

New Castle City Planning Commission
Comprehensive Plan Workshop
Minutes
October 17, 2022-- 6:30 p.m.
1 Municipal Boulevard, New Castle, DE

Members Present: Gail Seitz, Chair
Brie Rivera, Vice Chair
Matthew Lovlie
Kristin Zumar
Cynthia Batty
George Velitskakis
Tamara Stoner

Absent: Keira Faña-Ruiz
Vera Worthy

Also Present: Chris Rogers, City Planner
Shawn Tucker, Esquire

Ms. Seitz called the Workshop to order at 6:30 p.m. Roll call followed and a quorum to conduct business was declared.

Ms. Seitz stated the purpose of the Workshop, noting that presentations will be made by Messrs. Rogers and Tucker. Ms. Seitz stated the Workshop is meant to give information to the Planning Commission for discussion. A recommendation will not be made during the Workshop. A Public Hearing will be scheduled at a future time.

Chris Rogers, New Castle City Planner

Delaware Comprehensive Plans / New Castle 2020 Comprehensive Plan Presentation

Mr. Rogers stated his presentation will include:

- Background on the Application to rezone Tax Parcels 21-022.00-001 and 21-022.00-002.
- The role of the Planning Commission in the rezoning Application and the statutory role in the City Code moving forward.
- The New Castle 2020 Comprehensive Plan.
- City and County Zoning Regulations.
- Issues germane to the Application, including: project access, annexation of the River Edge Industrial Park, the impacts of sea-level rise, and next steps in the process.

Mr. Rogers stated that the presentation is factual and is not meant to make any conclusions regarding the nature of the Plan or the Application.

Background

- The Application requests rezoning of two parcels from IOP (Light Industrial Office Park) to R-3 (Residential) and GC (General Commercial).

- The Planning Commission will review and make a recommendation on all proposals to amend Zoning. Any amendments must be in accordance with the Comprehensive Plan (CP).
- Ordinance 536 was submitted to City Council for a First Reading on May 10, 2022. Section 1 states “The official zoning map of the City of New Castle ... is hereby amended to rezone the subject tax parcels to R-3 (Multi-Family Residential) and GC (General Commercial) ... with zoning district boundaries consistent with the final site plan determined by the Planning Commission as being in full compliance with the City Code”. Section 2 states “The City’s 2020 Comprehensive Plan is hereby amended as necessary to make the Approved Site Plan consistent therewith;”.

AECOM recommended that the merits of amending the Comprehensive Plan be considered first before the merits of the rezoning and site plan are considered.

Comprehensive Plan (CP)

Mr. Rogers reviewed what a CP is and its relationship with Zoning, citing the City Code and references from the University of Delaware Institute for Public Administration. He noted in particular that 22 Del.C.§702(a) states: “A planning commission established by any incorporated municipality under this chapter shall prepare a comprehensive plan for the city or town ...”, and stated that this language grants the responsibility and authority of the Planning Commission to create a CP. The State Code also states in 22 Del.C.§702(d) that after adoption of a CP, it “shall have the force of law and no development shall be permitted except as consistent with the plan.”

Mr. Rogers discussed the 2009 and 2020 New Castle CPs. In response to a question from Ms. Batty relative to a school located in a district zoned Light Industrial Office Park, Mr. Rogers stated he did not have the history of the school; but opined that the school may have been considered “institutional”, or it was permitted as a special exception by the Board of Adjustment after recommendation by the Planning Commission. Ms. Seitz noted that Mr. Roger’s presentation includes a chart of uses that are permitted by right in the IOP district under §230-24 of the City of New Castle Code; and that list includes “day-care center, kindergarten, preschool or day nursery”, opining it was probably allowed by special exception.

Mr. Rogers also touched on Suggested Land Use, Population Projections 2020-2050, and Housing Elements Goals and Strategies. In response to a question from Ms. Zumar regarding population projections, Mr. Rogers noted that population projections were considered when doing the 2020 CP. Ms. Batty opined that the Housing Elements Goals in the 2020 CP may be critical for the Planning Commission members to understand in the consideration of the current Application.

Mr. Rogers noted there were some previous CP amendments that addressed suggested land use for parcels that were undesignated; adding that the 2009 CP only identified land uses for relatively undeveloped areas. Mr. Rogers also noted that where a parcel did not have a designation and rezoning was requested, it was found to be inherently inconsistent with the CP and the CP amendment process was done at the same time as rezoning; however, Mr. Rogers stated he did not find that to be comparable with the current situation. In response to a question

from Mr. Lovlie, Mr. Rogers stated that he did not have immediate recollection of examples of instances where the Planning Commission approved or rejected rezoning based on pre-existing designations. Mr. Rogers stated that it is common practice in Delaware to ask for a CP amendment along with the rezoning request; however, he does not agree with the practice that those two matters are part of the same application. During further discussion Mr. Rogers stated that in the current situation the rezoning requested is inconsistent with the CP and suggested that the question the Planning Commission should ask is: Is this project a good idea from a CP standpoint or not.

Mr. Rogers explained the location and intent of surrounding City and County zoning designations.

Site Specific Issues Related to the Parcel

- Lukens Drive is approximately 36' wide and is located approximately 4,900 feet from Cherry Lane to the project entrance. Lukens Drive is not a "through road".
- Buttonwood Avenue is closed to through-traffic.
- The portion of Lukens Drive between Cherry Lane and the railroad tracks is not owned/maintained by DeIDOT. The applicant intends to dedicate the portion of Lukens Drive from the railroad tracks to Steel Drive to the City.
- There are approximately 26 access points onto Lukens Drive from Cherry Lane to the subject parcel.
- There are no sidewalks on Lukens Drive.
- The proposed project would generate approximately 3,600 trips per day (per DeIDOT).

River Edge Industrial Park Annexation

The Industrial Park was annexed into the City in 1993 with a Zoning designation of Industrial Office Park (IOP). The IOP Zoning classification was created as part of the annexation.

Impacts of Sea Level Rise

Mr. Rogers discussed the impacts of sea level rise on the parcel, referencing a section of the City of New Castle Vulnerability Assessment and Adaptation that states "Conservative projections indicate that an increase in sea level and flood elevations of 2 feet with worst case of 5 feet by 2100 can be anticipated." Mr. Rogers reviewed maps depicting the existing 100-year floodplain, future flooding with sea-level rise, and structures and roads impacted by future flooding. Mr. Rogers explained that residential structures must have a freeboard level of 1.5' above the floodplain and non-residential structures must be elevated or flood-proofed to withstand hydrostatic pressure of a 100-year flood surge. The future flood map indicates that many communities in the area of the subject parcel will be impacted.

Next Steps for the Planning Commission

1. Seek additional "Zoning Support Information" as necessary.
2. Conduct a Public Hearing.
3. Schedule the matter as an Agenda Item for a formal Recommendation.

Items 1 and 2 are addressed in §230-61C and D of the City Code.

If the Planning Commission determines that a CP amendment to allow for a mixed-use development as described in Ordinance 536 does not have merit it would recommend disapproval of Ordinance 536 since the zoning requested will be inconsistent with the CP. The Recommendation would be forwarded to City Council for their consideration.

If the Planning Commission determines that a CP amendment to allow for a mixed-use development as described in Ordinance 536 does have merit, the Planning Commission should continue with further evaluation of requested zoning and site plan. A future Recommendation to City Council on Ordinance 536 will then be based on the merits of the Site Plan and zoning support information.

Mr. Rogers stated that if the Planning Commission determines the Application has merit, traffic, impacts to community services, impacts of sea level rise, and other recommendations will be evaluated further.

Discussion

Mr. Rogers responded to Commissioners' questions:

- The CP amendment will be specific to the subject parcel and project.
- Regarding whether approval of the Application would set a precedent for future Applicants, Mr. Rogers stated that the Planning Commission considers all Applications on a case-by-case basis, but he had no knowledge of a legal precedent.

Shawn Tucker, Esquire, Representing River Edge Development Flats at River Edge Development Team Presentation

Mr. Tucker stated that he would discuss applicable State and City Law that applies to the subject matter.

The three steps involved are 1) Comprehensive Plan Amendment, 2) Rezoning, and 3) Site Plan Approval; all of which are covered in Ordinance 536. Mr. Tucker noted that it is commonplace in Delaware to proceed with all three matters together.

Mr. Tucker stated that flexibility was provided in the CP because it is difficult to predict future opportunities. The Applicant brought the matter to the Planning Commission prior to the adoption of the 2020 CP; however, there was insufficient time prior to adoption of the Plan for the Commission to consider the matter and it was recommended that the Applicant bring the matter back the following year.

Mr. Tucker reviewed Ordinance 528, an Ordinance to adopt the update to the 2009 Comprehensive Plan, and explained examples of "legitimate governmental interests" as they apply to the current matter. Mr. Tucker asked that the Planning Commission consider this when deciding if the Applicant's proposal to amend the CP has merit.

Mr. Tucker noted that the Charter School of New Castle is just south of the proposed project; and the President of the Board of the Charter School of New Castle has stated support of the project in its current form.

Mr. Tucker explained the mix of uses surrounding the parcel, noting that Collins Park is approximately 1,000 feet from the parcel, and the parcel could be walkable/bikeable to the center of New Castle.

The parcel fronts on Lukens Drive and is approximately 168 acres; and much of the parcel is being conserved as undeveloped. PLUS comments point out that the area is ideal for infill projects. It was also noted that the parcel is earmarked for future growth. The residential properties offer a range of styles and affordability, and represent the only significant new housing stock in New Castle. Mr. Tucker also noted that this provides a rare opportunity for individuals who want to have a tie to New Castle who also want a new home option.

Mr. Tucker noted that the views afforded are spectacular, and will be lost if the parcel is developed for industrial use.

Mr. Tucker also asked that the Commission consider what is better for the property: another warehouse or a mixed use development. The Applicant's engineer developed a scenario for both options:

Industrial Development:

- 562,500 square feet of fulfillment center
- 3,622 weekday trips per day, including an estimated 107 tractor trailer trips per day
- 489 morning peak hour trips
- 675 afternoon peak hour trips

Mixed Use Development:

- 451 residential units and 18,000 square feet of commercial space
- 4,080 weekday trips per day
- 266 morning peak hour trips
- 294 afternoon peak hour trips

Lukens Drive is a 36 foot wide Secondary Street with a 60 foot right-of-way. The Applicant is the owner of a portion of Lukens Drive from Cherry Lane to the railroad tracks (Section 1). Section 1 is privately owned and maintained. The portion of Lukens Drive from the railroad tracks to Steel Street (Section 2) is owned and maintained by the Applicant. Section 2 is dedicated to the City, but has not yet been accepted by the City. During discussion it was noted that naturally speed-reducing traffic-calming devices can be installed on Section 2. The Applicant indicated he could reach out to the other owners of Section 1 regarding traffic-calming devices. In response to a question from Ms. Batty, Mr. Tucker stated that parking on the side of Lukens Drive is not currently set up; however, that is something that can be discussed with the City. Ms. Nicole Kline-Elsier of McMahan Associates explained that the space on either side of the roadway could be utilized in a variety of ways. In response to a question from Mr. Rogers regarding ownership of Lukens Drive, Mr. Tucker stated that the Applicant would be open to discussing Section 1 with the City. The Applicant is also open to having discussions with DelDOT and State Legislators for funding to add sidewalks.

Mr. Tucker reviewed several maps relative to sea level rise based on the 5 foot worst case scenario. The proposed development would be higher than the projected 5 foot sea level rise modeling. Mr. Tucker noted that the map does not show storm surge flooding.

Mr. Tucker also reviewed a map showing proposed evacuation routes, noting that the main route out (Cherry Lane) is not in danger of flooding based on the 5 foot sea level rise modeling. Mr. Tucker stated that the map does not reflect evacuation routes in a storm situation; noting that in the event of a severe storm it would be expected that residents would leave. The DNREC Flood Planning Tool was used to create a sea level rise projection. This projection indicates every residential dwelling will meet a 12' finished floor elevation. The proposed project also includes flood basins.

Mr. Tucker read from the CP:

Chapter 4 – Land Use, page 37:

New Castle's land use is shaped by historic patterns of development and planned efforts starting with its first Comprehensive Plan in 1964. Often these two forces are at odds. Whereas historically, land developed with mixed types of land use within neighborhoods and even buildings; the trend since the Second World War has been to devote whole areas to a single use. Hence, newer neighborhoods such as Van Dyke Village and Washington Park are solely residential, the office and industrial parks are solely places of work, and most properties along the Ferry Cut-off may only be used for commercial purposes. While the original intent of this type of land use zoning was to separate incompatible uses, such as heavy industry and residential, its effects have been to isolate uses at such a distance that many simple trips must be done by car. As a result, traffic has increased, commercial architecture has changed to facilitate and attract automobile drivers, and former neighborhood stores die off without parking and presence on a major road.

Lately, planners have looked critically at this practice, and the idea of mixing uses has come back into fashion.

Chapter 4 – Land Use, goals and Strategies, page 47:

- G4 – 2: Continue to encourage mixed residential/retail/office uses.
- G4 – 3: Incentivize private investment in New Castle's remaining undeveloped parcels, brownfields, and redevelopment areas harmoniously with nearby land uses. Ideas may include tax abatement.

Mr. Tucker stated that the proposed development is harmonious to the Charter School and to the offices in the Park; and the proposed development would be a logical place to visit.

Mr. Tucker posed the question of whether putting in another big-box warehouse is better than a mixed-use development; stating that he respectfully says it is not, and quoted from the CP, Chapter 10, Economic Development:

Chapter 10 – Economic Development, page 108, S10-1:

Additionally, as recommended in the land use component of this plan, rezone for neighborhood retail or mixed- use areas within or adjoining the neighborhoods suitable for local commercial activity.

Chapter 10 – Economic Development, Page 100:

Former industrial sites and other brownfields represent an important redevelopment opportunity and should be brought back into productive reuse. Such sites may be opportunities to provide new neighborhood retail and mixeduse development

Mr. Tucker stated that he agreed with Mr. Rogers’ comment that one zoning approval would not set a precedent for the rest; but contended that as uses age more mixed use may be a good idea for the subject parcel. He suggested that if in the future if other parcels in that area decide to redevelop mixed use should be an opportunity.

Relative to the compatibility of mixed-use and industrial, Mr. Tucker referenced a number of unidentified online sources, noting in particular:

Mix of uses establishes an ecosystem – oriented around people and workers who need goods, education and a place to live harkening back to the factory town of the past – it is a modern incarnation of an old idea.

Mr. Tucker stated this is a concept that is embedded in the New Castle 2020 CP, which carries with it the force of law. Mr. Tucker presented a real-world example of this concept in a development in Pennsylvania. In response to a question from Mr. Rogers, Mr. Seth Shapiro, Barton Partners Director of Urban Design, explained the roadways through the various communities in the example. Mr. Shapiro also explained the connectivity in the design.

In response to a question from Ms. Batty, Mr. Shapiro stated that he did not have information regarding how fiscally positive the project was to the municipality, but a fiscal analysis was conducted as part of the Plan. Mr. Shapiro also noted that the project did rejuvenate the surrounding office parks. Mr. Tucker added that a projection of the approximate annual tax benefit of the proposed development to the community was conducted, showing the following results:

Colonial School District –\$478,000.00
New Castle County Vocational School –\$38,000.00
Crossing Guards –\$3,500.00
New Castle County –\$73,000.00
City of New Castle –\$265,000.00

Mr. Tucker estimated that the total tax benefit to the community, excluding one-time impact fees (*impact fees range from \$4,000-\$6,000 per unit*), is approximately \$800,000.00.

In response to a question from Ms. Rivera, Mr. Tucker stated that the concept plan was shared with the Charter School, but the impact of potential additional student enrollment was not discussed.

Mr. Tucker recapped the benefits of a mixed-use development vs big box use:

- Contiguous Charter School use;
- New housing and housing types (both fee simple and rental);
- New retail/commercial options;
- Traffic Study (not required for Logistic Use);
- Beautiful river views made public;
- Highly walkable;
- Future interconnection options;
- Helps address Delaware being identified in the News Journal as having the highest residential rent increase in the country (2019-2021 – 12%);
- Waste pick-up will be kept private.

Mr. Tucker also noted that Mr. Blomquist, General Manager of MSC, stated that there is no reason to believe rates would increase as a result of the project.

Ms. Rivera noted that much of the language in the CP references fee simple housing and not multi-family units, and asked if the Applicant had considered reducing the number of residential rental units for the proposed development. Mr. Shapiro stated the development on the proposed site is not maximized in terms of density. He added that one of the unique features of the plan is that it has five different housing types: stacked flats served by elevators, stacked flats that are walk-up, townhouses, twins and singles. Mr. Tucker noted that during the site plan review density could be reviewed. During discussion it was noted that one of the things the developer has often heard is that there is a need for multi-family housing in this region, and they wanted to address that need.

Ms. Batty suggested there is more the Commission could do to understand what is going on with the issue of encouraging residents to invest in their homes and new residents coming into the City, and noted that the current development in the Historic District is more rent-focused. She added that the Commission has no data on the matter and opined that the role of the Commission is to look at the issue more closely and make specific recommendations. Ms. Batty expressed her concern at some of the trends she sees.

In response to a question from Ms. Seitz, Mr. Tucker stated the proposed development would be served by the City of New Castle Police Department and the Good Will Fire Company. Meeting with the Police and Fire departments would be part of the site plan review. Ms. Seitz noted there would be a cost involved in servicing the community. Mr. Tucker stated that more detailed conversations regarding services would be held before rezoning approval.

Ms. Batty asked if the Commissioners could receive more detailed information on how the questions posed were resolved. Mr. Tucker stated the Commissioners would be copied on all written communications with PLUS and other agencies.

Public Comment

Karen Wrightson

Ms. Seitz read a public comment received via email from Ms. Wrightson in opposition of amending the Comprehensive Plan to accommodate special interest developers.

James Wilson

Mr. Wilson stated that he likes the project, and in particular the multi-family aspect it brings to New Castle. He also noted that affordable housing is lacking in New Castle. He asked the Commission to use its discretion to permit the proposed development to move forward. Mr. Wilson noted the population increase in New Castle over the next 30 years is projected to be 300 individuals.

Phil Gross – 1301 13th Street

Mr. Gross stated that the fact there is a residential community near the proposed development site, is not a good reason to approve the development.

Mr. Gross opined that an increase in population of 300 in the next 30 years is impossible to believe.

Mr. Gross opined that the CP had renovating existing properties had in mind.

Mr. Gross opined that there will be an issue at the intersection of Cherry Lane and Lukens Drive. He added that the traffic study only looked at specific hours.

Mr. Gross asked if he could get a copy of the PLUS report and Mr. Tucker stated it is online.

Mr. Gross asked if the Applicant had contracted with a Sales/Rental Agent, and Mr. Gangemi stated an Agent had not yet been obtained.

Mr. Gross opined that the Commission should not make a decision until all the facts and information have been received and reviewed.

Zeb Wilson – 4th Street

Mr. Wilson stated he would like to live in New Castle but the current rentals are far too costly. He stated he is in favor of a project that would provide affordable housing, and bikability is very appealing.

Miscellaneous

Ms. Seitz stated the regular Planning Commission meeting is scheduled for October 24th and further discussion of the project will be an Agenda Item.

Mr. Tucker asked if the Commission would vote on the CP amendment before voting on rezoning. Mr. Rogers recommended that a positive recommendation on the CP Amendment not proceed without the rezoning and site plan.

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Ms. Seitz stated that the Planning Commission will review the specifics and timing of next steps at the October 24th meeting.

A Motion to adjourn was made and seconded. The Motion was unanimously carried and the meeting adjourned at 9:24 pm.

Respectfully submitted,

Kathleen R. Weirich
City Stenographer