

Villages of Five Points developer retools new CVS application

Donation of land to Lewes library on table

By Ron MacArthur
ronm@capegazette.com

Developers of the Villages of Five Points are coming back to county officials with an amended application to build a CVS pharmacy near the entrance to the community off Savannah Road in Lewes.

This time, instead of a zoning change, they are seeking a conditional use. In addition, Olde Towne Point LLC, part of Hudson Management, is willing to donate about half of the 4.5-acre parcel for a new Lewes library, said Christian Hudson, owner of Hudson Management.

A library task force is undergoing a search for land to construct a new library.

Sussex County planning and zoning commissioners rejected the previous application because

it was in violation of a condition placed on the community when it was formed. Under the condition, the parcel could be used only for community-service projects, and not for new businesses.

In April 2010, before the application could come up for a vote before county council, the developers withdrew the rezoning application. The next round is scheduled to begin with a Thursday, Jan. 27 planning and zoning public hearing followed by a Tuesday, Feb. 15 county council public hearing.

Hudson said the original rezoning application made residents nervous because once the parcel was rezoned from AR-1, agricultural-residential, to B-1, neighborhood business district, any use permitted under the zoning classification would have been permitted.

Now, he said, conditions can be placed on the application to placate some of residents' con-

cerns with features such as lighting and buffers.

The original condition limited uses to nonprofit agencies such as a police or fire departments or museums and libraries. It's that condition that caused debate at a pair of public hearings and eventually led to a 4-0 vote for denial by commissioners.

After 10 years of searching, Hudson said he has found no interest in the parcel from any community service or nonprofit agency. And it's not a given the Lewes Public Library will accept the land.

At earlier meetings, library officials stated they were seeking 3 acres of land within Lewes limits; the Villages of Five Points are outside city limits. Hudson said the library board would make a decision by mid-2011.

Those in opposition to the application also voiced concern about additional traffic at the entrance to the community and



RON MACARTHUR PHOTO

SIGNS NOTING UPCOMING PUBLIC HEARINGS for a proposed CVS pharmacy have been placed by county officials in front of the Villages of Five Points community along Savannah Road in Lewes.

questioned the need for another pharmacy when two - Walgreens/Happy Harry's and Cape Pharmacy - are in the same area.

Hudson said he did not anticipate the opposition that surfaced against the original application. So, he went back to the drawing board and has met with community members on five occasions

with a sixth meeting planned prior to the Jan. 27 planning and zoning public hearing. "We have a lot of feedback and have modified the plan six times, and the community would love to see the Lewes library come to Five Points," he said. "I think we have a lot of support from the residents."

Sussex officials look at variance change

Planning and zoning director could make some decisions

By Ron MacArthur
ronm@capegazette.com

Requests for variances involving 1 foot or less can cost Sussex County residents more than \$400.

In an effort to save residents' money and speed up the county board of adjustment process, Sussex County officials have introduced an ordinance to allow the director of planning and zon-

ing to bypass the board and make decisions on minor variances.

The public will get a chance to comment on the proposed measure during upcoming planning and zoning and county council meetings.

Director Lawrence Lank said the process is already under way in New Castle County while Kent County allows the director to rule on variances that involve 10 percent or less of the total setback. If approved, the director would have the authority to rule on variances of 1 foot or less from a yard setback or building separation.



Lawrence Lank

required. Written notice of the variance request would be mailed to adjacent property owners, and the planning office would accept comments for or against the proposed variance.

Within 30 days, based on those comments, the director could make a ruling or require that the application be forwarded to the board of adjustment for a public hearing. The \$50 fee would be credited to the board of adjustment fee.

Lank said an applicant could appeal his decision to the board of adjustment. "Since I would use the same criteria to make a decision, the board should respond the same way," he said.

Lank said surveyors are much more accurate today than even five years ago, and when property is sold, it's not unusual for

small discrepancies to surface. Sometimes it's a matter of a few inches into the setback area, he said.

Under the current ordinance, it doesn't matter if it's an inch or 5 feet; all applicants must present their case to the board of adjustment during a public hearing.

Although not part of this ordinance, Councilman Vance Phillips, R-Laurel, said the county should provide even more flexibility to save the public money.

"If no neighbors object to an application, we should look at a way to reduce costs," he said.

Judge: Suit against Cape can go to trial

Muslim family accuses teacher of discrimination

By Leah Hoenen
leah@capegazette.com

Complaints that a Cape Henlopen School District elementary school teacher discriminated against a Muslim student in 2003 may go to trial, a federal judge says.

U.S. District Court Judge Sue Robinson issued an opinion on the district's motion for summary judgment, dismissing some claims.

School district attorney Dave

Williams said the district is confident its case will prevail when the case goes before a jury. He said a scheduling conference will be held in the coming weeks.

The parents, identified by the pseudonym Doe in court papers, complained former district Superintendent Dane Brandenberger, former Shields Elementary School Principal Janet Maul and Shields Elementary School teacher Cindy Cunningham violated their daughter's civil rights.

Court papers say Cunningham used a district-approved textbook describing the 9/11 terror attacks. The former student testified that in discussing the attacks, Cunningham framed them

as a war of Christians versus Muslims. Court papers say the student was too afraid to complain to Cunningham or school officials.

Papers also say between Thanksgiving and Christmas 2003, Cunningham read her class Christmas stories, including one that said candy canes were created to represent Christ and help people remember the reason for Christmas.

Robinson denied the district's request for summary judgment, saying a reasonable jury could find the story lacked a secular purpose and endorsed Christianity. But, Robinson went on to write the plaintiff's claims about

the way the textbook described the 9/11 attacks should be dismissed, because the book "portrays historic events in an even-handed manner, serving a secular educational purpose that neither enhances nor inhibits religion."

The family, which requested their daughter receive an apology in front of the class, met with Maul, Cunningham and American Civil Liberties Union representative Drewry Fennell in January 2004. After that meeting, Cunningham was suspended with pay while the district investigated the complaint, and she agreed to allow Nancy Doe to make a presentation to the class

about Muslim culture.

Court papers say that when Cunningham and Maul asked the student if she wanted to join another classroom, she said she did not, but she also said she felt like she no longer belonged in Cunningham's class. After the transfer, she was shunned and taunted by her peers, the opinion states. Because of the mental anguish she suffered at Shields Elementary School, court documents say the students was moved to homebound instruction before the family moved out of the Cape district in 2004.

The district contends the stu-

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