

New Castle City Planning Commission Meeting
Minutes
October 24, 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: Vera Worthy
Keaira Faña-Ruiz

Also Present: Chris Rogers, City Planner
Daniel J. Losco, Esquire, City Solicitor
Jim Smith, Project Manager, Barnes & Thornburg, LLP

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

Minutes

A Motion to approve the Minutes of the August 29, 2022, Planning Commission Regular Meeting as presented was made, seconded and unanimously carried.

A Motion to approve the October 17, 2022, Planning Commission Comprehensive Plan Workshop as presented was made, seconded and unanimously carried.

Ms. Seitz reviewed the Agenda Items, noting that no decision would be made relative to the Comprehensive Plan (CP).

Public Comments

Bernadette Ruf – 157 East 2nd Street

Ms. Ruf expressed her interest in the progress being made by the Sea Level Rise Task Force.

Karen Igou – 621 Cherry Street

Ms. Igou stated that the Sea Level Rise Task Force is working very hard. She submitted a letter to the Task Force requesting that it be forwarded to the Planning Commission expressing her opposition to the proposed River Edge development.

Ms. Igou stated for the Record that she felt the CP should not be amended to accommodate the proposed River Edge development, stating that it is a very unnecessary development. She expressed her feeling that certain comments made by one of the Commissioners before the proposed development project was generally known by the public were very inappropriate. She

noted that planning means more than development and asked that the Commission consider expanding their definition of Planning to be creative with the use of land in the future, to provide oversight of wetlands and floodplains, to consider climate refugees by provide housing in existing buildings and developed space, to plan for public services that will be stretched thin, and to consider the wildlife that will be displaced by development.

Phil Gross – 1301 13th Street

Mr. Gross stated that relative to being eco-friendly, a recent trend is to replace the footprint of areas being covered up, i.e., roofs should be made green and drainage from roofs should go into a filtered catch basin.

Mr. Gross opined that the exit off Lukens Drive through the neighborhood should not be opened up to accommodate increased traffic.

Mr. Gross also opined that if the City approves the CP Amendment and Rezoning, the scope of the project could be changed without recourse to the City to object.

Mr. Gross noted that the Applicant has indicated the proposed project will include affordable housing, but has not provided any details as to what that means in terms of purchase prices.

Mr. Gross asked that the Planning Commission consider the environment, traffic, people, usage, and residents. He added that the Applicant could construct large buildings with green roofs.

Dorsey Fiske

Ms. Seitz read a comment from Ms. Fiske in opposition of the proposed River Edge Development and urging a one-year building moratorium for the City of New Castle.

Discussion of Next Steps in Regard to the Comprehensive Plan Amendment and Ordinance 536 - the Rezoning of 130 & 150 Lukens Drive

Mr. Rogers reiterated the next steps that were discussed during the October 17th Workshop, noting that:

- The Planning Commission is allowed to request additional maps, studies, sketches, etc., in consideration of a rezoning ordinance.
- The decision-making process has been bifurcated between the CP Amendment and Rezoning by first considering the merits of the Comprehensive Plan Amendment and then the Rezoning.

Mr. Rogers asked if the Planning Commission was confident that in addition to information received at the Public Hearing, it has sufficient information needed to support a decision regarding to the CP Amendment. The next formal step is to hold a Public Hearing to obtain public comment on Ordinance 536. Prior to that Public Hearing the Commission can request additional information to support the decision making process.

Ms. Zumar asked if the Commission can further understand how the proposed development and the addition of 1,600 people to the community will affect public services (Police Department, Fire and Rescue, and Utilities). Mr. Rogers stated that an impact on services would be an appropriate request relative to a decision on the CP Amendment to determine if it is appropriate to change the Future Suggested Land Use on the parcel from IOP to Mixed Use Development; and opined that it would be appropriate to ask for a Fiscal Impact Analysis.

During discussion it was noted that the Good Will Fire Company would respond to the proposed development, and they would be backed up by Holloway Terrace Fire Company. It was also noted that any anticipated revenue to the City would go toward the cost of additional staff and/or equipment required to service the proposed development.

Relative to non-City services being within the purview of the Planning Commission, Mr. Losco opined that the Planning Commission should determine the availability of services such as police, fire and rescue, traffic or utilities, as part of the rezoning consideration. The macro view is what the parcel should be used as (CP Amendment); and if a positive recommendation is made, a Fiscal Impact Analysis would provide more detailed information on services required.

Mr. Rogers noted Mr. Losco's explanation differed from his suggestion that it would be appropriate to request a Fiscal Impact Analysis at the CP Amendment level and deferred to Mr. Losco's opinion. Mr. Rogers stated that the Planning Commission has extreme discretion when considering the CP Amendment and if it is in the best interest of the City to change the land use from IOP to Mixed Use Development. If the Planning Commission does think it is a good idea, then the fiscal impacts of the development can be investigated.

Relative to a question from Mr. Lovlie, Mr. Rogers stated that if it is determined that a CP Amendment to allow Mixed Use Development is a good thing, whether a physical presence of police or fire would be required would be determined by the Fiscal Impact Analysis.

In response to a question from Ms. Zumar regarding the ecological impact of IOP vs Mixed Use, Mr. Rogers stated that the percentage of the parcel that can be developed is determined during rezoning; noting that in any zoning category there will be restrictions on impacts to wetlands, tidal and non-tidal, and there will be State and Soil Conservation District requirements that will apply. Whether one type of use would have less of an ecological impact than another would be difficult to determine at this stage of the process. He added that mass grading would be required in both scenarios, but the tidal wetlands, floodplains and other sensitive areas would be off limits. Ms. Batty noted that the Applicant has acknowledged this is an issue and has stated they will build storm water runoff control and the water must be treated.

Ms. Batty asked how prevalent it is to change a CP designation from Industrial to Mixed Use in Delaware. Mr. Rogers stated that he does not monitor other jurisdictions Comprehensive Plans; however, he has never seen a change of the magnitude of the current project. Ms. Batty asked if the Commission could get this information. Mr. Smith of Barnes & Thornburg interjected that it is fairly common in the County to change a CP designation from Industrial to Mixed Use for a number of reasons; adding that the County changes the CP at the same time they do the approval.

Mr. Rogers countered that in speaking with the County Land Use Director he has been told that the County now wishes to take a stronger view of the Comprehensive Plan and does not want to spot-change it as has been done in the past. He added that the geography of a County is completely different than the geography of a small urban area such as New Castle.

Mr. Rogers added that relative to the example in Mr. Tucker's presentation, the site is an example of a large mixed-use development in an office park area; however, it has its own boulevard access directly onto a 4-lane dualized highway and office parks adjacent to the development do not share an access. It is a residential community in an office park region, but it is its own entity and it is not joined to the other adjacent office parks by vehicular connections.

Ms. Zumar stated that she has not seen a report on the vehicular impact to Rt. 9 and Cherry Lane. Mr. Rogers stated that if the Commission is concerned about the capacity of an intersection, that is a Rezoning impact issue; however, if the Commission is concerned about the potential conflicts of a mixed-use development on an industrial park roadway with only one way in and out, that is a land use CP issue. Mr. Rogers reiterated that the Commission should determine if a mixed use development is good for the City in that location knowing its access; and opined it is part of the CP Amendment consideration.

Mr. Rogers stated the next step for the Planning Commission is to conduct a Public Hearing. The Public Hearing will be duly advertised and posted by the City. Mr. Rogers explained the process of the Public Hearing, noting that the Public Hearing can be held immediately prior to a regular Planning Commission meeting; and if the Commission feels it has sufficient information, a vote on a recommendation can be made at the regular meeting.

It was noted that the City is not required to notify the residents of communities by first class mail that are farther than 100 feet from the parcel. The regulations surrounding notification were discussed. Mr. Losco added more information on how a Public Hearing is conducted.

Mr. Rogers explained the process going forward based on whether (1) the Planning Commission approves the CP Amendment or (2) the Planning Commission does not approve the CP Amendment.

Mr. Rogers reiterated that the CP Amendment has been bifurcated from the Rezoning matter and explained the outcome of the Planning Commission's vote:

- If the Commission finds that it is in the City's best interest to allow a mixed use development at this location, the Commission would return a positive recommendation on the CP Amendment and the Planning Commission would continue with the technical review of the project.
- If the Commission does not feel a mixed use development at this location is in the City's best interest the Commission would return a negative recommendation on the CP Amendment and the recommendation would be forwarded to City Council.

Mr. Losco stated that if the Commission returns a negative recommendation on the CP Amendment, City Council may determine that it wishes to have more information on the

rezoning aspect of the project, and the matter would be sent back to the Planning Commission to conduct a technical review of the project. If the matter is returned to the Planning Commission, a technical review would be conducted and the Planning Commission would make a separate determination as to whether to make a positive or negative recommendation back to City Council.

Mr. Rogers recommended that the Planning Commission state the reasons for submitting its recommendation, either positive or negative, to City Council; stating that he will assist the Commission in articulating the reasons for its recommendation.

Mr. Rogers stated for the Record that he will respond to the Applicant's presentation made at the Workshop and will submit his comments to both the Planning Commission and the Applicant.

After discussion it was agreed to schedule the Public Hearing for 6:30 p.m. on November 28th, and hold the regular Planning Commission meeting immediately following the Public Hearing. Mr. Rogers will submit his comments to the Applicant's presentation by November 4th. Ms. Batty expressed her concern with voting on the matter at the November 28th Planning Commission regular meeting.

Mr. Rogers explained that after the Public Hearing the Planning Commission should close off all public comment and information gathering. It was discussed that a vote on the CP Amendment could be held at the December meeting. Ms. Seitz will poll the Commissioners to determine the date of the December meeting.

Mr. Smith stated that Mr. Tucker submitted a supplement to his presentation to the Commissioners for the Record. The Commissioners received the communication by hand delivery and by email, and the Applicant will make a presentation at the next meeting. All communications, including any response from the Applicant to Mr. Rogers' comments, will be submitted to the Planning Commission in writing by November 17th.

Special Projects

WILMAPCO Transportation Plan

Ms. Seitz stated that the final Draft of the Plan was presented to City Council at the October meeting. The Plan is relevant to Chapter 6 of the CP, and a number of Goals and Strategies in that section are addressed by the Plan. Specific projects that came out of the Plan have been prioritized for inclusion in DeIDOT and WILMAPCO planning and should be funded. The Plan is available on the City website, or the Commissioners can obtain a hard copy from Ms. Burgmuller at the City Office.

Sea Level Rise Task Force

The Task Force submitted its Six-Month Interim Report to City Council. Some of the recommendations include: Protection of the Historic District between the dykes; raising the dykes; evaluating and improving some of the creeks and marshes, particularly in Buttonwood and Van Dyke Village; reviewing the City Code for end-of-century sea level rise; researching funding; and preparing flooding resources for property owners.

The Task Force has made contact with a number of potential funding sources, including one source that would cover the cost of all engineering and studies. The next six months will be working on the City Code and resources for property owners.

Comments From Commission Members

EV Charging Stations

Ms. Zumar asked for an update on EV Charging Stations. Mr. Velitskakis noted that all Level 2 chargers have been installed, or installation locations have been determined. One company was awarded the installation of Level 3 chargers. Ms. Zumar will follow-up on the status of EV Chargers.

Budget

Ms. Zumar recommended that the Planning Commission begin discussions on Special Projects early in 2023.

Rentals/Home Ownership

Ms. Batty suggested that the Commission look at occupancy rates and rental rates in order to encourage home ownership. Ms. Batty will follow-up and report back to the Commission.

Mr. Rogers noted that one of the Goals of the Downtown Development District (DDD) was increased home ownership and the City adopted some local incentives for first-time homebuyers, and suggested that Ms. Batty review the DDD on the City website.

A Motion to adjourn was made and seconded. The Motion was unanimously carried and the meeting adjourned at 8:52 pm.

Respectfully submitted,

Kathleen R. Weirich
City Stenographer