

Town of Cheswold
1856



State of Delaware
1787

**PLANNING COMMISSION
MEETING MINUTES
THURSDAY, March 9, 2023
691 Main Street
Cheswold, Delaware 19936**

ATTENDANCE VIA ZOOM WAS AVAILABLE

Planning Commissioners In Attendance:

Mr. Carl Schultz, Chairperson
Ms. Barbara Cooper Commissioner - via ZOOM
Mr. Dave Naples - Commissioner - via ZOOM
Mr. Stephen Williams – Commissioner - via ZOOM

Also in Attendance:

Mr. Thomas Wilkes, P.E., Town Engineer - via ZOOM
Mr. Michael Callender – Code Enforcement Officer
Ms. Sam Callender, Town Land Use Administrator
Mr. Cliff Mumford, P.E., DB&F Engineering – via ZOOM

MEETING OPENING:

The meeting was called to order at 5:04 p.m., by Chairperson Carl Schultz, followed by a Salute to the Flag and a Moment of Silence.

MEETING PROPERLY POSTED

Chairperson Schultz asked if the meeting had been properly posted and Ms. Callender confirmed that it had.

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ROLL CALL:

Chairperson Schultz conducted a roll call, and it was acknowledged that a quorum of members were in attendance, and the meeting proceeded.

AGENDA REVIEW:

A call for a review of the agenda was made by Chairperson Schultz and a motion was made by Commissioner Naples to accept the agenda as presented. Commissioner Williams provided a second to the motion as presented and it passed with a unanimous roll call vote of the Commissioners.

MINUTES REVIEW:

Chairperson Schultz stated that there were no minutes to review as a meeting had not been held in February, 2023.

Ms. Callender inquired if minutes were written for the January meeting, for which she was not present. It was agreed that no one had written minutes of that meeting. Ms. Callender volunteered to construct minutes based on a review of the ZOOM recording of the meeting. *(Action was completed and draft minutes were forwarded to the Commissioners for review and comment on March 28, 2023.)*

NEW BUSINESS –

NOTHING to REPORT

OLD BUSINESS:

- a. **Application 2022-11-15-115**
 - Preliminary Plan Review
 - Lot 6 – McGinnis Green
 - Map ID – 4-03-04100-01-0101-000
 - Current Zone = C-2 (*Highway Commercial*)
 - Post Approval Zone = C-2
 - Acres = 1.3
 - Owner = McGinnis Lot 3 & 4 LLC
 - Owner Representative = Arik Jakob
 - Engineering Representative = Cliff Mumford, P.E. & Ring Lardner, P.E. – DB & F Engineering

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OLD BUSINESS: *"continued"*

a. Application 2022-11-15-115 *"continued"*

Chairperson Schultz stated that hopefully everyone had reviewed the responses, from DB & F, dated March 27, 2023, concerning the comments of the Preliminary Plan presented by Town Engineer Tom Wilkes in a correspondence dated November 30, 2022. And that from his review it appears that all comments have been successfully addressed except for six, (6).

Town Engineer agreed with the assessment made by Chairperson Schultz and suggested that Mr. Cliff Mumford, P.E. of DB & F Engineering, the engineer for the applicant be permitted to give a summary and the current status of the application.

Mr. Mumford provided a background summary that included the information that Lot 6 is the result of a lot line adjustment associated to Lot 3 and that Lot 6 has finally been assigned its own Map ID number and that number has been added to the construction plans.

Additionally, the construction plans have been submitted for approval of the 27,000 square foot fast food restaurant to be known as Taco Bell to the following:

- Kent County Public Works - for sewer hook-up
- Town of Cheswold – for municipal approvals
- State Fire Marshall – for fire hydrant; safety approvals
- DeIDOT – for any related traffic approvals

It was subsequently determined by DeIDOT that they had no additional traffic approvals. An entrance permit had been requested and approved in 2021, by another Engineering firm in anticipation of the construction of a Taco Bell and a Tire Shop which would have required an entrance on the north side of Route 13 into Lot 3. As Lot 3 has not yet been developed, at this time the previous entrance permit is continues in a state of approval. However, it is not needed for this application and DeIDOT has provided documentation to that affect, which has been shared with Town Engineer Wilkes and Land Use Administrator Callender.

The access roads on the plans are being constructed by Christiana Excavating. So now the plans are in the review and addressing comments phase.

Mr. Wilkes stated that Mr. Mumford has satisfied the majority of his comments, and the remaining that are pending are not significant enough to deny approval. Specifically, Item 1 & 2 can be resolved during the Final Plan review and Mr. Mumford can address Item 3 at this meeting.

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OLD BUSINESS: *"continued"*

a. Application 2022-11-15-115 *"continued"*

The other pending comments, (3), are catch-alls and can be addressed at the Final Plan review process. And he has no problem with moving forward with the approval of the application as currently submitted, based on a contingency that all pending items are satisfactorily completed prior to the Final Plan approval by the Town Council, as we've done in the past on some applications.

Commissioner Naples asked if the sidewalks shown on the plan are in the DeIDOT ROW. Mr. Mumford answered that they are in the DeIDOT permanent easement.

Commissioner Naples additionally asked if DeIDOT is involved at all with the construction within the easement or will it be left to the Town to oversee the construction during the land and building process. Mr. Mumford responded that the construction of the sidewalk shown on the plans will be completed by Christiana Excavating.

Commissioner Naples followed up with is the sidewalk going to be maintained by DeIDOT or the property owner? Mr. Mumford answered that the property owner will be responsible for sidewalk maintenance.

Land Use Administrator Callender asked Mr. Mumford if the combined lots are now officially known as Lot 6 and the property owner as McGinnis Lot 3 & 4, LLC. Mr. Mumford confirmed that she was correct.

Town Engineer Wilkes confirmed that plans created by Duffield Engineering had been forwarded to him and Ms. Callender, which reflect an entrance plan from Route 13 to be completed by a right hand turn. He asked if anyone on the Commission or in the Town had any recollection of a Tire Store submitting a project for construction. Ms. Callender stated that she had no knowledge of any such project or plans for a Tire Store or the development of Lot 3. Mr. Callender stated that there had been some discussion, (*gossip*), of such a project, but nothing was ever set in concrete.

Mr. Wilkes stated again that he was okay with the Commission voting to send the Preliminary Plan to the Town Council for approval, as long as it was sent with a contingency that all his comments must be satisfied prior to the approval of the Final Plan.

Chairperson Schultz asked the Commissioners if anyone was ready to make such a motion.

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OLD BUSINESS: *"continued"*

a. Application 2022-11-15-115 *"continued"*

Commissioner Naples made a motion to accept the Preliminary Plan as submitted and to advise the Town Council to approve it based on the contingency that all comments submitted by Town Engineer are approved prior to the Final Plan being approved by the Town Council.

A second to the motion as submitted was made by Commissioner Cooper and the motion passed after a unanimous Planning Commissioner vote.

Ms. Callender informed Mr. Mumford that a memo will be prepared for the Town Council to encourage them to approve the Preliminary Plan based on the contingency requirement of the Planning Commission and the review/vote will be added to the Town Council monthly agenda dependent upon his readiness for that to occur. He indicated that he would address the remaining comments and requested that the Preliminary Plan be added to the April Town Council agenda. *(Subsequent to the meeting PC Memo 2023-001 was forwarded to the members of the Town Council on March 21, 2023, and advised them as stated above and the Preliminary Plan was added to the Council agenda for April 3, 2023.)*

b. Review of Revisions to Article 4. Administrative Procedures - Pages 8 – 14

Land Use Administrator Callender informed the Commissioners that she continued to be in a state of recovery from her vacation and asked the Commissioners if would be okay to postpone further review of these procedures until the April meeting.

There was an unanimous agreement to table the discussion until next month.

ADDITIONAL McGINNIS GREEN – LOT 6, (TACO BELL), DISCUSSION:

Commissioner Naples asked Code Enforcement Officer Mike Callender what was incorporated within the construction plans submitted by DB & F; if it was just a site plan or were building plans submitted?

Mr. Callender responded that only the construction plans were submitted and Mr. Wilkes added that the submitted plans are not architectural or building plans of any type. They are simply land development plans.

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COMMENTS:

Chairperson Schultz then moved on to comments from the attendees:

TOWN ENGINEER COMMENTS:

NOTHING to REPORT

LAND USE ADMINISTRATOR COMMENTS:

Ms. Callender reported that she was glad to be back from vacation.

COMMISSIONER BARBARA COOPER –

NO COMMENTS

COMMISSIONER DAVE NAPLES

Stated that he had some free time, so he scanned the 2020 Comprehensive Plan and noted that he found it on the Town website, which included information about former members of the Planning Commission and he thinks the web should probably be updated to reflect the current Commissioners. Also, the Town Engineering firm and contact information requires updating. Mrs. Callender acknowledged that an update is necessary and committed to doing so. *(Subsequent to the meeting, the webpage was updated to reflect the names of the current Commissioners as shown in these minutes and the Engineering firm as Carroll Engineering and the Town Engineer as Tom Wilkes, P.E.).*

Additionally, Commissioner Naples noted that there is an action item stating that the Code Enforcement Officer will acquire ICC Property Maintenance Certification and he would like to know the status. Mr. Callender, the Code Enforcement Officer, responded that it is a work in progress.

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COMMENTS: *"continued"*

COMMISSIONER STEPHEN WILLIAMS

NO COMMENTS

CHAIRPERSON CARL SCHULTZ – Requested again that the Commissioners seriously consider his request for someone to volunteer to be a Vice-Chair. He stated that there is a possibility that he will not be available for next month's meeting, but he will inform Ms. Callender with sufficient time to let everyone else know.

He then asked if anyone had anything additional to add and Ms. Callender responded.

ADDITIONAL CONVERSATION/INFORMATION:

- Ms. Callender noted that Vice-Mayor Wysong has resigned and there is now an opening for a Councilmember on the Town Council as well as there remains an open position on the Planning Commission.

Commissioner Williams asked how a resident would obtain the seat on the Council. She explained that a resident desiring to be a Councilmember could do so by completing the required paperwork at Town Hall and being voted in by the current members of the Council. The applicant would serve for one, (1), year.

Commissioner Williams responded that he would be interested in taking the vacant position on the Council and that he would also volunteer to be Vice Chair of the Planning Commission.

Ms. Callender explained that he cannot do both. Holding both positions is considered a conflict of interest. Because of that she is not permitted to vote on plans that she's reviewed as part of responsibilities as Land Use Administrator and if he serves on both, he would also have to recuse himself from Council votes. Mr. Williams then asked where he could better serve the Town. Chairperson Schultz and Ms. Callender stated that is a personal decision that he has to make. Neither person wants him to serve in one place when he would prefer to be in another. He promised to make a decision and to inform Ms. Callender. *(Subsequent to the meeting, he informed her that he would remain on the Planning Commission.)*

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ADDITIONAL CONVERSATION/INFORMATION: *"continued"*

Commissioner Cooper acknowledged that there remains a vacant Commissioners position and asked if the vacancies are posted. Ms. Callender responded that yes they are, but the Town has been able to encourage much resident participation.

Commissioner Naples informed everyone that his daughter will be moving into the Stonington Development sometime in April 2023 and he has been discussing her possible involvement with Town activities and positions. Ms. Callender stated that she would be an excellent candidate because we have no residents from the Stonington Development participating in the Town at this time. Commissioner Naples promised to keep the team informed about the potential status of his daughter joining either the Planning Commission or the Town Council.

NEXT MEETING DATE:

Thursday - April 13, 2023; 5:00 p.m.
Regularly Scheduled Planning Commission Meeting

Meeting to be Held at:

Cheswold Town Hall - Commissioners and Applicants only

- **ZOOM** will be available for all others

MOTION to ADJOURN:

A motion to adjourn was made by Commissioner Cooper at 5:40 p.m. A second to the motion was made by Commissioner Williams and a unanimous roll call vote passed the motion.

Minutes Submitted by: Land Use Administrator Sam Callender – March 30, 2022