

CVS pharmacy proposed for Villages of Five Points parcel

County engineers say no sewer capacity available

By Ron MacArthur
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Although the board of directors has given its blessing to a rezoning and proposed pharmacy at the entrance to the Villages of Five Points, county engineers say sewer capacity is not sufficient.

The board of directors of the Villages of Five Points Homeowners Association is behind the application that would make way for a CVS pharmacy off Savannah Road in Lewes.

But residents who spoke against the rezoning during a planning and zoning commission public hearing March 11, said the board was not representing all residents.

Among others who spoke, residents Anthony Pasek and Jennifer Short said the board did not speak for them.

A letter of opposition from the county engineering department based on lack of sewer capacity was added to the public record the day of the hearing.

"I'm a bit confused why the county engineers are opposed to the rezoning," said Ken Christenbury, an engineer with Axiom Engineering in Georgetown working on behalf of the developer, adding that he needed more time to respond to comments in the letter.

He said the proposed use of the parcel as a fire hall or police station would require as much or more capacity as a pharmacy.

The Villages of Five Points, which is approaching build out, has no sewer capacity for expansion,

according to the county engineering department. The proposed rezoning is located on lands not previously identified for commercial use, according to an engineering report.

Developer Olde Towne Point LLC is seeking a rezoning change from AR-1, agricultural-residential, to B-1 neighborhood business district for a 4-acre parcel that was not included with the original approval in 1999 for the Villages of Five Points project. Approximately 2 acres would be set aside for the pharmacy and the remaining 2 acres could be used for retail shops or stores.

If approved, there would be four pharmacies in close proximity to Savannah Road. Three of the four would be in the area of the Villages of Five Points, including Cape Pharmacy, already located within the development.

The rezoning is contingent on first amending one condition of the original ordinance for the project.

The 4 acres proposed for the pharmacy and outparcel was set aside by the developer for community use. John Sergovic, attorney for the developer, and Robin Davis, representing Hudson Management, said several attempts were made to find a suitable tenant for the parcel without success.

Under the condition passed by county officials, the land was to be used for a fire, paramedic or police station, post office, museum or by some other nonprofit organization.

"Despite good intentions, the 4 acres is not desirable for these uses," Sergovic said. "The county had a vision how this land could be used, but it's been fallow for eight or nine years. It's not feasible."



RON MACARTHUR PHOTO

DEVELOPERS OF THE VILLAGES OF FIVE POINTS In Lewes are seeking a zoning change to construct a CVS pharmacy on the vacant parcel at the community's entrance off Savannah Road.

The land was not being offered as a gift but was for sale, Davis said.

For the first four years, during the construction phase of the project, no contacts were made because there was nothing to offer, Sergovic said.

Commissioner Mike Johnson said the developer should document efforts to attract nonprofit users of the property. "I want documentation that adequate effort was made; there is not adequate documentation in the public record. I would like justification."

Johnson said the commission was being asked to make a major decision with potentially significant effects on residents, and he first wanted to make sure every effort had been made to fulfill the requirements of the conditions placed on the developer.

Sol Peltz, a resident of the Villages of Five Points, said CVS is more than just a pharmacy. "We are going to have a real traffic issue here," he said.

The developer received relief from the Delaware Department of Transportation (DelDOT) from conducting another traffic impact study since a study was performed for the original project.

Pasek said traffic patterns and volume have changed over the past 10 years. "DelDOT needs to conduct a study for accurate conditions," he said.

Pasek also said no more commercial space was needed. Of the 28 commercial locations within the Villages, 16 are occupied, he said.

Joel Vanini, another Villages resident, said she tries to support the small businesses in the development.

"This project does not engender what the Villages of Five Points is supposed to be - a community," she said.

Assistant county attorney Vince Robertson reminded the commissioners and public the hearing was not about the location of a pharmacy, but about a rezoning request.

"As far as the county is concerned, there are 25 different uses, and they could do any one of those," he said. "It's not limited to a CVS."

Commissioners deferred on the request, leaving the record open for 10 days for receipt of a list of contacts made to purchase the parcel and a response from the applicant on the county engineering department's comments on lack of sewer capacity.

A hearing before county council is scheduled for 1:30 p.m., Tuesday, March 23.

Sussex council just says no to dog-control amendments

Cole wants regulations to deal with barking dogs

By Ron MacArthur
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Pat Emory, director of the Delaware Division of Fish and Wildlife, has attempted twice, with no success, to gain Sussex County Council's support for several amendments to dog-control legislation passed last year turning that job over to the county.

The amendments include wording to make sure the county receives any fines collected by

the state, better job descriptions for dog wardens, and turning over responsibility for stray and dangerous dogs to the county.

Emory said there was one dangerous dog case in Sussex County in 2009.

He said a dangerous dog is one that hurts or kills a human or domestic animal, other than a cat, or one trained to fight. A statewide dangerous dog panel determines the fate of the dogs.

Although the proposed changes appear minor, to a council still reeling from a \$700,000 price tag to take over dog control from the state, any chance to make a statement is one they are going to take. The county took

over dog-control duties as of Jan. 1.

County staff should go over the proposed legislation line by line and offer a county version for legislators to review, said Council President Vance Phillips, R-Laurel, during the Tuesday, March 16 meeting.

No action was taken on Phillips' idea, but council voted unanimously to defer action on Emory's request.

Emory told council to get the proposed legislation through the General Assembly this year, he would move forward with or without the county's endorsement.

Councilman George Cole, R-

Ocean View, said the original legislation and the proposed amendments do not address what he receives the most complaints about: barking dogs.

"The complaints are going to come to our staff, and when they tell them we are not doing anything they are not going to be happy campers," he said. "We need to address that with the bill, or we don't have a good package here."

Bob Phillips, a deputy attorney general, told council it could draft an ordinance to complement the legislation to deal specifically with barking dog complaints.

He said the state has a noise

regulation dealing with barking dogs.

The law is violated when a dog barks for 30 minutes intermittently or for 10 minutes constantly.

But, he said, the law is rarely enforced. "It's difficult to get police to enforce it because they have to time the dogs," he said. "It gets pretty complicated."

He said the ordinance could be written with the provision that violators send in fines through the mail.

Cole said the county should pursue the adoption of a barking-dog ordinance. "It's been done in other jurisdictions," he said. "It might work."