

New Castle City Planning Commission Meeting  
Minutes  
1 Municipal Boulevard, New Castle, DE  
November 27, 2023 – 7:00 p.m.

Members Present: Margo Reign, Acting Chair  
Kristin Zumar  
Tamara Stoner  
Timothy Gibbs  
Cynthia Batty  
Vera Worthy  
Brie Rivera

Absent: Keaira Faña-Ruiz

Also Present: Max Walton, Esquire, City Solicitor  
Christopher Rogers, City Planner

Ms. Reign called the meeting to order at 7:00 p.m. The assembly stood for the Pledge of Allegiance. Roll call followed and a quorum to conduct business was declared.

### **Minutes**

A motion to approve the October 23, 2023 minutes as presented was made by Mr. Gibbs, seconded by Ms. Zumar, and unanimously carried.

### **Review City of New Castle Ordinance for Site plan review and approval**

Mr. Rogers gave an overview of the portion of Zoning Ordinance §230.46 regarding review and approval of site plans that dictates the general criteria that the Planning Commission shall use when reviewing site plans, and the site plan process. He also explained the role of the Planning Commission and City Council regarding site plans, noting that the bulk of the authority rests with the Planning Commission. Ms. Reign read Item B of the Ordinance. Mr. Rogers noted that the new regulations rolls the review and approval of other agencies into the process, and the Planning Commission's responsibility is to ensure that input has been gathered regarding the status of other agencies' approvals.

Mr. Walton noted that if the site plan meets all requirements of the Code the Planning Commission is required to approve it; however, the Planning Commission can approve it with constitutional conditions. He gave an example of an unconstitutional condition.

### **Site Plan – 427 W. 7th Street; Multi-Family Apartment Development**

William Wendling, Civil Engineer with MidAtlantic Engineering Partners, and Steve Weathers, Principal of 9<sup>th</sup> St Development Co. gave the Commissioners a brief overview of what is being proposed.

- Two three-story buildings with parking and one retail space below are being proposed. The buildings will have elevators.

- The proposed project includes 152 studio, one-, two- and three-bedroom apartments and a total of 228 surface parking spaces.
- The site has a single-access point on 7<sup>th</sup> Street and an emergency access that has been approved by the Fire Marshall and the Fire Chief. There is also stabilized access to the back side of the building.
- The floor elevation will be raised to a flood elevation of 12 feet.
- A wall will encompass almost the entire site.
- The tidal area will remain undisturbed.
- No buffer between the ecology area and the construction is planned, nor is it required by the City Code. Mr. Rogers explained that DNREC recommended a 100' buffer from the edge of the wetlands; however, it is not a requirement in the Code.
- Permission to fill in some wetlands that can be disturbed will be sought from the Army Corps of Engineers.
- The applicant has not yet applied to the Delaware Alcoholic Beverage Control Commission. The plan calls for “commercial space: and the hope is that the liquor store will utilize that dedicated space.

Messrs. Wendling and Weathers reviewed comments in the November 21<sup>st</sup> letter from Mr. Rogers and responded to questions regarding specific comments:

#### Background/Procedural/Administrative

- Items 1-6 – No response.
- Item 7 – Mr. Wendling reviewed the various agencies and the status of submissions/comments.
- Items 8-9 – No response is owed.

#### Technical

- Item 3 – The status of clarifications/corrections was explained. In response to a question from Mr. Rogers, Mr. Weather stated that he did not think the double parking spaces were shown on the Concept Plan that went to the Board of Adjustment.
- Item 4 – No response was required regarding the special exception.
- Item 5 – A cast-in-place brushed concrete retaining wall is being proposed. Mr. Weathers explained certain nuances with the property and adjacent lots:
  - Concrete Retaining Wall – Mr. Rogers noted that the DG Zone speaks to architectural design and an in-depth discussion of finishes to make the concrete retaining wall more aesthetically consistent with the DG Zone ensued.
  - Garage – The garage on the adjacent property shares a wall with the subject lot.
  - Pumping Station – New Castle County holds a 100-year land-lease for the pumping station. Mr. Walton noted that a delay in the resolution of the pumping station is due, in part, to staff changes in the City.
- Item 6 – The Code calls for 14 4” caliper trees in the parking lot. The applicant is requesting a total of 14 2” to 2-1/2” caliper trees in the parking lot. This request is being made because the survival rate of a 4” caliper tree is much lower than that of a 2” to 2-1/2” tree, as well as the availability of 4” caliper trees and the logistics to install them.

Mr. Rogers concurred that the installation of 4" caliper trees is an intense requirement and stated that the applicant is addressing the matter in a reasonable way. The landscape architect is proposing native trees.

- Item 7 – The applicant is proposing pole mounted fixtures inside the parking lot, building mounted lights and sconces in the front similar to what was used at The Garrison. It was noted that the fixtures are very modern and is very inconsistent to other areas of the City.
- Item 8 – A 6' high shadowbox fence is being proposed.
- Item 9 – With the exception of putting in street trees, the site plan is consistent with the DG Zone. Ms. Batty recommended adding benches on the frontage, and the applicant agreed that there is sufficient space to add street furnishings within the 10' zone on 7<sup>th</sup> Street.
- Item 10 – Mr. Weathers stated that the Architect would speak to Item 10.
- Item 11 – Mr. Weathers reiterated that the site is being raised to be above the flood plain. In response to a question from Ms. Batty, Mr. Weathers explained the brownfield plan for remedial action.
- Item 12 – The intent is to lop off the tidal wetlands and arrange for long-term maintenance of the site. At this time, the applicant does not have any agency willing to maintain the wetlands. During discussion it was noted that the applicant has reached out to numerous groups at the State level; however they have not had any success in obtaining any agency to take on maintenance of the wetlands.
- Item 13 – Mr. Weathers expressed his hope that this would be resolved in the next 3-4 weeks. Ms. Reign opined that she would not be in favor of approving the site plan before this matter has been resolved.

In response to a question from Ms. Zumar, Mr. Rogers addressed traffic, noting that the intersection is currently a Level of Service D, and will remain a Level of Service D after the proposed project is built out.

Architectural Review – Robert Bartilomo of Architectural Alliance came forward to review his comments on design standards. The Commissioners noted that they had reviewed Mr. Bartilomo's notes and had no questions for him.

The applicant had nothing further to present and Ms. Reign closed the presentation.

Ms. Batty noted her comments:

- All City and County approvals need to be done.
- All items in the November 27<sup>th</sup> letter need to be addressed.
- There needs to be a more natural finish on the retaining wall visible from the street.
- Resolution of the pumping station area with the City needs to be complete.
- It was agreed to approve 14 2" to 2-1/2" caliper native trees in the parking lot.
- It was agreed that no trees in front made sense.

- A bench(s) will be added in the front.
- The issue with the wetlands Parcel B needs to be resolved.

Mr. Rogers noted that this is the first site plan review under the new regulations and the first site plan review for several of the Commissioners. He stated that he wanted to ensure that the other agency reviews are farther along than they currently are before conditional approval is given. He recommended that the Commissioners table a decision pending the applicant revising the Plan to incorporate Ms. Batty's list, the status of other agency review, and making progress with the City as noted in his letter of November 21, 2023 on:

- Extinguishment of cross-access and utility easements;
- The provision of access to the existing County sewage pump station; and
- A long-term resolution of the maintenance of proposed Parcel B.

Mr. Rogers reiterated his recommended that the site plan be tabled pending the changes as articulated by Ms. Batty, progress being made with review agencies, and further progress being made regarding the three issues in his letter of November 21<sup>st</sup> that require City Council approval.

In response to a question from Ms. Zumar, Mr. Weathers committed to the installation of electric car chargers in the parking lot.

A motion was made by Ms. Zumar to table the site plan subject to the following conditions:

- All items in the November 27<sup>th</sup> letter need to be addressed.
- There needs to be a more natural finish on the retaining wall visible from the street.
- Resolution of the pumping station area with the City Council needs to be complete.
- It was agreed to approve 14 2" to 2-1/2" caliper native trees in the parking lot.
- It was agreed that no trees in front is acceptable.
- At a minimum one bench will be added in the front.
- The issue with the wetlands Parcel B needs to be resolved.
- That the applicant makes further progress on the status of other agency approvals.
- That the applicant makes further progress on items noted in Mr. Rogers' letter of November 21, 2023, i.e., extinguishment of cross-access and utility easements, the provision of access to the existing County sewage pump station, and the resolution of long-term maintenance of proposed Parcel B.

The motion was seconded by Ms. Stoner and unanimously carried.

### **Subdivision Plan – Lots 152 and 153 – The Buttonwoods**

Merestone Consultants, Inc. submitted a subdivision plan to subdivide existing parcel by recreating the original lot line that was extinguished by deed, thereby re-establishing Lot Nos. 152 and 153 (#3 and #5 Buttonwood Avenue).

Neither the applicant nor his representative were present. Mr. Rogers opined that it was unusual that the applicant was not present. He noted that the lot line was extinguished years ago, and the

application uses the word “re-create” as if to alleviate some requirement. Messrs. Rogers and Walton concurred that it was not necessary for the applicant be present and Mr. Rogers stated that he would defer to the Chair on whether to consider the application. Mr. Rogers did, however, recommend that if the plan is approved it be conditioned on comments in his letter dated November 21, 2023 being addressed. Ms. Reign expressed her concern in setting a precedent that an applicant does not need to be present when an application is considered by the Planning Commission.

A debate of the merits of considering the plan or tabling it to a future meeting ensued. After discussion, a majority of the Commissioners concurred that the matter should be tabled.

**A motion was made by Mr. Gibbs to table the Subdivision Plan. Ms. Worthy seconded the motion.**

During discussion Ms. Batty stated she would vote “no”.

**On vote, the motion carried with a vote of six in favor and one opposed.**

#### **Public Comment**

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

Ms. Reign admonished Mr. Gross for directing comments to an individual Commissioner.

Mr. Gross concurred that the Buttonwood subdivision plan should be tabled.

Mr. Gross stated that the applicant previously tried to suggest that the Trustees would take over the tidal basin, and that the Trustees stated emphatically that they would not do so. He concurred that the site plan should be tabled, opining that the applicant will not get approval on many items. He also opined that as presented the building does not belong in the Gateway.

Mr. Gross expressed his appreciation for the work the Planning Commission does.

#### **Comments from Commission Members**

Next meeting – The next meeting is scheduled for December 18, 2023, at 7:00 p.m.

Transportation Plan – Ms. Reign noted that she and Mr. Rogers had a general discussion of reviewing traffic in a more holistic manner. Mr. Rogers gave an overview of a Traffic Study, which is a spot analysis, versus a Transportation Improvement District, which is a geographical plan designed to coordinate financing transportation infrastructure improvement programs. He suggested that this be added to a future Agenda for a presentation and discussion, with the possibility of including it during the Comprehensive Plan 5-Year Update. Further discussion included the increase in traffic coming through the Historic District.

*(Stenographer’s Note: Mr. Gibbs left the meeting at 8:36 p.m.)*

HAC Update – Ms. Batty updated the Commissioners on the October Historic Area Commission meeting.

**Upcoming programs from the Institute for Public Administration**

Ms. Reign noted that the Institute for Public Administration has courses that would benefit anyone serving on a Planning Commission. She added that the cost of the courses is reimbursed by the City. Mr. Walton explained the upcoming courses, and suggested that Planning 101 and 102 would be beneficial.

There being no further business to discuss, Ms. Reign called for a motion to adjourn.

A motion to adjourn was made by Ms. Rivera, seconded by Ms. Zumar and unanimously carried, and the meeting adjourned at 8:50 p.m.

Respectfully submitted,

Kathleen R. Weirich  
City Stenographer