

New Castle City Planning Commission Meeting
Minutes
December 16, 2019 -- 6:30 p.m.
City of New Castle Town Hall

Members Present: David Baldini, Chair
William Walters, Vice Chair
Jonathan Justice
Gail Seitz
John Lafferty
Vera Worthy
Erin Sabatella

Members Absent: Marco Boyce
Brenda Antonio
Jeff Bergstrom, City Building Inspector

Also Present: Debbie Pfeil, KCI Associate/Planning Manager

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

Minutes

Ms. Seitz noted an amendment to the November 18, 2019 Minutes:

Page 2, 1st paragraph: Delete from the last sentence “and unappreciated assets not seen in the City Council meetings”

A Motion to approve the Minutes of the November 18, 2019, meeting as amended was made, seconded and unanimously approved.

2019 COMPREHENSIVE PLAN

Ms. Seitz gave an overview of the meeting she and Mr. Baldini had with Heather Dunigan, Principal Planner, and Randi Novakoff, Outreach Manager, from WILMAPCO to see if they had any recommendations on how to ensure that the Commission is incorporating the community outreach into the Plan. WILMAPCO advised that the comments and survey results are being reflected in the Plan and recommended that the Commission take the Notes column from the Goals and Strategies spreadsheet and do a mapping. It was recommended that written comments be tallied and percentages be assigned to them. WILMAPCO provided a sample one-page summary to use as reference in completing the exercise. The Commissioners will be assigned sections to work on.

Mr. Baldini will collect the comments and insert the data into the spreadsheet. He added that it is important to include information critical in the public’s mind. Ms. Seitz added that this exercise will demonstrate that the Commission did take the public outreach data into consideration.

Ms. Pfeil joined the meeting at 6:39 pm.

Ms. Pfeil distributed various documents relative to the Comprehensive Plan. She began the discussion by stating that the New Castle project is at a halt until the exercise she would explain is completed by year-end.

She advised that State Law requires that every jurisdiction have a Future Land Use Map. She directed the Commissioners' attention to Map 2C in the documentation and explained that Map 2C has a lot of white space, indicating there is no designation assigned to those areas. The City has been on notice since the adoption of the 2009 Plan that every time someone has wanted to do a land use change, they do not have a designation. Any time someone has wanted to do anything with property outside their zoning it has to be heard on a case-by-case basis through the Office of State Planning and if it does not have a determination on the map, it has to go through a double-public hearing process.

The Commission has completed a number of PLUS map amendments. It must now review Map 2C and look at all parcels in the City limits boundaries and assign them a suggested future land use designation. Ms. Pfeil referred the Commissioners to the set of land use maps which KCI updated with updated parcels, street layers, etc., from the first map to make them comprehensive compliant. She explained that all other maps are static and are for information purposes.

At the November meeting, Mr. Justice brought up the point of what components should be looked at to determine someone's future land use designation. Ms. Pfeil explained how the future land use maps were historically determined and noted that there are now other factors and data that must be considered when assigning land use, such as environmental, wetlands, flood plains, etc. She noted that Map 5 shows the wetlands and the flood plains, which are encroaching further inland with sea level rise, etc., and everything to the west southern portion of the map is heavily in the wetlands and flood plains.

Ms. Pfeil noted that the Zoning Map validated and adopted by the City Council in March 2019 is correct, and in looking at the Land Use, it is important that property rights or values are not removed.

Ms. Pfeil stated that the spreadsheet she distributed must have every parcel in the City assigned a Future Land Use category, including any notes for mapping errors and comments. Once the spreadsheet is completed, KCI can map the new Future Land Use Map which will then be submitted for public opinion. Mr. Baldini opined that some broadcast to the public should be made before the map is completed to inform them of the process that was used to create the Land Use Map. Ms. Pfeil noted that only 22 of the 2,671 parcels have been assigned a Future Land Use category, and suggested the Commissioners take the existing Land Use Map (which is outdated), look to see what is on the property now and compare that to the Zoning Map. Ms. Pfeil has advised the State that the Commission is working on updating the map.

Ms. Pfeil pointed out a number of discrepancies on the new Zoning Map and noted that those issues will need to be reviewed with the City Building Inspector's office. It was noted that there are a number of instances where the Zoning Map shows parcels that are not within the City boundary, that are partially outside the City boundary, or that have zoning splits that extend beyond the City boundary that will potentially have changes or clarification to the official map. Ms. Pfeil stated that she felt there are two phases: housekeeping, which she felt is City Staff, and true land use.

Ms. Pfeil stated that when a parcel matches the 2019 Zoning Map, no action is required; however, if a parcel does not match the 2019 Zoning Map, research needs to be done. Ms. Seitz clarified that the spreadsheet would be used to generate the Future Land Use Map.

Ms. Pfeil explained that the City of New Castle does not have a future land use/suggested land use map and they will not get certified by the State until they do. Right now the City is not following the State Law and the City has been on notice of that for the last two Comprehensive Plans. Each white space on Map C2 represents a parcel of unknown land use. Mr. Walters asked if the map reflected existing conditions, and Ms. Pfeil stated that the most current map is from 2009 and the City does not have an "existing conditions" map at all.

Mr. Walters asked why the solution is not simply to declare every parcel to be its true use throughout the City and go back to the white spaces on the map and mark designations to match. He opined that with a proper process the existing issues would not arise. Ms. Pfeil noted that from a specific land use approach, it will be shown that some parcels will have non-conforming uses, and those parcels have to be addressed on the land use map. As an example:

A repair shop located on a parcel zoned residential that has always operated on the parcel as such. The question is do you conform the map to the land use or do you continue to maintain the parcel as non-conforming.

Ms. Pfeil added that normally, politically, you take the Future Land Use map and make it match the Zoning map as much as possible. Mr. Walters opined that option was not viable. He further opined that the lack of a correct process enabled the existing conditions to occur and suggested that whatever is the existing use of the parcel is should be made the designation. Ms. Sabatella noted that the spreadsheet exercise would still have to be done, and Ms. Pfeil concurred. Mr. Walters noted that it was not feasible or right to tell a resident that due to a process failure the true land use is no longer applicable to their property.

Ms. Pfeil walked the Commissioners through the process she would recommend to review each parcel and update the spreadsheet using the new Zoning Map 2A and comparing the zoning designation to the Future Land Use Map 2C designation according to the land use categories on the map. She noted that if the designations match, no action is required;

however, if the designations do not match, she suggested that those parcels be marked for further review.

Ms. Pfeil noted that KCI could take the spreadsheet and map it to match the designations that are known, and the parcels that are left as white space will require research and a planning decision; however non-conforming parcels will not be identified because KCI does not know what the existing land use is.

Ms. Pfeil noted that in a similar jurisdiction, the City was required to review the previous Comprehensive Plan and Board of Adjustment Minutes to match existing land use to special exceptions that were granted. If a special exception was granted by right, the parcel is not non-conforming and the designation must stay.

Mr. Walters recommended that whatever the existing land use is should be the designation; if the parcel is non-conforming, it will remain non-conforming, which does not give up any rights New Castle may or may not have and resolves approximately 85% of the land inside the New Castle boundaries. What is left is "white space" and the Commission would make a determination of what the designation should be. Mr. Walters also asked to have the right to a special exception in the process.

Ms. Pfeil asked for clarification of Mr. Walters' intent, and he restated that all existing conditions would be approved and zoned as such, and the Commission would decide what to do with white space parcels that have no designation, allowing for special exceptions with regard to the white space parcels. Ms. Pfeil clarified that Mr. Walters recommended not researching historic Board of Adjustment Minutes to verify special exceptions, and he concurred, restating that his recommendation is focused on the future.

Ms. Pfeil stated that KCI could match the land use to the zoning; however that direction would need to come from the Planning Commission as a whole. She added that KCI would literally be matching the entire town to the existing zoning and they would have nothing to compare it to, and non-conforming and special exception issues would not be identified.

Mr. Justice noted that there would still be a few dozen parcels where there would be some kind of difference from the current zoning. Ms. Pfeil referenced a situation where a parcel is zoned R3 on the Zoning Map and zoned Institutional Mixed Use on the future Land Use map. Mr. Justice clarified that there is a school on that particular parcel and Ms. Pfeil stated that Institutional would more closely match the existing use. Mr. Walters interjected that the Commission should make the two maps match by changing the Zoning Map designation (R3) to the Future Land Use Map designation (Institutional Mixed Use) and to suggest otherwise is to say the parcel is not in conformance.

During discussion it was clarified that Mr. Walters' recommendation is that all white space parcels should be reviewed to make a determination of what the designation should be. Ms. Pfeil noted her understanding of that intent to mean that if KCI can easily match land

use to zoning as much as possible, then they should be match; however, she added that it would not be a 100% match. She added that for those parcels that they cannot match, a decision needs to be made as to whether the land use changes or the zoning changes. Mr. Justice reiterated that the Commission needs to deal with the exceptions, and Mr. Baldini noted that in order to determine the exceptions all the parcels should be reviewed. Mr. Walters suggested that the white space parcels be up-zoned so if there is a request to change the zoning what the City, the Planning Board and Board of Supervisors decide can be approved. He added that it is much more difficult to have an up-zone request approved than to down-zone. Further discussion was conducted on specific parcels of multi-zoning that need to be reviewed.

During an in-depth discussion of how the spreadsheet exercise should be conducted, Ms. Seitz suggested the Commission give KCI permission to do the easy matches and point out the remainders with notes stating other land use recommendations or whether a change to the zoning is necessary. The Commission agreed and Ms. Pfeil stated that KCI will convert the zoning over to future land use and bring back the spreadsheet with questionable parcels for further research to determine the proper designation. Ms. Pfeil added that KCI does not have a list of non-conforming, special exceptions, or existing land use, so the exercise would simply be a complimentary zoning exercise and not a land use exercise. She also noted that the right process is to do an existing land use inventory, look at the future land use inventory and the zoning, and determine if they all match or not. Ms. Pfeil added that a land use inventory should be done at the next Comprehensive Plan.

During further discussion it was suggested that the City research Board of Adjustment Minutes back to the last Comprehensive Plan to identify special exceptions and use variances in order to note that data on the spreadsheet as justification for any parcels where the Zoning and Land Use maps do not match. Ms. Pfeil added that after 18 months from adoption, future land use and zoning must be complimentary and the spreadsheet would justify any discrepancies.

Mr. Baldini restated that KCI will insert the future land use designations that are easily compatible to the zoning into the spreadsheet and populate it on a map. Everything that is "white space" will come back on a spreadsheet with comments and options to review with the Planning Commission. Ms. Pfeil suggested that mapping issues be directed to Mr. Bergstrom. The need for additional classifications for any parcels was also discussed, and Ms. Pfeil noted that for those instances the spreadsheet would include appropriate comments.

Ms. Pfeil noted that the end of the exercise is: how many acres do you have of a re-zoning classification? How much do you have that people can use, how much is vacant, and how much is other use? She added that one of the things we would have is a false inventory because we're following the Zoning Code of land use. KCI will do the calculations and the Commission will know the future land use, zoning and acreage totals will be somewhat similar.

Ms. Pfeil advised that KCI will begin work on the spreadsheet and it will be returned to the Commission with Map 2C updated with all category colors and white spaces for areas of discrepancy. She noted that she may compare the New Castle table to jurisdictions that have gone through State Planning to see if any factors are missing and added that she will try to provide the spreadsheet prior to the January 27, 2020, Planning Commission meeting.

Ms. Pfeil will supply a special exceptions spreadsheet format to track special exceptions by the end of the week and Mr. Baldini will start the process of having past Board of Adjustment Minutes reviewed by the City. In Mr. Bergstrom's absence, he will reach out to Ms. Kim Burgmuller to begin the review.

Mr. Lafferty asked for an explanation of the three distinctions of Residential designation, and Ms. Pfeil explained that it is determined by the Zoning Code based on a number of factors, such as lot size, density, etc.

Mr. Baldini asked if any additional extensions were available. Ms. Pfeil advised that no additional extensions would be granted and if the Plan is not submitted by the deadline the City will be in non-compliance. She reiterated she notified the State that the Commission is working on the mapping. The deadline for adoption is April 30, 2020.

Mr. Baldini asked about public comment on the Plan, and Ms. Pfeil explained the timeline of presenting the Plan to the Council and the public and submitting the Plan to the State. She noted that it would be optimal to submit the Plan to the State by the end of April 2020 to comply with the schedule.

There being no public comment, and no further business to discuss, Mr. Baldini called for a Motion to Adjourn.

A Motion to adjourn the meeting at 8:12 pm was made, seconded and unanimously approved.

Kathy Weirich
Stenographer