

UPPER DARBY TOWNSHIP

DEPARTMENT OF LICENSES & INSPECTIONS

100 Garrett Road. Upper Darby, PA 19082 Phone: (610)734-7613

October 9, 2023

UPPER DARBY TOWNSHIP PLANNING COMMISSION MINUTES

Attendance

Planning Commission Members Present:

- Debbie Nifong
- James Mullen
- Steve Bertil
- Cassandra Hayes (Virtual)

Planning Commission Members Absent:

- Jeffrey Roken

Township Staff Present:

- Joshua Chast, Asst. Director of L&I for Planning & Zoning
- Mike Galante, Township Engineer
- Courtney Mullan, Asst. Planner

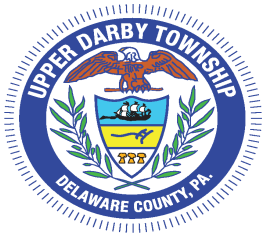
Minutes

- A motion was made by Debbie Nifong to approve the September's Planning Commission Minutes. Steve Bertil seconded the motion. All members voted in favor.

Zoning

1) Smoke Shop Draft Ordinance

- a) A Draft Smokeshop Ordinance was brought to the Planning Commission and Presented by Joshua Chast. The presentation focused on four main changes to the Smoke Shop Ordinance.
 - i) Change #1: Removing smokeshops as allowed by special exception from the C-1 and C-3 Zoning Districts. This would mean that smokeshops would only be permitted by special exception in the C-2 and C-4.
 - (1) The reason for the removal from C-1:
 - (a) The C-1 is supposed to be the lowest intensity commercial district.
 - (b) The C-1 is generally along major corridors such as West Chester Pike, State Road, Garrett Road, Burmont Road and Marshall Road. Typically, these districts are one parcel wide on each side of the road and directly border residential neighborhoods. If smokeshops are seen as an undesirable adjacent land use to residential zoning districts, then smokeshops should be removed from the C-1 Zoning District.



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(2) The reason for the removal from the C-3:

- (a)** The C-3 Zoning District is Upper Darby's Downtown Commercial Zoning District. This is the smallest geographic zoning district.
- (b)** These shops do not foster the customers or an environment that is being sought after when trying to rebuild the economic resiliency of the downtown 69th Street.
- (c)** Allowing only the smoke shops in the C-3 & C-4 would disproportionality affect the population of eastern Upper Darby Township.

ii) Change #2: Modifying the definition of Smokeshops:

- (1)** Changing the language under Section 550-56 Smoke Shop/Smoking parlor to change the description of a Smoke Shop/smoking parlor to the following "75 square feet or 5% of its retail space, whichever is less, as calculated per Section 550-56.A".
- (2)** Changing the language under Section 550-56 Smoke Shop/Smoking parlor to describe a method of measuring the smoke shop display area. This is proposed be done by doing the following:
 - (a)** Display boxes shall be calculated by measuring and multiplying the width by length of the display box. Any merchandise sitting on a display box will be considered included in this calculation.
 - (b)** Shelves shall be calculated by measuring and multiplying the width by length of each shelf.
 - (c)** Wall areas shall be calculated by measuring the height of the wall area and multiplying it by the width of the display space.
 - (d)** In this chapter the Gross floor area shall be taken to mean all usable floor space, including all areas occupied by sales and display areas, equipment, furnishings, corridors, toilet rooms, and such other accessory rooms as may be provided.

iii) Change #3: Modifying the how far each smoke shop should be from each other.

- (1)** Increase the distance between each smoke shop from 500' to 1000'.
- (2)** Add that each smoke shop must be 1000' from any public, private or charter school.
- (3)** Add that each smoke shop must be 1000' from any township park or zoning district.

iv) Change #4: Amending the signage ordinance

- (1)** Include the following language: "(10) Signs advertising smoking products and accessories in a retail store that has not met the smoking parlor special exception requirements of Section 550-23.C(3) & 550-24.C(3). This does not include signs under Section 550-37.H."
- (2)** Amend Section 550-37.G(3)(b) to include the following phrase "Window signs count as signs on the building and towards the allowable square footage."

b) Recommendations from the Planning Commission:



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- i) The definition of smoke shop and smoking parlor should be separated.
 - ii) The distance for each tobacco store should be reduced back to 500' as 1,000' would be too limiting in only the C-2 and C-4 Commercial District. C-2 Zoning Districts are usually shopping centers and generally compact, so it would be unlikely that more than one smoke shop could operate in each shopping center.
 - iii) To not be too limiting to the Smoke shop owners the location was recommended to be reduced to 500 from for schools, township parks and REC Zoning District.
 - iv) The Planning Commission asked for a map that showed the potential buffer regulations at 500' and 1000'.
 - v) The Planning Commission wanted the revised ordinance to be brought back to the Planning Commission before being voted on and sent to Council for approval.

Old Business

1. Publishing of minutes on Upper Darby Township's Website

- a) A motion was made by Steve Bertil to approve publishing future planning commission meeting minutes on the Upper Darby Website. Cassandra Seconded the motion. All member voted in favor.

New Business

2) Amend the bylaws to allow planning commission members active on zoom to contribute to the quorum

- a) James Mullen made a motion to authorize planning commission members active on zoom to contribute to the quorum (total three). Steve Bertil seconded the motion. All members voted in favor.
- b) Debbie Nifong agreed with public comment from Scott Alberts to get advise from the township solicitor on an in person quorum that the changes are compliant with the sunshine act and with any other rules that are compliant with the planning commission body. Scott also advised to make it a conditional on approval of the solicitor.
- c) Steve Bertil made a motion to amend the previously approved motion by adding the condition of solicitor approval to the previous motion. The motion was seconded by James mullan. All members voted in favor.

Adjournment

A motion to adjourn was made by Steve Bertil. The motion was seconded by James Mullen.