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Town of Cheswold
1856



State of Delaware
1787

**PLANNING COMMISSION
MEETING MINUTES
Thursday, May 9, 2024
691 Main Street
Cheswold, Delaware 19936**

ATTENDANCE VIA ZOOM WAS AVAILABLE

Planning Commissioners In Attendance:

**Ms. Barbara Cooper Commissioner - via ZOOM
Mr. Dave Naples - Commissioner - via ZOOM
Mr. Michael Callender – Vice-Chairperson
Ms. Kara Naples – Commissioner – via ZOOM
Mr. Stephen Williams – Chairperson**

Also in Attendance:

**Ms. Sam Callender, Town Land Use Administrator
Ms. Sarah Cahall, Assistant Town Land Use Administrator**

MEETING OPENING:

The meeting was called to order at 5:00 p.m., by Chairperson Steve Williams. The opening was followed by a Salute to the Flag and a Moment of Silence.

MEETING PROPERLY POSTED

At the request of Chairperson Williams, Land Use Administrator Sam Callender acknowledged that the meeting had been properly posted.

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ROLL CALL:

Assistant Land Use Administrator Sarah Cahall 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 Steve Williams.

Land Use Administrator Sam Callender requested that a Commissioner make a motion to amend the agenda to add:

- Review of suggested removal of Conditional Use and Site Plan requirements in the R-3 and R-5 Zones for Garage, Public and Commercial Parking use in Table 7-2.
- Review of Draft Ordinance 12-05-23-073, (Revision of Article 7.2 of the Land Use Ordinance)
- Review of Headings in Article 6 and 7 of Multi-Use and Townhouse vs. 1,2 & 3 Family & Townhouse
- Review of Description of Mixed Use in R-3 and C-1 and C-2 plus a Generic Definition of Mixed-Use and a Review of the definition for Retail Sales

Such a motion was made by Commissioner Barbara Cooper and a second to the motion was provided by Commissioner Dave Naples to revise the agenda as motioned. The motion passed with a unanimous roll call vote of the Commissioners.

MINUTES REVIEW:

Chairperson Steve Williams requested the Commissioners to review the minutes of the meeting of the previous month and to make a motion to accept them as presented or to provide notice of items requiring revisions.

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MINUTES REVIEW: *"continued"*

A motion was made by Commissioner Dave Naples to accept the minutes as presented and Commissioner Kara Naples provided a second to the motion. The following minutes passed with a unanimous roll call vote of the Commissioners:

Planning Commission Meeting
April 11, 2024

OLD BUSINESS –

- a. *Table 7-2. Permitted Uses and Regulations- Reconsideration of use of Garage, Public or Commercial Parking in R-3*

Mrs. Callender explained that after additional consideration of the previous decision to remove Conditional Use and Site Plan as a requirement in the R-3 and R-5 Zones for the use of garage, public or commercial parking, that it should not be removed and be permitted to remain as originally recorded.

She explained that R-3 and R-5 have all the same use requirements except R-5 permits Adult Day Care centers which would require public parking and subsequent to the meeting and an additional review of the Land Use Ordinance determined that community centers are permitted in both zones, which would also require public parking.

Commissioner Dave Naples explained that parking for professional offices is allotted a required number of spaces. He added that his interpretation with the Land Use Ordinance is that public parking is referring to a public parking lot or public parking garage that you pay to enter or pay to park with no other services provided.

Mrs. Callender stated that she does not mind leaving it as is because it still must go before the Planning Commission. Commissioner Cooper said that the word garage seems more of a category and the comma after it suggests the type referring to a building and agreed with the interpretation of Commissioner Dave Naples.

Vice-Chairperson Callender added that he agrees that the definition is more a multi-structure.

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OLD BUSINESS – “continued”

- a. *Table 7-2. Permitted Uses and Regulations- Reconsideration of use of Garage, Public or Commercial Parking in R-3*

Commissioner Dave Naples said that he feels like the Commissioners are getting too deep with the definitions and stated he does not feel comfortable making a decision at this moment and that he is not being given enough time to review and investigate the information provided.

Ms. Callender explained that decisions do not have to be made tonight and it could take a month or more as there is no time limit involved in the decisions to be made.

Commissioner Barbara Cooper suggested leaving it as is, because it may do a disservice to future applicants. Mrs. Callender suggested holding off on deciding. Vice-Chairperson Callender agreed with Mrs. Callender.

- b. *Review of Draft Ordinance 12-05-23-073, (Revision of Article 7.2 of the Land Use Ordinance, which includes the review of Draft Revision of Article 7 pages 1-5.),*

Mrs. Callender reviewed the current status of Article 7 – Use Regulations and its associated Sections – Specifically Section 7-2. Specific Requirements by District and Overlay Zone. She explained that previous reviews had agreed to the changes to be made to the A-1; R-1 through R-5 Zones. However, due to additional reflection and review, she wanted to know if the term “detached” should be inserted between family and homes in Section B-5 of the R-1 Zone?

She additionally informed the Commissioners, that although the Town intent is for R-1 to be ONLY Single-Family Detached Homes, we must all be aware that there are four, (4), homes which have a “grandfathered” status as either a two, (2), family or a duplex. They are:

- 199 Commerce Street
- 215 Commerce Street
- 79 New Street
- 02 Main St

Commissioner Dave Naples agreed to inserting the term”, because that is the intent of R-1, and if it is left out R-1 becomes identical to R-2, except for institutional uses such as schools, churches, and municipal buildings. He explained that if the word “detached” is not included it would cause issues. All Commissioners were in favor of inserting the term “detached” between family and homes in Section B-5 of Article 7-2.

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OLD BUSINESS – “continued”

c. Review of Headings in Article 6 and 7 of Multi-Use and Townhouse vs. 1,2 & 3 Family & Townhouse

Mrs. Callender presented other potential definition and review changes that were a result of previous Planning Commission discussions. She explained that due to inconsistencies between Article 6 and 7, the decision had been made to change Multi-Family & Townhouse to 1,2 & 3 Family & Townhouse. Also, after reviewing the recent revision of the Harrington Land Use Ordinance, it might be best to use the Multi-Family & Townhouse heading instead of the 1, 2 & 3 Family Townhouse heading. She asked the Commissioners for their thoughts and suggestions. Mrs. Callender added that these suggestions are a lot to absorb, and time is needed to make decisions and the Commissioners should take as much time as they need.

Commissioner Dave Naples agreed with Mrs. Callender in reviewing the potential changes. He added that there are some discrepancies because the multi-family definition starts at 3 Dwelling Units on a lot and added that it is also now in 1,2,3 family residential units and there is overlap. Commissioner Dave Naples suggested going with what the Building Codes state. Because the 3-unit changes any Dwelling structure to an apartment building by definition in the Building Code and the State of Delaware Fire regulations.

d. Review of Description of Mixed Use in R-3 and C-1 and C-2 plus a Generic Definition of Mixed-Use and a Review of the definition for Retail Sales

Ms. Callender stated that she made a slight change that was previously discussed concerning using the mixed-use description shown in Zone C-1 and moving to Zone R-3 and doing the reverse for the mixed-use description shown in Zone R-3 and moving it to C-1 and C-2. She asked the Commissioners to take their time in evaluating the proposed changes.

Mrs. Callender stated that there was no definition for mixed-use in the Definitions Article, (Article 2), in the Land Use. She stated she found three generic definitions and stated that she believes and suggests that a definition for Mixed-Use be added to the Land Use Ordinance. The potential definitions were as follows:

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OLD BUSINESS – “continued”

- d. *Review of Description of Mixed Use in R-3 and C-1 and C-2 plus a Generic Definition of Mixed-Use and a Review of the definition for Retail Sales*
- **Mixed Use** . A type of urban development, urban design, urban planning and/or a zoning classification that blends multiple uses, such as residential, commercial, cultural, institutional, or entertainment, into one space, where those functions are to some degree physically and functionally integrated, and that provides pedestrian connections. *(See Article 7; Section 7-2; Item D and Item G for additional information)*
 - **Mixed Use** . Allows for the horizontal and vertical combination of land uses in a given area. Commercial, residential and even in some instances, light industrial fit together to help create built environments where residents can live, work and play. *(See Article 7; Section 7-2; Item D and Item G for additional information)*
 - **Mixed Use** . A development characterized as a pedestrian friendly development that blends two or more residential, commercial, cultural, institutional, and/or industries. It seeks to foster community design and development that serves the economy, community, public health, and the environment. *(See Article 7; Section 7-2; Item D and Item G for additional information)*

Vice- Chairperson Callender would like to use a hybrid of the generic definitions presented with a focus on the last two, which he views as appropriate for the community. Commissioner Cooper and Chairperson Willaims stated that they would like more time to look into the Mixed-Use definition.

- Retail Sales

Mrs. Callender presented a review of the retail sales definition from the Land Use Ordinance and the mercantile description from ICC in the Building Code. She expressed her concern with the retail sales description in the Building Code shown as Mercantile Group M Definition used the word retail and wholesale in the definition and that typically you would not use the word you’re defining as part of the definition. She asked the Commission for their thoughts and advice in redefining it.

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OLD BUSINESS – “*continued*”

d. *Review of Description of Mixed Use in R-3 and C-1 and C-2 plus a Generic Definition of Mixed-Use and a Review of the definition for Retail Sales*

- Retail Sales– “*continued*”

Commissioner Cooper wanted to clarify that Mrs. Callender’s concern was using retail stores in the definition of retail sales. Mrs. Callender confirmed that it was.

The current definition and the proposed definition are as follows:

CURRENT DEFINITION:

Retail Sales. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Characteristics of such uses include:

- usually a business place engaged in activity to attract the general public to buy.
- buys and receives as well as sells merchandise.
- may process or manufacture some of its products
- a jeweler or a bakery
- but processing is secondary to principal use.
- generally sells to customers for personal or household use

ICC BUILDING CODE MERCANTILE GROUP M DEFINITION:

309.1 Mercantile Group M. Mercantile Group M occupancy includes, among others, the use of a building or structure or a portion thereof for the display and sale of merchandise, and involves stocks of goods, ware, or merchandise incidental to such purposes and accessible to the public. Mercantile occupancies shall include, but not be limited to, the following:

- Department Stores
- Drug Stores
- Markets
- Greenhouses for display and sale of plants that provide public access.
- Motor fuel-dispensing facilities
- Retail or wholesale stores
- Sales rooms

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OLD BUSINESS – “*continued*”

d. *Review of Description of Mixed Use in R-3 and C-1 and C-2 plus a Generic Definition of Mixed-Use and a Review of the definition for Retail Sales*

- Retail Sales– “*continued*”

Commissioner Dave Naples said that he was under the impression that they were moving away from the retail sales definition because of the fiction it has caused in the past. He added that he thought the mercantile definition was to be used in leu of retail sales and not as a clarification of retail sales. He suggested that because the mercantile definition goes more in depth to describe and includes examples of the businesses, and that he didn't think wholesale should be excluded, because the Land Use Ordinance did not have a definition for wholesale.

Mrs. Callender stated the Land Use Ordinance does define wholesale trade and read the definition and additionally stated that the current definition for retail sales is used by other municipalities throughout the State, therefore she suggested that we be careful before removing information from the Ordinance versus adding things to it.

Vice-Chairperson Callender stated yes wholesale should be included because there are other wholesale stores within Town.

Mrs. Callender read the use regulations in table 7.2 for retail establishments and asked if the Commissioners want to change retail sales establishments to mercantile establishments.

Vice-Chairperson Callender stated to change it to just mercantile because there are examples coming from the code.

Chairperson Williams questioned if they are referring to adding or replacing retail sales with mercantile.

Commissioner Dave Naples stated that he would like to be more consistent with the Land Use Ordinance and that is why he likes the definition of mercantile. He added that there are multiple discrepancies with definitions in the Land Use Ordinance which are hard to redefine. He stated that the more consistency the better. He also asked if the Land Use Ordinance is consistent as an entirety.

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OLD BUSINESS – “continued”

- d. *Review of Description of Mixed Use in R-3 and C-1 and C-2 plus a Generic Definition of Mixed-Use and a Review of the definition for Retail Sales*
 - Retail Sales – “continued”

Mrs. Callender explained that the Land Use Ordinance is not consistent and is the reason for starting the revision process. It is difficult for her sometimes to make decisions about what was meant or desired by the Commissioners who wrote the original, but she makes the daily interpretations required as needed. And if necessary, she contacts the Town’s Engineer and/or Town Land Use Attorney for guidance and direction. However, the more clarity that can be brought to the Land Use Ordinance the better it will be for property owners, processing plans, Commissioner, the Town Council, and the Land Use Administrator as reviews are conducted.

There was discussion by Commissioner Dave Naples that is not included here as it was not limited to the Planning Commissioners role and there was limited discussion about how to effectively and efficiently process the revisions of the Land Use Ordinance and whether it should be done in its’ entirety.

Vice-Chairperson Callender and Chairperson Williams committed to creating an action plan.

NEW BUSINESS –

- a. None

ATTENDEE COMMENTS: Nothing to Report

COMMISSION COMMENTS:

- **TOWN ENGINEER’ S COMMENTS:** Absent.

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COMMISSION COMMENTS: “*continued*”

- **LAND USE ADMINISTRATOR COMMENTS:** None.
- **COMMISSIONER BARBARA COOPER:** Suggested producing an Action plan for the Land Use Zoning Ordinance.
- **COMMISSIONER DAVE NAPLES:** None.
- **VICE-CHAIR MIKE CALLENDER:** None.
- **COMMISSIONER KARA NAPLES:** Agreed with Commissioner Cooper in producing an action plan.
- **CHAIRPERSON STEVE WILLIAMS:** Will be assisting Vice-Chairperson Michael Callender to produce an action plan.

NEXT MEETING DATE: Thursday, June 13, 2024

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 Vice-Chairperson Michael Callender at 6:10 p.m. A second to the motion was made by Commissioner Barbara Cooper and a unanimous roll call vote passed the motion.

Minutes Submitted by: Land Use Administrator Sarah Cahall Monday, May 13, 2024