

New Castle City Planning Commission Special Meeting  
Minutes  
July 5, 2023 – 6:30 p.m.  
1 Municipal Boulevard, New Castle, DE

Members Present: Matthew Lovlie, Chair  
Margo Reign  
Tamara Stoner  
Timothy Gibbs  
Kristin Zumar

Absent: Keaira Faña-Ruiz  
Vera Worthy

Also Present: Christopher J. Rogers, AICP, City Planner

Mr. Lovlie called the meeting to order at 6:37 p.m. The assembly rose for the Pledge of Allegiance. Roll call followed and a quorum to conduct business was declared.

Mr. Lovlie explained that the special meeting was scheduled to make up the June meeting at which a quorum was not present.

### **Minutes**

A motion to approve the April 24, 2023, minutes as presented was made, seconded and unanimously carried.

A motion to approve to May 22, 2023 minutes as presented was made and seconded. The motion passed with a vote of 4 in favor and 1 abstaining (Ms. Zumar).

### **Public Comment**

Phil Gross – 1301 13<sup>th</sup> Street

Mr. Gross asked what the scope of the project is relative to Item 5 on the Agenda (907 Gray Street, minor subdivision). Mr. Rogers stated that the scope of the project would be explained during discussion of that item. Mr. Gross stated that if it is 5-6 houses that would contribute to traffic and flooding issues, he would not be in favor of the project.

### **Minor Subdivision – 907 Gray Street – Giordano, Delcollo, Werb & Gagne LLC**

Mr. Lovlie turned the meeting over to Mr. Rogers. Mr. Rogers referred the Commission members to the Minor Subdivision Plan in their packet and AECOM's review letter dated June 23, 2023. Mr. Rogers stated that the purpose of the plan is to create two lots from one tax parcel, noting that the tax parcel contains one existing attached dwelling. The existing Lot 1 would front on Gray Street and the new undeveloped Lot 2 would front on School Street. Mr. Rogers explained new regulations in the City Code, noting that all subdivisions are reviewed and approved by the Planning Commission.

In response to a question from Mr. Lovlie, Mr. Rogers explained that per subdivision regulations §213.7.C(4) the subdivision can be approved by City Council on the recommendation of the Planning Commission. City Council's role with regard to subdivisions is administrative.

The subject parcel is zoned R-3. §230-5.D of the Zoning Code states that:

No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

Mr. Rogers explained that lots cannot be created that are less than the minimum lot size and lots cannot be created that are less than the minimum lot depth.

Mr. Rogers explained the history of the parcel, noting that at one time two lots were described in one deed, and it was thought that because of this they would be considered separate lots. However, at some time in the past the lots were combined and the lot line was extinguished. The property owners are attempting to make the case that because of the history of the parcel the parcel should be recognized as two existing lots. However, that is not how the matter was ultimately interpreted. The property owner is only paying taxes on one lot.

Mr. Rogers stated that as a result of subdivision several aspects of the proposed lots do not meet the minimum requirements of the scheduled zone regulations; which state that:

- The minimum lot size in the R-3 Zone for one-family attached dwellings is 2,000 square feet. The new Lot 1 contains 1,089 square feet.
- The minimum lot depth in the R-3 Zone for one-family attached dwellings is 100'. The existing Lot 1 depth is 69' and the depth of the new Lot 2 is 66'.
- The maximum building bulk in the R-3 Zone for a one-family attached dwelling is 40%, and although not indicated on the plan, according to the assessment data the existing dwelling is approximately 60% building coverage. This should be confirmed and indicated on the subdivision plan.
- The minimum rear yard setback in the R-3 Zone for a one-family attached dwelling is 25'. The resulting rear yard setback for Lot 1 is not indicated on the plan but appears to be less than 25'. This should be confirmed and indicated on the subdivision plan.

Per all of those comments, the minor subdivision would need several variances from the Board of Adjustment. Mr. Rogers stated that if the Planning Commission votes in favor of the subdivision, they should do so with the condition that the applicant receives all necessary variances before the matter proceeds to City Council for approval. .

The Zoning Ordinance has different requirements for attached and detached dwellings in the R-3 Zone. The plan should distinguish between the setbacks and lot sizes required for a one-family attached dwelling (Lot 1) and those for a one-family detached dwelling (Lot 2).

In response to a question from Ms. Zumar Mr. Rogers opined that the larger lot should meet the lot size requirement. The R-3 one-family detached dwelling lot size requirement is 6,000 square

feet. The size of the new Lot 2 would be 2,047 square feet. Ms. Reign opined that a house of 16'x21' would be allowed on the lot.

Mr. Lovlie noted that there are many questionable aspects to the plan and expressed his concern that giving approval of the application could open the door to a host of other things in the future relative to exceptions. Ms. Reign stated she is of the same inclination. On the new Lot 2, which has to be a detached dwelling, the minimum front setback is 20', and the side yard setbacks are a minimum of 5' each, with a maximum of 15' total for both. Mr. Rogers stated that the R-3 Zone allows the most types of dwellings in any residential district, with different lot sizes and setbacks for each type of dwelling.

Mr. Rogers stated that if the applicant chooses a house that does not meet the minimum setback requirements they would need to get a variance prior to the building permit being issued.

Ms. Zumar asked if a multi-family dwelling could be built on Lot 2 with one dwelling on the 1<sup>st</sup> floor and another on the 2<sup>nd</sup> floor. Mr. Rogers stated that type of dwelling would require a use variance; adding that the variances previously discussed are area variances.

Mr. Rogers noted that the applicant assumed the subdivision would be a formality, and was unaware that they would need any variances before submitting the application. Mr. Rogers noted that although they don't meet the current R-3 Zone requirements, the lots they are creating are consistent with existing lots on Gray Street and School Street.

In response to a question from Mr. Lovlie, Mr. Rogers stated that considering the history of the parcel and the relative uniformity of the proposed lots to the surrounding community, he would not be opposed if the Commission chose to vote in favor of the application conditioned on getting variances from the Board of Adjustment; however, if the Commission was uncomfortable with that course, they could request that all variances are approved by the Board of Adjustment before making a decision.

**A motion was made by Mr. Lovlie that the Commission tables the recommendation until, and if, the applicant has received approval of all necessary variances. Ms. Reign seconded the motion.**

During discussion, the Commissioners debated whether to vote to approve with conditions or to require that all necessary variances are approved before making a decision.

Mr. Lovlie permitted Mr. Gross to offer comment. Mr. Gross opined that based on what he has heard, building a 300-400 square foot house is virtually impossible, and stated his support of tabling the vote.

Ms. Reign asked if the Commission was supposed to review these types of matters against the Goals in the Comprehensive Plan, and discussion ensued. During discussion Mr. Rogers explained he cannot speak to what variances the applicant will present to the Board of Adjustment. He noted that the Planning Commission has a role in minor subdivisions but does

not have a role in approving variances and opined that the variances the applicant presents to the Board of Adjustment should not be a consideration in how the Planning Commission chooses to proceed. He stated that he would not typically recommend approval conditioned on this number of variances for a subdivision; however, given the history of the parcel and the character of the neighborhood, he would not have a problem from a planning process standpoint. He added, however, that he would also understand the Commission's hesitance in approving something that needs at least four variances that have to be approved by another body first.

**The motion on the floor was unanimously carried.**

### **2023 Comprehensive Plan Annual Report**

Mr. Rogers explained that this year's Annual Report is in the form of a questionnaire from the Office of State Planning and pointed out new questions on pages 3-6 and questions related to affordable housing goals on page 4.

Relative to S11-2.b, Ms. Zumar noted that the Town Crier periodically includes communications on the Code and recommended that be included in the response. Ms. Reign suggested that a brochure be developed for new homeowners. Mr. Lovlie recommended that the comment regarding advice from the DSHA remain in the response.

Relative to S11-3.c, Ms. Reign noted that she can connect people to information on historic rehabilitation grants either on through the City website or via other means, and she can inform the City who to contact if they wish to offer home improvement training programs; i.e., through Habitat for Humanity or the YWCA, etc. Mr. Lovlie opined that the current answer is appropriate, and suggested that Ms. Reign reach out to the City Administrator with her ideas.

Relative to S11-4.a, Mr. Lovlie opined that the City did have residential properties that were in need of upgrading. Mr. Zumar opined that if a list is not maintained, City staff is aware of those properties.

Mr. Rogers noted that many of the goals and objectives have been in place since as far back as 2003 and suggested that the Commissioners reflect on those goals and objectives when they do the 5-year Comprehensive Plan update. He added that there is a large emphasis on housing element in the Comprehensive Plan, and opined that the next Plan may want to recognize a different formula of the lack of housing in general, and not so much of an emphasis on home ownership. Ms. Zumar opined that there is a perceived correlation that homeowners take care of their properties more than renters. She added that the Commissioners should consider the balance between the number of homeowners vs the number of renters in the community and the balance that is needed to maintain a good community, opining that the ratio is not static. Ms. Reign offered that as the population ages, many individuals opt to relocate to rental properties. Mr. Lovlie noted that these suggestions are good talking points when reviewing the Comprehensive Plan for the 5-year update.

**A motion to approve the Comprehensive Plan Annual Report with recommended updates was made, seconded and unanimously carried.**

**Comments from Commissioners**

Ms. Zumar noted that Mr. Lovlie's term is up on July 11<sup>th</sup> and asked if the July 24<sup>th</sup> regular meeting can be postponed until after the mayoral election and the appointment of new Commission members. Mr. Rogers noted that there is already an item on the July Agenda (610 West 7<sup>th</sup> Street). Mr. Lovlie will consult with the City Solicitor.

Mr. Lovlie stated that if the July 24<sup>th</sup> meeting is held, Ms. Reign will act as Chair.

There being no further business to discuss, Mr. Lovlie called for a motion to adjourn.

A motion to adjourn was made and seconded, and the meeting adjourned at 7:39 p.m.

Respectfully submitted,

Kathleen R. Weirich  
City Stenographer