition to training on-site employees at the location. CU-06-23. Tax Parcel No. 23-041.00-026.

Adam Fontana, Senior Technician, represented Unison Energy. The Conditional Use Permit is requested for the purpose of training, storage and staging of parts and equipment in support of micro-grid power plants. They operate between New York, New Jersey and Maryland. The closest one here is in Elkton, at the Christiana Care Union Hospital. On-site heat, steam and power is provided for the facility.

The layout proposes two, 20'x20' offices for the purpose of training and a 30'x20' climate-controlled storage room for storing and staging materials. All training is classroom based as well as static demonstrations; no actual working equipment will be on-site.

Don Dibert asked if any equipment with oil will be stored, and how many people will be trained at one time.

Mr. Fontana said dry parts will be stored...pistons, connecting rods, cylinder heads, dry consumables, absorbent pads, etc. Six people will be the most expected for on-site training.

Moved by Chuck McCausland and seconded by Gretchen Rachko to recommend Mayor and Council approve 107 Patriot Drive, Suite B – Conditional Use Permit request for an energy solutions company (Unison Energy) to store energy materials and products in addition to training on-site employees at the location. CU-06-23. Motion Carried Unanimously.

3. 601 South Ridge Avenue (Parcel 3 at the Parkway at South Ridge and Westtown Town Center) Preliminary Minor Land Development Plan for a 3,013 square-foot drive-thru restaurant (Freddy's Frozen Custard & Steakhburgers) in a C-3 zoned area. Tax Parcel No. 23-022.00-189.

Ted Williams, representing JRI Hospitality, presented the Land Development Plan for Freddy's Steakhburgers restaurant with a drive-thru. JRI Hospitality is leasing from Kohl's Department Store, a small portion on the front part of the lot to construct the restaurant.

- The restaurant is approximately 3,013 square-feet.
- A total of 361 parking spaces are required for Kohl's and the restaurant. The reconfigured site with Freddy's will provide 396 spaces.
- The plan shown tonight differs slightly from the plan sent out prior to the meeting, in that some comments from Verdantas, the Town's consulting engineers, have been addressed.
- Sanitary sewer and water will be connected through to the Chick-fil-A site.
- Renderings were presented.

Frank Bailey asked what changes were made to the plan presented versus the plans they received. Mr. Williams said changes were to change or add notes and just "dotting I's and crossing T's – no changes were made to the layout.

Don Dibert said Chick-fil-A has a lot of cars going in and out, not just at lunch time but any time; he feels the traffic layout will cause a lot of confusion.

Mr. Williams said Chick-fil-A is making some adjustments on their site to make things a little bit better.

Mr. Dibert said a lot of people leaving Chick-fil-A make the same turn to leave as shown for Freddy's.

Mr. Williams said a curbed island is proposed to separate the drive-thru from the access drive along the front; signage will also be installed to direct turning traffic.

Joe Pontak asked why that location was chosen instead of the opposite corner which would remove the traffic from Chick-fil-A.

Mr. Williams said they were not part of the initial discussion between Kohl's and JRI Hospitality for the location. He said he understands that Kohl's did not want the restaurant near the front view of their facility and the lease was executed for this location. He said he doesn't anticipate Freddy's having near the number of customers at the lunch time hour that Chick-fil-A has.

Mr. Pontak said based on the traffic Chick-fil-A draws and the traffic flow proposed from Freddy's, he would be against putting a restaurant on that corner and feels it should have been placed on the opposite side.

Billy Duck asked if any traffic data or calculations are available for Freddy's Restaurant; he would like to have more information if it is available.

Mr. Williams said Freddy's will have only one drive-thru lane for ordering, and a by-pass lane compared to multiple lanes at Chick-fil-A. He does not have any calculations with him but is sure it can be obtained. Based on his experience as an engineer preparing plans, he doesn't feel traffic from Freddy's will be an issue.

Mr. Dibert said another concern is if the turn in the drive-thru is the same size as Arby's, it won't be wide enough for a pickup truck.

Billy Duck added that it isn't easy for a large SUV to go through either. He asked if the customer can only make a left turn from the drive-thru, or can a right turn be made too.

Mr. Williams said at this time only a left turn is proposed so vehicles cannot turn back into the traffic in front. Vehicles would be exiting from the same direction as Chick-fil-A.

Mr. Duck commented that if the traffic from Chick-Fil-A can make a right, it will be chaos.

Jenn Parrish pointed out the traffic configuration will also create an unsafe situation for pedestrians crossing the parking lot.

Mr. Williams replied they understand the concern, but every restaurant in the area has people crossing over drive-thru lanes.

Mr. Williams will relay the Planning and Zoning Commission's comments to his client for their consideration.

After considerable discussion, it was recommended to table the project. The Commissioners agreed the location of the restaurant and traffic configuration would potentially create an unsafe situation for vehicles and pedestrians.

Moved by Joe Pontak and seconded by Jenn Parrish to table 601 South Ridge Avenue (Parcel 3 at the Parkway at South Ridge and Westown Town Center) Preliminary Minor Land Development Plan for a 3,013 square-foot drive-thru restaurant (Freddy's Frozen Custard & Steakburgers) based on concerns the location will potentially create public safety issues as discussed. Motion Carried Unanimously.

4. Ordinance 23-04-01 to rezone Tax Parcels 23-057.00-158 and 23-056.00-023 (410 Brick Mill Road) from R-1B (single-family residential) to R-2 zoning (single-family residential).

Steve Woodin with Apex Engineering, presented the request.

- Two parcels total approximately 9.18 acres located adjacent to Brick Mill Elementary School.
- The rezoning requested is R-2 Residential, to allow up to 26, single-family demi-detached houses (twin homes). A 55+ community is proposed.
- The property will have about 6 acres of open space; the parcel is surrounded with protective resources.
- A brief concept plan and renderings were presented.
- A 65' ROW, 32' cart-aisle and 6' sidewalks are proposed.
- Higher-quality homes, with higher-quality architecture and material on the outside, are proposed with a price point around \$600,000 per lot.
- Square footage from 1,800 to 2,500 is proposed.
- The forested buffer between the houses and Brick Mill Elementary School will remain.
- The property is part of the Eastown Traffic Improvement District and will pay into the infrastructure fund for improvements to Brick Mill Road.
 - The study projected the property to be rezoned to R-3 for 100 to 200 apartments; the R-2 use will have much lesser traffic impact than what the study was based on.
 - With R-3 zoning, DelDOT'S study anticipated 57 trips between 7 – 9 a.m. and 69 trips between 5 to 7 p.m.
 - The R-2 zoning with up to 26 units, projects 16 trips for both the morning and afternoon peak hours.
 - DelDOT's 2015 study indicated approximately 4,000 total number of trips on Brick Mill Road. The proposed 55+ community with not more than 26 units will add less than 40 trips per day.
 - Construction could possibly start the latter part of this year.

Billy Duck asked if 200 apartments had been proposed for the parcel.

Mr. Woodin said that was the number projected if the zoning was changed to R-3.

Morris Deputy explained that DelDOT used the worst-case scenario to determine the TID's infrastructure funds.

Mr. Duck said he doesn't understand the motivation to eliminate 200 homes for new Middletown residents for 26 wealthy residents.

Mr. Woodin said from a traffic perspective for Brick Mill Road and Rt. 299, this is a much better idea. Bringing in 100 to 200 apartments to that area would significantly increase the impervious coverage and tremendously increase the runoff, in addition to adding a lot more traffic.

Chip Roberts pointed out there is still a large number of apartments to be built in Town.

Frank Bailey said this hearing is for rezoning the parcel. He asked what could be built in the current zoning, R-1B.

Don Dibert added that the whole 9 acres is not suitable for building.

Mr. Woodin said the R-1B is single-family residential with a minimum lot area of 12,500 square-feet; R-2 zoning is single family residential, with a minimum lot area of 5,000 square-feet and semi-detached (duplex) residential with a minimum lot area of 4,500 square-feet.

Frank Bailey reminded Mr. Woodin the cul-de-sacs have to accommodate the largest fire truck.

Joe Pontak asked if Ryan Homes could purchase the property and do whatever they wanted to, such as build 97 townhomes.

Mr. Woodin said, yes, technically the property could be sold; however, the R-2 zoning classification would not allow 97 townhomes. The property would have to be rezoned again.

Moved by Billy Duck and seconded by Keith Thompson to recommend Mayor and Council adopt Ordinance 23-04-01 to rezone tax parcels 23-057.00-158 and 23-056.00-023 (410 Brick Mill Road) from R-1B (single-family residential) to R-2 zoning (single-family residential). Motion Carried Unanimously 8-0. Joe Pontak abstained.

Moved by Don Dibert and seconded by Gretchen Rachko to adjourn. Motion Carried Unanimously.

We believe these minutes accurately reflect what transpired; however, we will appreciate any 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, P.E.
Town Manager

Ry - 4/27/23
Cc: Mayor & Council
P & Z Members
Verdantas
All Attendees