

MINUTES
CITY PLANNING COMMISSION
June 20, 2017

Present: Polly Weir (Chair), Desmond Baker, Lloyd Budd, Patrick Carter, Joseph Chickadel, and Tanya Washington (Commission Members); Herb Inden, Gwinneth Kaminsky, and Timothy Lucas (Planning); and Anthony J. Hill (Law).

The meeting was convened at 6:30 p.m. by Polly Weir.

REGULAR MEETING

Approval of the minutes of the April 18, 2017 Planning Commission Meeting

Polly Weir asked the Commission members whether they had any questions or comments regarding the minutes of the April 18, 2017 Planning Commission meeting. As there were none, she called for a motion. Desmond Baker made a motion to approve the minutes, and Lloyd Budd seconded the motion. All members voted to approve the minutes.

New Business

Resolution 4-17; MS 17-02: Major Subdivision application from the Buccini/Pollin Group and the State of Delaware entitled, “Rockford Falls Partners LLC”, which proposes to subdivide two parcels into four parcels. The properties are located at the eastern end of Bancroft Mills Road and the northern end of Mill Road along the Brandywine Creek.

Timothy Lucas from the Department of Planning and Development presented the analysis for Resolution 4-17, which addresses an application from the Buccini/Pollin Group to reconfigure and divide two parcels into four parcels. Mr. Lucas stated that the two existing parcels are owned by the State of Delaware and Rockford Falls Partners, LLC. He explained that the applicant’s proposal was subject to review by the City Planning Commission because it was a major subdivision, and that it qualified as a major subdivision because the site is larger than 2.5 acres, and because portions of the property fall within the regulatory floodplain. Mr. Lucas noted that no construction or physical alterations to the site are proposed as part of this subdivision. Mr. Lucas presented a series of slides of the map of the proposed subdivision location, with the parcel owned by Rockford Falls Partners LLC outlined in red, and the parcel owned by the State of Delaware shaded in blue. He then presented the same site map overlaid with the proposed lot lines of the four-parcel subdivision, with Parcel A being owned by the State of Delaware, and Parcels B, C, and D owned by Rockford Falls Partners LLC.

Mr. Lucas stated that the applicant's subdivision plan was circulated to City Departments for them to review and provide comments. Mr. Lucas presented a summary of the comments provided by the Department of Licenses and Inspections' Zoning Manager. The Zoning Manager had four main comments, which were summarized as follows:

1. The applicant should include the newest flood studies from 2016 in the plan notes on Sheet 1, because the Federal Emergency Management Agency (FEMA) requires the best use of data.
2. Plan Note #7 should include the site's Floor to Area Ratio requirements.
3. Prior to final approval of the subdivision plan, the applicant must provide a schedule for demolition of all structures currently shown to cross proposed parcel lines.
4. The construction plans that the applicant is to submit must show that all zoning setback and area requirements have been met. Furthermore, if the plans are altered from previously approved site concept drawings, all plans must be reevaluated by the City for conformance with zoning and waterfront standards.

Mr. Lucas then presented three comments from the Department of Planning and Development regarding the subdivision plan:

1. The title of the plan should be changed on all three sheets from "Minor Subdivision" to "Major Subdivision".
2. The purpose statement should be amended to read, "The purpose of this plat is to adjust the common property line between the lands of Rockford Falls Partners LLC and the lands of the State of Delaware, and the creation of three new parcels, for a total of four parcels."
3. Sheets 2 and 3 of the plan should depict the floodway and 100-year floodplain boundaries, based on the latest FEMA data.

Having reviewed all the comments provided by City Departments, Mr. Lucas stated that the agenda for the current Planning Commission meeting had been mailed out to the standard mailing list and posted on the City's Website and in the lobby of the City/County Building. He concluded the presentation by stating that the Department of Planning and Development recommends approval of the major subdivision plan submitted by the Buccini/Pollin Group, which proposes to subdivide two parcels, located at the eastern end of Bancroft Mills Road and the northern end of Mill Road, into four parcels. Finally, he stated that all comments from City Departments must be incorporated into the final subdivision plan prior to recordation.

Ms. Weir asked whether there were any questions from the Commission members.

Desmond Baker asked Mr. Lucas to clarify the location of the proposed subdivisions. He first asked if the subdivisions were located behind several newly built townhouses, which Mr. Lucas affirmed, adding that the proposed subdivision site is downhill from the townhouses, adjacent to the Brandywine Creek. Mr. Baker then asked about the location of the State-owned parcel in relation to the overall site. Mr. Lucas responded that this parcel was located near the northwest entranceway to the site, by the State-owned bridge.

Mr. Baker asked about the future of several buildings located just south of the site, which were in a state of disrepair. Mr. Lucas responded that demolition had been approved for all those buildings. He stated that the buildings to be demolished were marked as such on the subdivision plan, but that it was difficult to notice given the scale of the map. He also referred to the Zoning Manager's comment that Buccini/Pollin Group include a schedule of demolition for these buildings because some of them straddle the proposed lot lines of the subdivided parcels.

To follow up on his previous question, Mr. Baker noted that at least one of the buildings in disrepair seemed to be an old industrial building, and asked whether there would be any environmental remediation of the site. Mr. Lucas responded that it was his understanding that there would be. He elaborated by saying that the applicant had been working closely with DNREC and that all the cleanup efforts had been approved by the State, that all the demolitions had been approved by the City. Mr. Lucas also said that he believes that the applicant had obtained all the required permits to move forward with their project.

Ms. Weir asked whether there were any additional questions or comments from the Commission members.

Lloyd Budd asked to clarify whether there was already a demolition schedule, to which Mr. Lucas responded that providing a schedule had been one of the requests in the comments provided by City Departments. Mr. Budd then stated that he had seen heavy equipment moving soil at the site, and asked whether the demolition schedule should have been released before this activity began. Mr. Lucas stated that the demolition schedule that the Zoning Manager requested to have added to the subdivision plans is distinct from any demolition schedules and approvals issued by the Department of Licenses and Inspections. Mr. Lucas further stated that the requested demolition schedule would consist only of "By When" dates. Ms. Weir interjected to clarify that these dates would be in relation to the proposed subdivision. Mr. Lucas continued that this schedule would provide the City with documentation that the applicant had agreed to demolish the buildings, which they could draw upon if any of the buildings are left standing. Anthony J. Hill further explained that, if not all the buildings were demolished, this documentation would allow the City to cite the property owner for not meeting zoning requirements due to the intersection of some of the buildings with the lot lines of the subdivided parcels, because the City would have approved the subdivision on the condition that the buildings would be demolished.

Mr. Budd asked whether environmental contamination testing had already been conducted at the site, given that heavy equipment was at the site. Mr. Lucas responded that he believes testing had occurred. He explained that the prior owner of the site, O'Neill, had spent several million dollars on environmental remediation, but he did not have the details about this remediation process. Mr. Budd asked whether this remediation occurred prior to the fire at the site. Mr. Lucas affirmed that it occurred several years ago, and therefore prior to the fire. He stated that he was sure that additional remediation had occurred more recently, but said he could not provide further details unless someone from Buccini/Pollin Group would like to speak. Ms. Weir asked Mr. Budd if he would like to hear from someone from Buccini/Pollin, to which he answered affirmatively. Ms. Weir asked whether someone from Buccini/Pollin could come up and speak, and suggested Mike Hare, the Senior Vice President for Development for Buccini/Pollin. Mr. Hare agreed to speak, and moved the front of the room.

Ms. Weir asked that Mr. Hare state his name and affiliation for the record. Mr. Hare stated his name and title and asked Mr. Budd to repeat his question. Mr. Budd asked Mr. Hare whether remediation had occurred since the fire. Mr. Hare responded that asbestos remediation is being conducted concurrently with the demolition. He stated that Buccini/Pollin had extensively tested the site both before and after the fire, including tests of river sediment. He added that Buccini/Pollin had also begun some hot spot removal. Mr. Budd asked if any heavy metals were found. Mr. Hare responded that some lead was found, but most the substances that were found were petroleum products.

Mr. Baker asked Mr. Hare whether a smokestack that currently stood on the site would remain. Mr. Hare responded that it would be demolished because it presented a liability issue. Mr. Hare added that demolition had been occurring for the last four months, and would continue for approximately two more months, and that the demolition activity was moving from east to west, and would therefore end at the State-owned parcel. He stated that, in two or three weeks, they would begin demolition of the State properties, which the State had remediated when they acquired the parcel. He explained that in the following week, Buccini/Pollin would install safety fence at the State bridge to protect the public from the site.

Ms. Weir asked whether there were any additional questions for Mr. Hare. As there were none, Mr. Hare returned to his seat. Ms. Weir then asked whether there were any additional questions or comments from the public. As there were none, she called for a vote. Mr. Baker made a motion to approve the major subdivision proposal as presented in Resolution 4-17, and Mr. Carter seconded the motion. All members voted in favor of Resolution 4-17.

Resolution 5-17; MS 17-03: Major Subdivision application from Vandemark & Lynch, Inc., on behalf of the Osteopathic Hospital Association of Delaware and BSG I LLC entitled, “700 Lea Boulevard”, which proposes to reconfigure two existing parcels by moving the lot line which separates them. The site is generally bounded by Lea Boulevard, West 37th Street, and Franklin Place.

Mr. Lucas presented the analysis for Resolution 5-17, which addresses an application from Vandemark & Lynch, Inc. to reconfigure two existing parcels by moving the lot line that separates them. Mr. Lucas stated for the record that the subdivision description that Ms. Weir had just read and that had been stated in the analysis report that the Commissioners received the prior week, inaccurately described one of the parcel owners. He explained that, because one of the parcels involves a Condominium Association, the legal counsel for the owners are going to determine the owners of each parcel and how they should be written on the subdivision plan. For this reason, Resolution 5-17 would need to be amended.

Mr. Lucas then began his presentation of the resolution and analysis. The presentation included a series of slides. He explained that the applicant’s proposal was subject to review by the City Planning Commission because it was a major subdivision, and that it qualified as a major subdivision because the site is larger than 2.5 acres. Mr. Lucas presented the subdivision plan, with the parcels outlined in red, and the reconfigured lot line between the two parcels shown in blue.

Mr. Lucas stated that the applicant's subdivision plan was circulated to City Departments for them to review and provide comments. Mr. Lucas first presented the comment provided by the Law Department:

- The Department of Planning and Development's approval of the final subdivision plan for tax parcel 26-009-10.118 shall be contingent upon the acquisition of a use variance from the City of Wilmington's Zoning Board of Adjustment for the building and use currently existing on tax parcel 26-009.10-118.

Mr. Lucas added that the tax parcel mentioned in the Law Department's comment was the smaller of the two parcels, which contained a building.

Mr. Lucas presented two comments provided by the Department of Licenses and Inspections' Zoning Manager. The Zoning Manager's comments were summarized as follows:

1. The parcel labeled on the plan as B-1 must provide continued access to the parking as it exists on parcel A-1 until such time that the site is redeveloped and adequate parking is provided to meet zoning regulations.
2. Because the applicant intends to demolish the existing structure located on the southwest corner of the site, the applicant must provide a schedule for this demolition prior to final approval of the subdivision plan.

Mr. Lucas then presented two comments provided by the Department of Planning and Development, which were summarized as follows:

1. The applicant should add zoning requirement data to Plan Note #6 listing minimum area, width, front and side yard setbacks, and depth of rear yards.
2. The applicant should add a section to the plan notes indicating the case number and date of approval by the Zoning Board of Adjustment for the requested use variance on tax parcel B-1.

Having reviewed all the comments provided by City Departments, Mr. Lucas stated that the agenda for the current Planning Commission meeting had been mailed out to the standard mailing list and posted on the City's Website and in the lobby of the City/County Building. He concluded the presentation by stating that the Department of Planning and Development recommends approval of the Resolution 5-17 as revised for the major subdivision plan submitted by Vandemark & Lynch, Inc., which proposes to reconfigure two existing parcels by moving the lot line which separates them. Finally, Mr. Lucas stated that all comments from City Departments must be incorporated into the final subdivision plan prior to recordation.

Ms. Weir asked whether there were any questions or comments from the Commission members.

Mr. Baker stated that he recalled that the property in question had come before the Commission for review ten or fifteen years ago, and that it was owned by Christiana Hospital. Mr. Lucas responded that, to his knowledge, Osteopathic Hospital Association of Delaware, one of the owners listed in the resolution, was obtained by Christiana Care.

Mr. Baker stated that he recalled the building that was to be demolished is an old steam boiler room, and asked Mr. Lucas to clarify whether it would be serving Parcel B-1. Mr. Lucas clarified that the building that Mr. Baker was recalling was located closer to the corner of the property and was not the one to be demolished. Ms. Weir asked what the function was of the building that is to be demolished. Mr. Lucas responded that it is listed as an adult care center. He added that the reason that it was being demolished was that it overlapped the proposed subdivision lot lines.

Ms. Weir asked whether there were any additional questions from the Commission members.

Tanya Washington asked whether the resolution would be revised by a motion. Ms. Weir answered that they could amend the resolution to state the ownership would be determined prior to the subdivision being recorded. Mr. Hill recommended that another "Whereas" clause be added to the revised resolution that would state that the ownership information is to be determined to the satisfaction of both the property owners and the Department of Planning and Development prior to final subdivision approval and recordation. He added that this question of ownership had arisen unexpectedly because of an issue with the County Recorder of Deeds' records, so that the parties involved were not aware of the Condominium Association until late in the review process. He stated that there was still some due diligence required on the part of both parties, but that the technicality resulting in the question of ownership should not delay the processing of the applicant's case.

Ms. Weir asked whether there were any additional questions from the Commission members. As there were none, she called for a vote to amend Resolution 5-17 per Mr. Hill's recommended changes. Ms. Washington made a motion to approve the amendment of Resolution 5-17 major subdivision proposal as presented in Resolution 5-17, and Mr. Budd seconded the motion. All members voted in favor of amending Resolution 5-17. Ms. Weir then called for a vote to approve Resolution 5-17 as amended. Mr. Carter made a motion to approve Resolution 5-17 as amended, and Mr. Chickadel seconded the motion. All members voted in favor of Resolution 5-17.

Adjournment

Before the meeting adjourned, Mr. Hill announced his departure from his position with the City, and stated that it had been an honor and a privilege to assist the Commission.

Ms. Weir then called for a motion to adjourn. Mr. Carter made the motion to adjourn, and Ms. Washington seconded the motion. All members being in favor, the meeting was adjourned at 7:00 p.m.