

**Town of Cheswold**  
**Planning Commission Meeting Minutes**  
**July 10, 2014**  
**Cheswold Fire Company**  
**2<sup>nd</sup> Floor Board Room**

- I. **Chairperson Coker called the meeting to order at 7:05 pm**
- II. **Pledge to the flag**
- III. **Observed moment of silence**
- IV. **Confirmed proper meeting notice was posted**
- V. **Roll Call of commissioners to ensure a quorum**

<u>Present</u>	<u>Absent</u>
Dennis Coker	Martha Scott
Alan Roth	Albert Lambertson
Barry Jones	

Chairperson Coker confirmed a quorum has been established. Mr. Coker acknowledged the presence of Land Use Administrator Theon Callender and Tom Wilkes of Remington, Vernick & Beach Engineers representing the Town of Cheswold. Additionally, Mr. Coker thanked Ruthann Purchase for volunteering to take meeting minutes.

**VI. Review of Agenda; motion to accept as presented or as amended**

Commissioner Jones made a motion to accept agenda as presented; Commissioner Roth seconded. Motion unanimously carried.

**VII. Review of previous meeting minutes; motion to accept as presented or as amended**

Commissioner Roth made a motion to accept the June 12, 2014 meeting minutes as presented; Commissioner Jones seconded. Motion unanimously carried.

**VIII. Graham Property Annexation**

Chairperson Coker informed the commissioners an application for annexation numbered 2014-06-20-0002A had been submitted by Martin D. and Susan C. Graham (Graham property) for their property located at 5049 N. DuPont Highway, Dover, DE 19901. The referenced property is 1.9022+/- acres currently zoned General Industrial (IG) by the county and is home to a machine shop business. Mr. Coker explained the property shares a boundary with the Central Delaware Business Park making it eligible for annexation. The applicants have requested a Highway Commercial (C-2) zoning classification for the property. Mr. Coker went on to explain the role of the planning commission relative to this application is to determine whether a C-2 zoning classification for this property complies with Cheswold's currently approved Comprehensive Land Use Plan and the intended zoning for those properties accessed by Route 13.

Mr. Wilkes showed the commissioners a map of the location of the property proposed to be annexed. Commissioner Roth asked if this property was the location of a church at one time. Mr. Coker replied no, the church was located on a different property.

With no further questions or discussion, Commissioner Jones made a motion to recommend approval to the Cheswold Town Council of the annexation application numbered 2014-06-20-0002A requesting Highway Commercial (C-2) zoning; Commissioner Roth seconded. Motion unanimously carried.

**IX. Cheswold Village Properties, LLC Lot #3 Annexation Request**

Mr. Coker informed the commissioners an application for annexation numbered 2014-06-20-0003A had been submitted by Cheswold Village Properties for Lot #3 located at the intersection of US Route 13 and Jerome Drive, Cheswold, DE 19936. Mr. Coker explained the property proposed for annexation would be contiguous to the Town of Cheswold upon approval of the annexation request numbered 2014-06-20-0002A (Graham property) and US 13 is not a barrier to annexation. Mr. Coker further explained the property is currently zoned Multi-Commercial and the requested zoning classification if annexed into the Town of Cheswold is Highway Commercial (C-2). Mr. Coker instructed the commissioners to review map attached to the application to verify the property location in reference to the Graham property. Mr. Wilkes reiterated the Lot #3 annexation could not be done until after the Graham property annexation.

With no further questions or discussion, Commissioner Roth made a motion to recommend approval to the Cheswold Town Council of the annexation application numbered 2014-06-210-0003A requesting Highway Commercial (C-2) zoning contingent upon approval of annexation application numbered 2014-06-20-0002A (Graham property) by the Cheswold Town Council; Commissioner Jones seconded. Motion unanimously carried.

**X. Coleman Lot Redesign Preliminary Plan Review; Update**

Chairperson Coker initiated this discussion by stating he had received from Mr. Coleman the written responses to the engineer's comments dated May 8, 2014 in reference to his sub-division application numbered 2014-05-02-013. Mr. Coker also stated attached to Mr. Coleman's response letter was a revised plan which included information requested by Mr. Wilkes letter of May 8<sup>th</sup>. Mr. Coker stated the planning commission needed a compliance statement from Mr. Wilkes before the commission would proceed with the review of his preliminary plan.

Mr. Coleman additionally supplied an email from Mr. Chris Connelly of Kent County inferring the County was in agreement with the revised plan with latest revisions dated June 25, 2014. The planning commission did not receive a copy of this email.

Mr. Wilkes commented, after reviewing the email from Mr. Connelly, the County would prefer one recorded plan and joint approvals were needed before the preliminary plan would be considered in compliance. The email did not constitute an approval letter.

Land Use Administrator Callender stated the Town of Cheswold had nothing to do with the lot line adjustments Mr. Coleman had requested, as the lots involved are under County jurisdiction.

Mr. Coker stated it would be difficult to approve the subdivision plan until the annexation request had been approved. Mr. Coker asked Mr. Coleman if he would be satisfied with lots having dual jurisdiction until the annexation request is approved. Mr. Coleman responded the jurisdiction issue would be cleared up when the annexation is complete.

Mr. Wilkes stated once again he felt the annexation should be completed before we could decide if the subdivision is in order. Mr. Wilkes reiterated the email from Mr. Connelly was not an approval but a proposal as to how to get joint approval and the Town is only considering properties under their jurisdiction.

Mrs. Callender stated the notice of the intended annexation will be posted tomorrow along with the newspaper posting of the Public Hearing for public comment on the proposed annexation. Public hearing will be scheduled which prior to the next Town Council meeting.

Mr. Wilkes stated there is a need to verify utilities and removal of the alley is still a question since it is described in the deeds. Mr. Coleman replied the alley exists on paper only. Mr. Wilkes commented the alley is for access to back yards and secondary access to Kent Street and if access is restricted then it does affect property owners and utility companies. Mr. Wilkes said the alley does show on the wetland maps.

Mr. Coker asked Mr. Coleman if he had received a legal opinion about the alley ownership and descriptions in the deeds. Mr. Coleman replied no.

Mr. Wilkes stated he does not believe Mr. Coleman owns the alley since the deeds describe the properties from the alley onward, not including the alley.

Mr. Coleman stated Mr. Connelly nor his surveyor could comment on the alley.

Mr. Coker stated there is the same issue with the wedge on the west side of the properties; specifically who owns the wedge. According to the proposed plan, Mr. Coleman has claimed this deed overlap. Mr. Coleman asked when was the last time the town surveyed the park property to determine what their deed indicates. Mrs. Callender stated she would check.

Mr. Coker stated the environmentally sensitive areas as designated would have to be addressed in the lot development process. He stated the maps are not showing the same delineation of wetlands. He stated if there has been a change in the delineation, the change would have to be documented.

Mr. Wilkes stated the green shows the entire pasture lot is wetlands. Mr. Coleman replied Mr. Voshell had a wetlands delineation done on it and it was transferred to him. Mr. Coker added the commission would need to see those maps during the lot development process.

Mr. Coker stated there is a need to determine who owns the alley. Mr. Coleman replied alleys have been developed all over Cheswold. Mr. Coker stated just because alleys have been ignored in the past we cannot continue that practice.

Mr. Wilkes added even though you cannot see the alley on your property we still need a legal description. Mr. Wilkes asked how a legal description of the alley would appear in a deed bisected by an alley. Mr. Coleman replied the same way it is described now. Mr. Wilkes disagreed stating there is no description now; it says your line is adjacent to the alley. Mr. Wilkes stated this legal issue needs to be resolved. Mr. Wilkes asks who writes the deeds for the new properties when you divide it. Mr. Coleman replied a lawyer. Mr. Wilkes added the lawyer you are paying and the surveyor you are paying can answer these questions; when you describe a piece of property in a deed you have to explain how you cross the alley if you do not own the alley.

Mr. Coker stated to Mr. Coleman we are trying to facilitate your subdivision request in our jurisdiction. We have questions and you have not satisfied our questions either way you go. We do not know if you can abandon the alley since you do not own the alley. If you don't own the alley we need to know how the deed descriptions are going to be recorded with that condition present. We need to know what legal issues might arise from that situation.

Mr. Wilkes asked Mr. Coleman, what it means to abandon the alley and if it means you automatically own it.

Mr. Coker stated the alley technically goes all the way from School Lane to the end of the Hoars Subdivision. He stated that he couldn't agree that the Planning Commission has the authority to abandon

the alley; but that maybe the Town Council has that authority. He additionally informed Mr. Coleman that although he (Mr. Coleman) proposes to abandon the alley it is not known who owns it and that it is out of the ordinary for the Planning Commission to request the Town to approve abandonment of the alley if Mr. Coleman doesn't own it.

Mr. Coker stated he would schedule a special Planning Commission meeting if it can be determined who owns the alley and how new deeds would reflect existence of the alley if the alley were to remain.

Mr. Coleman said he would make an effort to determine who owns the alley and how the new deeds would reflect existence of the alley if it were to remain. Mr. Coleman said he would respond to this request in a few days.

Mr. Coleman thanked the Commissioners for their time considering his request.

**XI. Review Land Use Ordinance Revision Log**

- a. Re-zoning process; update: no discussion
- b. Land Use Ordinance Article 13: signs; update: no discussion
- c. New Zoning Code Request

Mrs. Callender informed the planning commission a client has requested creation of an R-5 zoning classification. She states there is some research to be done and will inform the commission of the results of that research. Mr. Coker comments minimizing overlay zones does alleviate confusion in the design and planning process.

**XII. New Business**

None

**XIII. Motion to Adjourn**

Commissioner Jones made a motion to adjourn at 9:30 pm; Commissioner Roth seconded. Motion unanimously carried.

Respectfully Submitted

Dennis Coker, Chairperson  
Cheswold Planning Commission