

**MINUTES FOR THE BOARD OF ADJUSTMENT MEETING**

November 17, 2017

- I. **ATTENDANCE** - The Chairman called the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, November 17, 2017. Members present were: Branden Gross, Harry Clarke, Chad Needham, Joan Whitman, Jan Meyer and Raquel Carter. Absent was: Thomas Glover. Others present were: Josh Dezarn, Division of Engineering; Tracy Jones, Department of Law; and Jeff Neal, Traffic Engineering. Staff members in attendance were: Jim Marx, Autumn Goderwis, Barbara Rackers, and Tammye McMullen.

- II. **APPROVAL OF MINUTES** - The Chair announced that the minutes of the October 27, 2017, meeting would be considered at this time.

Action - A motion was made by Mr. Clarke, seconded by Mr. Needham, and carried 5-0 (Whitman absent) to **approve** the minutes of the September 29, 2017 meeting.

\*Note – Ms. Whitman arrived at 1:35 p.m.

III. **PUBLIC HEARING ON ZONING APPEALS**

Swearing of Witnesses – Prior to sounding the agenda, the Chair asked all those persons present who would be speaking or offering testimony to stand, raise their right hand and be sworn. The oath was administered at this time to several staff members and other persons in the audience.

- A. **Sounding the Agenda** - In order to expedite completion of agenda items, the Chair sounded the agenda with regard to any postponements, withdrawals, applicants present and objectors.

1. **Postponement or Withdrawal of any Scheduled Business Item** - The Chair announced that any person having an appeal or other business before the Board may request postponement or withdrawal of such at this time.

- a. **PLN-BOA-17-00079: THOUGHTSPACE** – requests a conditional use permit to establish an indoor recreation center in the Wholesale and Warehouse Business (B-4) zoned portion of a property that is split zoned B-4/B-1, at 1315 West Main Street.

Ms. Goderwis said that the applicant requested to withdraw this application via email on 11/17/17.

b. **ABBREVIATED HEARINGS:**

1. **PLN-BOA-17-00076: CONTINENTAL PROPERTIES COMPANY, INC.** – requests a conditional use permit to establish a temporary leasing office in a Planned Neighborhood Residential (R-3) zone, at 2151 Meeting Street (Council District 6).

The Staff Recommends: Approval, for the following reasons:

- The proposed use should not adversely affect the subject or adjoining/nearby properties. The leasing trailer will be located near the entrance to the site, and should not disturb construction activities. The leasing trailer will be a temporary structure, which will only be utilized for 3 months.
- Adequate parking will be available and conveniently located on site, adjacent to the leasing trailer.
- All necessary public services and facilities are available and adequate for the proposed use.
- A leasing trailer is substantially similar to a temporary real estate sales office, and is therefore eligible for consideration as a conditional use in the R-3 zone.

This recommendation of approval is made subject to the following conditions:

- The leasing trailer shall be established in accordance with the submitted application and site plan.
- All necessary permits, including a Zoning Compliance Permit and a Certificate of Occupancy, shall be obtained prior to the installation of the trailer and commencement of this use.
- The leasing trailer shall be in place for no more than 180 days, beginning approximately 3 months prior to completion of the clubhouse and ending within 14 days of the issuance of a Certificate of Occupancy for the clubhouse.
- Restroom facilities for the public shall be provided in accordance with the requirements of the Fayette County Health Department.

Representation – Caitlin LaJoie, Development Coordinator for Continental Properties, was present on behalf of the applicant. Ms. LaJoie indicated that they had reviewed the conditions and agreed to abide by them.

Action – A motion was made by Ms. Carter, seconded by Ms. Whitman and carried unanimously to **approve PLN-BOA-17-00076: CONTINENTAL PROPERTIES COMPANY, INC.** – a request for a conditional use permit to establish a temporary leasing office in a Planned Neighborhood Residential (R-3) zone, at 2151 Meeting Street, based on the recommendations of the staff and subject to the four conditions.

2. **PLN-BOA-17-00078: SPY COAST FARM KENTUCKY, LLC.** – requests a conditional use permit to establish/operate an equine rehabilitation facility in the Agricultural Rural (A-R) zone, at 3295 Spy Coast Lane (Council District 12).

The Staff Recommends: Approval, for the following reasons:

- a. The proposed use should not adversely affect the subject or surrounding properties. The use is compatible with the existing horse farm operations on the site and seems to be an appropriate fit for the general vicinity, which includes the Kentucky Horse Park.
- b. The proposed use should not have any major traffic impact since the horses that are being treated will be remaining on site for their rehabilitation for extended periods of time and will not be traveling in and out on a daily basis. Additionally, much of the staff already works on the farm. Adequate parking will be available on site.
- c. All necessary public services and facilities are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The facility shall be constructed and operated in accordance with the submitted application and site plan dated 11/07/17.
2. All necessary permits and approvals shall be obtained from the Divisions of Planning, Building Inspection, and Traffic Engineering prior to construction and occupancy.

Representation – Sam Carneal, attorney, was present on behalf of the applicant. He indicated that they had reviewed the conditions and agreed to abide by them.

Board Question – Mr. Needham asked for clarification of the difference between a rehabilitation facility and an equine hospital. Mr. Carneal explained.

Action – A motion was made by Ms. Meyer, seconded by Mr. Needham and carried unanimously to **approve PLN-BOA-17-00078: SPY COAST FARM KENTUCKY, LLC.** – a request for a conditional use permit to establish/operate an equine rehabilitation facility in the Agricultural Rural (A-R) zone, at 3295 Spy Coast Lane, for the reasons recommended by the staff and subject to the two conditions.

3. **PLN-BOA-17-00080: HABITAT FOR HUMANITY RESTORE** – requests a conditional use permit to establish a retail store for the sale of furniture and household related items accessory to its storage and repair in a Light Industrial (I-1) zone, at 817 Winchester Road (Council District 1).

The Staff Recommends: Approval, for the following reasons:

- a. The proposed use should not adversely affect the subject or adjoining/nearby properties. The use will be conducted in an existing building and should not have major traffic impacts. The use is compatible with others in the general vicinity, which are primarily commercial in nature, and adequate parking is available on site.
- b. All necessary public services and facilities are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The facility shall be constructed and operated in accordance with the submitted application and site plan.
2. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to occupancy.

Representation – Tony Barrett, Barrett Partners, Inc., and Kathryn Mitchell, store manager, were present. He indicated that they had reviewed the conditions and agreed to abide by them.

Action – A motion was made by Mr. Needham, seconded by Mr. Clarke and carried unanimously to **approve PLN-BOA-17-00080: HABITAT FOR HUMANITY RESTORE** – a request for a conditional use permit to establish a retail store for the sale of furniture and household related items accessory to its storage and repair in a Light Industrial (I-1) zone, at 817 Winchester Road, based on the staff's recommendations and subject to the two conditions.

4. **PLN-BOA-17-00081: RAINSTORM EXPRESS CAR WASH** – requests a conditional use permit to establish a self-service car wash in a Planned Shopping Center (B-6P) zone, at 2145 Sir Barton Way (Council District 6).

The Staff Recommends: Approval, for the following reasons:

- a. The proposed self-service car wash should not adversely affect the subject or adjoining/nearby properties. The facility will be located where minimal traffic impacts are anticipated, and is not adjacent to or near any residential uses. The property is of sufficient size to allow for proper design with adequate parking and internal vehicle circulation.
- b. The existing landscaping along Alysheba Way will remain intact, and the applicant has stated that there will be additional landscaped islands and plantings provided.
- c. All necessary public services and facilities are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The facility shall be constructed and operated in accordance with the submitted application and site plan, or as revised by the Planning Commission or otherwise modified to satisfy requirements of the Divisions of Engineering, Traffic Engineering or Building Inspection.
2. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to construction and occupancy.
3. The final design of the parking, access and traffic circulation shall be reviewed and approved by the Division of Traffic Engineering.
4. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
5. Landscaping for the vehicular use areas shall be provided and maintained in accordance with the provisions of Article 18 of the Zoning Ordinance.
6. Action of the Board shall be noted on an amended Final Development Plan for the subject property.

Representation – Jihad Hallany, with Vision Engineering, was present on behalf of the applicant. He indicated that they had reviewed the conditions and agreed to abide by them.

Action – A motion was made by Mr. Clarke, seconded by Ms. Whitman and carried unanimously to **approve PLN-BOA-17-00081: RAINSTORM EXPRESS CAR WASH** – a request for a conditional use permit to establish a self-service car wash in a Planned Shopping Center (B-6P) zone, at 2145 Sir Barton Way, for the reasons recommended by the staff and subject to the six conditions.

5. **PLN-BOA-17-00082: RAINSTORM EXPRESS CAR WASH** – requests a conditional use permit to establish a self-service car wash in a Planned Shopping Center (B-6P) zone, at 351 Meijer Way (Council District 9).

The Staff Recommends: Approval, for the following reasons:

- a. The proposed self-service car wash should not adversely affect the subject or adjoining/nearby properties. The facility will be located where minimal traffic impacts are anticipated, and is not adjacent to or near any residential uses. The property is of sufficient size to allow for proper design with adequate parking and internal vehicle circulation.
- b. The existing landscaping along Ruccio Way will remain intact, and the applicant has stated that there will be additional landscaped islands and plantings provided.
- c. All necessary public services and facilities are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The facility shall be constructed and operated in accordance with the submitted application and site plan, or as revised by the Planning Commission or otherwise modified to satisfy requirements of the Divisions of Engineering, Traffic Engineering or Building Inspection.
2. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to construction and occupancy.
3. The final design of the parking, access and traffic circulation shall be reviewed and approved by the Division of Traffic Engineering.
4. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
5. Landscaping for the vehicular use areas shall be provided and maintained in accordance with the provisions of Article 18 of the Zoning Ordinance.
6. Action of the Board shall be noted on an amended Final Development Plan for the subject property.

Representation – Jihad Hallany, with Vision Engineering, was present on behalf of the applicant. He indicated that they had reviewed the conditions and agreed to abide by them.

Board Question – Mr. Needham asked what the difference was between the two car washes. Mr. Hallany explained that the carwashes were the same-just at different locations.

Action – A motion was made by Mr. Needham, seconded by Ms. Whitman and carried unanimously to **approve PLN-BOA-17-00082: RAINSTORM EXPRESS CAR WASH** – a request for a conditional use permit to establish a self-service car wash in a Planned Shopping Center (B-6P) zone, at 351 Meijer Way, based on the staff's recommendations and subject to the six conditions.

c. **Discussion items:**

1. **PLN-BOA-17-00077: CLARK'S CENTRAL, LLC.** – requests a conditional use permit to provide a drive-through window accessory to a convenience store/gas station in a Neighborhood Business (B-1) zone, at 1419 Versailles Road (Council District 11).

The Staff Recommends: Disapproval, for the following reasons:

- a. The proposed drive-through will likely have adverse effects on public safety due to the configuration of the drive-through and vehicle stacking area that interferes with other traffic movements. Added congestion and dangerous left turns onto Versailles Road could create hazards for drivers and pedestrians.
- b. Full compliance with Article 16-9 vehicle stacking requirements will result in the potential for waiting vehicles to block internal circulation routes, leading to driver frustration and unsafe driving conditions.
- c. Noise from idling vehicles, conversation at the window, stereos in vehicles, etc., could create a nuisance to the adjacent residential neighbors.
- d. The proposal is not in agreement with the Cardinal Valley Small Area Plan because it does not contribute to neighborhood conservation, nor does it offer any improvement to the Versailles Road corridor; rather, it potentially creates additional traffic issues and a possible nuisance to the neighbors.

\* Note – Ms. Goderwis distributed several letters of opposition and one letter of support to the Board members.

Representation – Jason Harrod, with BCD, Inc., was present on behalf of the applicant.

Staff Comments – At this time, Ms. Goderwis gave a staff report explaining the staff's recommendation of disapproval, with questions and comments from the Board.

Board and Staff Discussion/Comments – At this time, there was discussion between the Board and the staff with regard to the "existing" drive-through and the traffic flow with regard to the request. There was further discussion with regard to the noise from the cars, traffic, safety concerns for the employees, and stacking.

Representation Comments – Mr. Harrod gave an overview of the proposed use for the drive-through, with comments from Mr. Clark, owner of Clark's Central and Clark's Pump and Shop. During this time, there were questions and comments from the Board with comments from Ms. Goderwis, Ms. Jones (Law Department, and Mr. Neal (Traffic Engineering).

Citizen Comments – Jerome Higginbotham, who lives at 1661 Brittany Lane, representing the Cardinal Valley Neighborhood Association, spoke in opposition.

Jennifer Reynolds, who lives at 121 Delmont Drive, on behalf of herself and the Cardinal Valley Neighborhood Association, spoke in opposition with regard to the drive-through with traffic concerns.

Representation Rebuttal – Mr. Harrod addressed the concerns of the citizens present.

Action – A motion was made by Ms. Meyer, seconded by Mr. Needham and carried 4-2 (Carter and Clarke opposed) to **disapprove PLN-BOA-17-00077: CLARK'S CENTRAL, LLC.** – a request for a conditional use permit to provide a drive-through window accessory to a convenience store/gas station in a Neighborhood Business (B-1) zone, at 1419 Versailles Road, based on the reasons provided by the staff.

IV. **BOARD ITEMS**

None

V. **STAFF ITEMS**

- a. Mr. Marx announced that the Council did a second reading on the Text Amendment for certain conditional use permits that shifted them from conditional use permits to principal permitted or accessory uses. He distributed a one-page summary of the new Text Amendment to the Board members.

- b. Discussion of alternative Board of Adjustment meeting days & times.

Action – A motion was made by Ms. Carter, seconded by Mr. Clarke and carried unanimously to **adopt the Board of Adjustment meeting and filing schedule for 2018**, changing the meeting day to the 2<sup>nd</sup> Monday of the month at 1:00 p.m.

VII. **NEXT MEETING DATE** - The Chair announced that the next meeting date would be December 15, 2017.

VIII. **ADJOURNMENT** - There was no further business. The Chair declared the meeting adjourned at 2:55 p.m.

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Branden Gross, Chair

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Joan Whitman, Secretary

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