

The stated meeting of the Planning Commission of the Township of Abington was held on Tuesday, January 28, 2025 via webinar and in-person at the Township Administration Building, Abington, PA, with Mr. Brown presiding.

CALL TO ORDER: 7:32 p.m.

ROLL CALL: Present: BROWN, DICELLO, ROBINSON, BAKER, WEATHERLY, GOLDSTONE

Also Present: Township Engineer Lee
County Planner Narcowich
Director of Fire & Emergency Management
Services McAneney
Fire Marshal Platz
Zoning Officer Van Horn

PLEDGE OF ALLEGIANCE

CONSIDER APPROVAL OF MINUTES:

Mr. Baker made a MOTION, seconded by Mr. Brown to approve the minutes from the Planning Commission Meeting of December 18, 2024.

MOTION was ADOPTED 6-0.

PRESENTATION: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

Re-organization of Chair and Vice Chair:

Mr. Baker nominated Mr. Nick Brown as Chairman of the Planning Commission and Mr. Lance Weatherly as Vice Chairman.

Mr. Brown asked for any other nominations. There were none.

Mr. Nick Brown was appointed Chairman of the Planning Commission by a unanimous vote of 6-0.

Mr. Lance Weatherly was appointed Vice Chairman of the Planning Commission by a unanimous vote of 6-0.

Review and discuss an ordinance regulating vape shops:

Mr. Brown said the ordinance proposes adding amendments to the zoning ordinance in the use regulations by adding a new use and amending the parking requirements and the Use Matrix Appendix to designate which zoning districts the use would be permitted in.

Mr. Ron Kolla, Attorney representing the Township, said his firm drafted the ordinance and drafted it in a way to withstand any legal challenges. A provision for distance from schools was not included in the draft as there is concern that it would be subject to a legal challenge.

Mr. Brown clarified that this would create a new use that is specified in the zoning code and the BC-Business Center District is the only one this would be permitted in or as an accessory use in the AO-Apartment/Office District. Is that correct?

Mr. Kolla replied yes.

Mr. Narcowich said in recent years vape shops have become more prevalent as well as a planning issue, so it has been determined that it should be its own specific use. The use regulation would define a tobacco store, smoke shop, or vape shop as a retail sales or wholesale establishment that maintains 20% or more of its total merchandise as tobacco and/or tobacco products and/or vaping products. The Township should be satisfied that determining the composition of a percentage of total merchandise of a business is feasible.

Ms. Allison Lee said generally she supports this new use; however, the parking restriction is stricter than other retail uses, and regarding the sequential regulation number for the use, it should be listed as C-40 and not C-39.

Mr. Brown asked for any comments from members of the Planning Commission.

Mr. Baker clarified that previously vape shops were considered retail shops, and they were permitted in several districts and proposed is to restrict them to only being permitted in the BC-District. Is that correct?

Mr. Narcowich replied yes, the proposed ordinance is making it more restrictive in terms of where they are permitted.

Mr. Baker asked for further clarification on why the provision to distance vape shops from schools was not included in the proposed ordinance.

Mr. Kolla replied there is no state statute for a distance from schools, so it could open this ordinance to legal challenge.

Mr. DiCello questioned whether there are currently any smoke shops in other zoning districts.

Mr. Brown replied he has seen plenty, and there was one recently put in at Susquehanna and Bradfield Roads in Roslyn, which is not in the BC-District.

Mr. Tom McAneney, Director of Fire & Emergency Management Services, said regarding the restriction to limiting the proposed use to the BC-Business Center District, there are only two schools within 1,000 ft., which is Regina Coeli near the Target in which the proposed use would be located beyond 1,000 ft., and the other is Willow Hill near the Willow Grove Mall and the shop would be inside the mall property.

Mr. Kevin Van Horn, Zoning Officer, said a vape shop is legal by right use, and we need to make sure we provide a space for it while minimizing any challenges. So, by restricting it to the BC-District, we created a place for it to exist, and we did not include a requirement for a 1,000 ft. distance from a school because nowhere in the BC-District would this use be within 1,000 ft. of a school, and we believe this is a strong ordinance.

Mr. Weatherly questioned whether there is existing vape establishments that would be nonconforming to this proposed ordinance, and if so, what would be the plan of action. How was the parking space for 150 sq. ft. of store area determined? Also, is the 1,000 ft. setback a standard planning practice for regulating something like this?

Mr. Van Horn replied we reviewed other ordinances and worked with the Solicitor's Office on compiling data, and we found that the 1,000 ft. distance requirement is the most unchallenged. Regarding existing vape shops, most of them are not in the BC-District and this would not have an impact on valid businesses with U & O's.

Mr. Brown asked about the enforcement regarding lighting as most of these vape shops have bright neon LED lights around the perimeter.

Mr. Van Horn replied, although most feel those lights are visually noncompliant, it is an actual measurement of footcandles from the property line, so to the naked eye, they are too bright, but that does not necessarily translate to enforcement.

There is one section of the zoning ordinance that does not allow the light source to be seen. The light source of an LED is the light itself, and it is the same as a light bulb. Any time a citation is issued, we ask the Magistrate for their opinion, and we are in the process of doing that for all shops, not just for certain shops. Most businesses with LED lights regardless of the type of business are in violation of that part of the zoning ordinance, and we are working to solve the problem Townshipwide.

Mr. Weatherly questioned whether there has been any outreach to existing business owners during the drafting of this ordinance.

Mr. Van Horn replied no, the proposed ordinance is for future businesses, so it would not have an impact on them directly.

Mr. Brown asked for any public comment. There was none.

Mr. Brown said he strongly supports this ordinance as it has been done in a responsible way, and he appreciates it being addressed. It has become more prevalent and could undergo some regulations.

Mr. Baker said he generally supports this amendment.

Mr. Weatherly said he also supports this amendment, and it behooves the Township to regulate this type of use while circumventing any type of legal challenge.

ADJOURNMENT: 8:06 p.m.

Respectfully submitted,

Liz Vile, Recording Secretary