

New plan unveiled for CVS at Five Points

Developer offers land for new Lewes library

By Ron MacArthur
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The developer of The Villages of Five Points appeared before county planners for the second time in two years in an effort to build a CVS pharmacy near the entrance to the community.

The modified plan includes a donation of 2.5 acres of land to the Lewes Public Library. If the library does not accept the parcel, which would be subdivided from a 1.5-acre parcel for the proposed pharmacy, the land would be donated to the Villages of Five Points Property Owners Association, said Christian Hudson, representing the developer, Olde Towne Point LLC.

Commissioners recommended denial of a 2008 application for a zoning change from AR-1, agricultural-residential, to B-1, neighborhood business district. The application was withdrawn before county council could render a decision.

Olde Towne Point is now seeking a conditional use to construct a pharmacy and community-service facility on 4 acres off Savannah Road and North Village Main Boulevard within The Villages of Five Points in Lewes.

The developer is also seeking a zoning change to modify a condition imposed as part of the original approval for the project. The condition required the entire 4-acre parcel be set aside for a community-service facility. The developer now wants the condition to apply to only 2.5 acres so the pharmacy can be built on the

remaining 1.5 acres.

Planning and zoning commissioners deferred on a decision at their Jan. 27 meeting.

Thirteen letters of support and four letters in opposition have been submitted, said Lawrence Lank, director of planning and zoning. In addition, a dozen people appeared in support during the Jan. 27 meeting; four appeared in opposition.

"They have made changes as a result of meetings and we believe this is a fantastic use of the property," said John Gilbert, president of the property owners association. "We are optimistic the library will take us up on the offer."

Attorney Shannon Carmean, representing the developer, said six community meetings were held to arrive at a revised plan.

Kevin McBride, another Villages of Five Points resident, said the developer has followed through on every commitment to residents. He said residents don't want just anything adjacent to the CVS. "We want the library," he said.

Resident Jennifer Short said she was initially opposed to the idea, but the developer has addressed residents' concerns with the new application.

A letter of support from Villages of Five Points Ventures LLC, owners of the shopping center, was also placed in the public record.

Hudson said he and his father, Craig, who passed away last June, have worked for the past 10 years to find a nonprofit agency to purchase the 4-acre parcel at a reduced rate. He said now the company can realize enough profit

from the sale of part of the parcel to allow for a donation of the rest of it. "This is the best possible plan based on feedback from the residents," Hudson said.

D.J. Hughes, a traffic consultant with Davis, Bowen & Friedel, said the project would include improvements to the intersection on North Village Main Boulevard that is shared with Food Lion shopping center. CVS and Food Lion vetoed a proposed traffic circle, he said. Instead, better markings to draw attention to stop and yield areas and an enlarged island between the east and west lanes would be added.

Hudson said CVS has offered to contribute \$20,000 a year to the property owners association to assist with maintenance issues.

Some residents oppose application

Even with the changes, not everyone is sold on the proposed project. Resident Don Lineback, who said he has lived in the community longer than anyone else, said the application defies the original design of the project to keep all retail to the north side of North Village Main Boulevard, the main route into the community.

Another resident, Joel Vanini, said all truck entrances were also designed to the north side, away from homes.

Lineback also questioned the need for another pharmacy in the area when there are already 10 pharmacies within a 2-mile radius of the proposed pharmacy including a new Walgreens to be opened across the street and Cape Pharmacy, in the Villages

of Five Points shopping center.

He said the two large pharmacies would probably force the locally owned pharmacy out of business. Vanini said she was

concerned about increased traffic in an already congested area.

A public hearing before county council is scheduled for 1:30 p.m., Tuesday, Feb. 15.

Lewes library explores expansion options

Would the Lewes Public Library relocate to The Villages of Five Points? Planning and zoning commissioner Marty Ross raised that question as the planning and zoning commission reviewed the application to allow a CVS pharmacy in the community.

The library would be the preferred user of the parcel within The Villages of Five Points, said Olde Towne Point attorney John Sergovic. "We'll try to make it an offer they can't refuse," he said.

He said if the library accepts the donation, library officials would have 10 years for construction before the land would be decided to the property owners association. "They could determine an alternative community use or use it as parkland. It can't be used commercially or for business use," Sergovic said.

John Mateyko, a spokesman of the Managing Growth Around Lewes group, said after attending meetings associated with the library project, he's convinced Lewes residents want the library to stay within city limits.

"It speaks volumes that there are no letters from the library nor is anyone here from the library," he said. "The like-

lihood that this location will be chosen by the Lewes library is nil. There is no community support for this. There is vast reluctance to lose the library [within city limits].

Mateyko said any discussions regarding the location of a new or expanded library are premature. In addition, he said, the site was not suitable for a library under the guidelines of the Delaware Council of Libraries.

Those criteria include provisions that a library be visible, allow space for expansion and fit in with the surrounding environment. He said the proposed site does not meet any of those guidelines.

When contacted after the meeting, Beckie Healey, president of the library's board of commissioners, said the board is forming a site-evaluation committee of eight to 10 people from the library's service area, which spans everything within a 6-mile radius of the current library.

According to the library's website, three possible locations are being considered: within Lewes limits; outside city limits but within the greater Lewes area; and beyond the greater Lewes area, perhaps across Route 1.

Medical society, doctors dismissed from Bradley civil suits

Plaintiffs to file an amended complaint

By Ryan Mavity
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The Medical Society of Delaware and two doctors named in more than 30 civil lawsuits against former Lewes pediatrician Earl Bradley - have been removed from the suits, but their relief could be temporary.

Dr. Carol Tavani and Dr. James Marvel and the medical society are expected to be renamed in the suits on an amended complaint filed in Delaware Supreme Court.

Attorney Bruce Hudson, who represents most of the plaintiffs in the lawsuits, said the amended complaint should be filed soon.

Besides the medical society and the doctors, the suits also name Bradley and Beebe Medical Center.

In the lawsuits, Beebe, the

medical society, Tavani, Marvel and Dr. Lowell Scott were named for failing to report evidence that Bradley was sexually abusing his young patients. Bradley is awaiting a criminal trial in Superior Court in New Castle County on charges of rape and exploitation involving more than 100 children, all but one girls.

The lawsuits, which have been consolidated into one large class-action suit by the courts, alleged that Beebe, the medical society and doctors Tavani, Marvel and Scott's failure to report information about Bradley's alleged unprofessional conduct was a cause of the plaintiff's injuries.

Attorneys for the medical society, Tavani and Marvel argued their clients owed no common law or actionable statutory duty to the plaintiffs to take any action to report Bradley's misconduct to appropriate authorities.

In his judgment, Judge Joseph Slights III cited a difference between a moral obligation to re-



Earl Bradley

port and a legal obligation to report. While the defendants may have had a moral obligation to report Bradley's alleged actions, it does not necessarily

mean they had a legal obligation when the defendants were not creating harm themselves, Slights said.

"While the moral implications of a failure to act in certain situations are compelling, particularly in cases involving child victims, Delaware courts have been careful to draw a bright line between moral obligation to act, which will not necessarily subject a defendant to liability for failing to act, and a legal obligation (or duty) to act, the breach of which will subject the defendant to tort liability," Slights wrote.



James Marvel

Continuing, Slights said, "Society may well have every reason to be outraged by a party's failure to act for the benefit of another. But it is another thing entirely

to say that society's outrage translates automatically to a right on the part of the alleged victim to compel the non-actor, through operation of law, to pay financial reparations."

Slights said the plaintiffs did not state facts proving that Bradley had any sort of special relationship with the medical society or Tavani and Marvel. Despite ruling in the defendants' favor, Slights did leave the door open for the plaintiffs to amend their complaint. Hudson said he plans to do exactly that, although it will double the length

of the complaint.

According to Slights' opinion, the plaintiffs' complaint does not say how the medical society, Tavani and Marvel acted in a negligent manner.

However, he also allowed the plaintiffs to amend their complaint on appeal.

"It is difficult to imagine a set of facts more disturbing than those alleged in the plaintiffs' complaint. If their allegations are proven, the court and the community will be confronted with the unthinkable reality that a Delaware physician systematically abused hundreds of his pediatric patients while in his medical office - an environment theretofore considered by most patients to be sheltered and staffed by society's most compassionate professionals," Slights said. "The allegations against the medical society defendants, while also disturbing, present a more complicated legal landscape."