

**MINUTES**  
**CITY PLANNING COMMISSION**  
**August 15, 2017**

Present: Polly Weir (Chair), Desmond Baker, Lloyd Budd, Patrick Carter, Joseph Chickadel, and Tanya Washington (Commission Members); Herb Inden, Gwinneth Kaminsky, John Kurth, Timothy Lucas, and Gemma Tierney (Planning); and Matthew Warren (Law).

**PUBLIC HEARING**

**Resolution 7-17: A Proposal to annex a portion of the Cathedral Cemetery located at 2400 Lancaster Avenue (tax parcel 07-036.30-060) into the City of Wilmington's corporate limits, and to rezone the annexed territory from the current New Castle County zoning designation of S (Suburban) to a City of Wilmington zoning designation of R-3 (One-Family Row Houses), for the purpose of bringing the entire property under the single jurisdiction of the City of Wilmington. Zoning Action 546-17.**

The public hearing was convened at 6:03 p.m. by Polly Weir.

John Kurth from the Department of Planning and Development presented the analysis for Resolutions 6-17 and 7-17 concurrently. However, the public hearing was required for Resolution 7-17 only. Resolution 7-17 addresses a petition from Catholic Cemeteries, Inc. for the annexation of a portion of the Cathedral Cemetery into the City of Wilmington's corporate limits. Resolution 6-17 addresses the accompanying amendments to the Southwest Neighborhood Comprehensive Development Plan required to reflect the area of annexation.

Mr. Kurth presented a series of slides to accompany his analysis of the proposed annexation. Mr. Kurth explained that, in May 2017, the applicant Catholic Cemeteries, Inc. petitioned the City of Wilmington and New Castle County for the annexation of tax parcel 07-036.30-060 into the City of Wilmington's corporate limits. The tax parcel constitutes the southern portion of Cathedral Cemetery, and has an area of 26.82 acres, while the northern portion of Cathedral Cemetery is 20.45 acres of land (tax parcel 26-026.30-002; Census Tract 24), and is located within the City of Wilmington's corporate limits. Mr. Kurth explained that the purpose of the annexation is to consolidate Cathedral Cemetery under one jurisdiction so that police, emergency management and fire services for the entire cemetery are solely the responsibility of the City of Wilmington.

Mr. Kurth briefly summarized the purpose of Resolution 6-17, which is to amend ten maps in the Southwest Neighborhood Comprehensive Development Plan to reflect the annexation.

Moving on to Resolution 7-17, Mr. Kurth explained its purpose as recommending the annexation of the parcel, and to rezone the annexed territory from the current New Castle County zoning designation of S (Suburban) to a City of Wilmington zoning designation of R-3 (One-Family Row Houses).

Displaying a slide of the southwest portion of Wilmington and the Councilmanic Districts overlaid, Mr. Kurth explained that the annexed parcel would become part of Councilmanic District 7.

Mr. Kurth stated that, because the cemetery is bisected between two jurisdictions and adjacent to the Town of Elsmere, there have been instances where it was unclear as to which jurisdiction should respond to calls for policy, emergency management and fire services. Mr. Kurth related seven reasons that had been provided by the applicant as to why the parcel should be annexed into the City of Wilmington. These reasons are as follows:

1. The Property forms a portion of what is known as the Cathedral Cemetery, the remaining portion of which, identified as New Castle County tax parcel 26-026.30-002, lies within the boundaries of the City of Wilmington.
2. The sole access to the Property is located within the City of Wilmington.
3. The employees of Cathedral Cemetery who work at the Property pay City Wage Tax.
4. The annexation of the Property will eliminate jurisdictional questions regarding police and fire protection of the Property.
5. The Undersigned is the sole owner of the Property.
6. There are no other individuals or entities residing at the Property or who have a leasehold interest in the Property.
7. The owner of the Property constitutes one hundred percent (100%) of the qualified voters in the territory to be annexed.

Mr. Kurth moved on to a slide displaying a zoning map of the parcel proposed for annexation and its surroundings. He explained that the parcel is currently zoned as S (Suburban) under New Castle County's zoning, and is surrounded by three different zoning categories instituted by three different governments: the City of Wilmington's R-3 (One-Family Row Houses) zoning, New Castle County's NC-5 (Neighborhood Conservation District) zoning, and the Town of Elsmere's RGA (Garden Apartment) zoning. Mr. Kurth explained that the proposed R-3 zoning for the annexed parcel is appropriate because it is consistent with the zoning designation of the City land adjacent to it, including the northern half of Cathedral Cemetery, and therefore is consistent with the City's policy of maintaining a single zoning category within a parcel. Additionally, he noted that cemeteries are a permitted use in R-3 zoning.

Mr. Kurth then displayed two historic maps of the cemetery to provide background on its boundaries and expansion. He also noted that, from the early twentieth century until today, the only vehicular entrance and exit to the cemetery are in the City of Wilmington.

Next, Mr. Kurth stated that Title 22, Chapter 1, Section 101 of the Delaware Code requires that any annexation proposed by a city with a population of greater than 50,000 residents is consistent with the most recently adopted municipal comprehensive plan. He said that Resolution 6-17 addresses this requirement.

Mr. Kurth explained that Title 22, Chapter 1, Section 101 of the Delaware Code also requires that the City must prepare a Municipal Plan of Services indicating the services the municipality expects to be provided, how they will be provided, and the fiscal and operating capabilities to provide such services. The next several slides illustrated the Municipal Plan of Services that had been prepared. The services discussed were road maintenance, water, police and fire.

Mr. Kurth next displayed a letter from the City of Wilmington Director of Finance stating that the annexation would generate no additional costs to the City of Wilmington's General Fund or Water/Sewer Fund. Mr. Kurth continued by saying that, per the provisions of the Stormwater Management Easement Agreement that the City of Wilmington and Catholic Cemeteries Inc. had signed in 2009, the Department of Public Works waives the cemetery's stormwater fees. Additionally, Mr. Kurth noted that Cathedral Cemeteries, Inc. agrees to consult with the appropriate City Departments before implementing demolition and construction projects and projects that would improve or expand impervious surface areas. Mr. Kurth then provided further detail on the impact of the Agreement, noting that the Department of Public Works waives \$15,566 in annual stormwater fees for the northern portion of the cemetery that lies inside the City's corporate limits. Following the annexation, the Department of Public Works would waive an additional \$22,541 in annual stormwater fees. In exchange, the City receives certain easements within the cemetery for installing stormwater management infrastructure.

Mr. Kurth explained the process by which Catholic Cemeteries, Inc., petitioned for the annexation of tax parcel 07-036.30-060, which included communications with the City of Wilmington, New Castle County and the Town of Elsmere, as well as communications between the Wilmington Planning Department, City Council staff, and Seventh District City Council Member Robert Williams.

Mr. Kurth announced that the first and second reading of the Ordinance prepared by the Law Department would be presented at the Thursday, August 31, 2017 meeting of City Council.

Mr. Kurth stated that, on August 1, 2017, a public notice of the proposed annexation was mailed to property owners in the affected area, the Planning Commission's standard mailing list, civic groups, and Neighborhood Planning Council representatives. On August 7, 2017, a legal notice of the public hearing was published in the News Journal, and a meeting agenda was posted in the lobby of the Louis L. Redding City/County Building and on the City's Website, and mailed to the Planning Commission's standard mailing list. He noted that the department received five phone calls regarding the impact of the proposed R-3 zoning for the parcel proposed for annexation. Planning Staff responded to these inquiries by explaining that R-3 zoning had been selected for the reasons aforementioned by Mr. Kurth, and that residential development was not being proposed for the cemetery.

Mr. Kurth added that Council Member Robert Williams had called that afternoon to state that he had reviewed the proposed annexation with the nearby community and that they supported it.

Mr. Kurth then summarized Planning staff's activities in responding to this annexation petition. Planning staff evaluated the petition, prepared the necessary documentation, and notified the Office of State Planning Coordination about the annexation and the associated amendments to the Southwest Neighborhood Comprehensive Development Plan. He also noted that the Office of State Planning Coordination will be sent the completed and signed Municipal Plan of Services.

Mr. Kurth concluded his presentation by stating that the Department of Planning and Development recommends the approval of Resolutions 6-17 and 7-17. He stated that City Council will consider legislation to amend the Southwest Neighborhood Comprehensive Development Plan and to annex the territory following two public hearings scheduled for September 21, 2017, and that New Castle County will follow a similar review process.

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

Desmond Baker asked if the property is currently used as a cemetery, to which Mr. Kurth replied that it is.

Lloyd Budd asked if the elevation or contouring of the territory to be annexed was different from the other portion of the cemetery. Mr. Kurth responded that he had driven and cycled around the cemetery and had found that the two portions of the cemetery featured similar topography.

Ms. Weir asked whether there were any additional questions from the Commission members. As there were none, Ms. Weir then called for comments from the public. One member of the public came forward to the podium, and asked if anyone knew how many police, fire, and ambulance calls come from the parcel that is currently part of the City of Wilmington. Mr. Kurth responded that Wilmington Fire Chief Donahue had told him that he only remembered one minor incident over his thirty years of service. Mr. Kurth added that the property is fenced, and the gates are locked overnight. Ms. Weir then asked the questioner to state his name for the record. The questioner responded that his name is Gabriel Archangela, and returned to his seat.

Ms. Weir then asked whether there were any additional questions or comments from the public. As there were none, Ms. Weir closed the public meeting.

## **REGULAR MEETING**

The regular meeting was convened at 6:29 by Ms. Weir.

### **Approval of the minutes of the June 20, 2017 Planning Commission Meeting**

Ms. Weir asked the Commission Members whether they had any questions or comments regarding the minutes of the June 20, 2017 Planning Commission meeting. As there were none, she called for a motion. Mr. Budd made a motion to approve the minutes, and Patrick Carter seconded the motion. All members voted to approve the minutes.

## New Business

**Resolution 6-17: Proposed Amendments to the Southwest Comprehensive Development Plan to facilitate the annexation of a portion of the Cathedral Cemetery located at 2400 Lancaster Avenue (tax parcel 07-036.30-060) into the City of Wilmington’s corporate limits, and to establish appropriate land use and zoning classifications for the annexed territory.**

As all questions and comments regarding Resolution 6-17 had been made during the public hearing on Resolution 7-17, Ms. Weir called for a motion. Mr. Carter made a motion to approve the proposed amendments to the Southwest Neighborhood Comprehensive Development Plan as presented in Resolution 6-17, and Tanya Washington seconded the motion. All members voted in favor of Resolution 6-17.

**Resolution 7-17: A Proposal to annex a portion of the Cathedral Cemetery located at 2400 Lancaster Avenue (tax parcel 07-036.30-060) into the City of Wilmington’s corporate limits, and to rezone the annexed territory from the current New Castle County zoning designation of S (Suburban) to a City of Wilmington zoning designation of R-3 (One-Family Row Houses), for the purpose of bringing the entire property under the single jurisdiction of the City of Wilmington. Zoning Action 546-17.**

As all questions and comments regarding Resolution 7-17 had been made during the public hearing, Ms. Weir called for a motion. Joseph Chickadel made a motion to approve the proposed annexation as presented in Resolution 7-17, and Mr. Budd seconded the motion. All members voted in favor of Resolution 7-17.

**Resolution 8-17; MS 17-04: Major subdivision application from the Buccini/Pollin Group on behalf of the Riverfront Development Corporation entitled, “Riverfront Homewood Suites Hilton”, which proposes to subdivide one existing parcel into three parcels. The property is located at 820 Justison Street.**

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 subdivide one existing parcel into three parcels, for constructing a hotel and accessory parking lot. He explained that the applicant’s proposal is subject to review by the City Planning Commission because it is a major subdivision, and that it qualifies as a major subdivision because the site is located within the regulatory floodplain. He added that no construction is proposed by this subdivision plan.

Mr. Lucas presented a series of slides depicting photographs of the proposed subdivision site, as well as the subdivision plan. He presented a slide of the subdivision plan overlaid with the boundaries of proposed subdivision. The three parcels were labelled Parcel 1, Parcel 2 and Parcel 3. Mr. Lucas explained that the applicants wanted to build the hotel on Parcel 1, located adjacent to the Wilmington Riverwalk, and a surface parking lot on Parcel 3, located adjacent to Justison Street. He said that Parcel 2, which is currently blacktop, would be converted to open grass, for the time being, but mentioned that a second hotel might be built there in the future.

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 Department of Public Works, and the Department of Planning and Development. For each comment, slides were shown that indicated the relevant portion of the subdivision plan being addressed.

The Zoning Manager had the following comment: The proposed construction, as depicted on the plan, will require variances prior to the issuance of building permits. No variances are required for the creation of the parcels as shown.

The Department of Public Works' Water Division had the following comment: There is no direct access to public water mains for these parcels. It was noted that this will be addressed during civil engineering plan review.

The Department of Public Work's Division of Transportation provided two comments:

- All existing and proposed cross access easements should be shown on the plan and/or identified by notation.
- Recordation of this subdivision plan should not be construed as an approval by the Department of Public Works of any of the proposed improvements shown on the plan. All necessary engineering reviews and permits will still need to be approved prior to construction. Public Works requests that a note should be added to the plan to this effect.

The Department of Planning and Development required several revisions to the plan, which were summarized as follows:

- For clarity, increase the line weight for the entire parcel boundary lines for proposed Parcels 1, 2, and 3, as it is difficult to distinguish some of the perimeter boundary lines from other features.
- Denote ownership information on the plan for the adjacent parcel on which Pettinaro Park Drive is located (Parcel 26-049.00-032, owned by the Riverfront Development Corporation).
- Provide basic zoning requirements in the General Notes for the proposed hotel use, i.e., Height Restrictions, Floor Area Ratios, and Building Coverage Ratios.
- Add the following text to the Certification of Accuracy: "The proposed construction, as shown on the plan complies with all applicable laws and regulations."
- Change the Certification of Ownership to match the City's standard language.

Mr. Lucas went on to say that, since Friday August 11, 2017, when the Commissioners received the analysis for Resolution 8-17, the Zoning Manager clarified the previously shared comment regarding variances. The Zoning Manager stated that one of two alternative revisions shall be added to the plan to avoid potential zoning issues related to the future construction on the site. These alternative revisions were summarized as follows:

- A note can be added to the plan stating that all proposed improvements are for illustrative purposes only, and cannot be considered an approval or waiver of zoning requirements or required variances; OR
- Proposed improvements could simply be removed from the drawing in order for the subdivision plan to function as a simple land division.

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 one existing parcel, located at 820 Justison Street, into three 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.

Mr. Chickadel asked why the parcel was being subdivided in such a way that the proposed parking lot would be on a different parcel than the hotel. He noted that this seemed unusual, because the hotel would have to meet a parking requirement, and that parking requirements were typically met on the same parcel as the principal use. He expanded on his question by asking if there was going to be parking under the hotel, and how many stories the hotel would be. Mr. Lucas responded that the hotel was proposed to have 120 rooms, but he did not know the number of stories. Ms. Weir suggested that it might be three stories, while Mr. Chickadel suggested around ten stories. Mr. Lucas responded to the question regarding the subdividing of the parking from the hotel by saying that the development is planned in phases, and that subdividing the parcels might simplify the funding process over the course of the phases. Mr. Chickadel said that he understood the breakdown of the construction phases, but that he had never seen a hotel being on a different parcel from its accessory parking. Mr. Lucas compared the present case to the example of a church using a separate parcel for parking. Mr. Chickadel reflected that he knew that example is allowable in the Code, but was unaware that it is also allowable for a hotel. Mr. Lucas added that the Zoning Manager had made no comment about this arrangement, which suggests that it is allowable. Mr. Baker said that he would like to have more clarity on the answer to Mr. Chickadel's question.

Mr. Budd asked if there were any artists' renditions of the proposed development. Ms. Weir asked whether there were any representatives of the Buccini/Pollin Group in the audience, but there were none. Mr. Lucas described a meeting that Buccini/Pollin Group and its design team had with City staff on July 25, 2017. He stated that, during this meeting, they had talked about the required Waterfront Review process, which would include, among other things, a review of facades, materials, building height, and public access to the waterfront. Ms. Weir added that it was most likely that the Hilton company had preset design parameters and that this hotel would look much like other Homewood Suites hotels. Mr. Budd elaborated that he was more concerned about the elevation of the parking structure. Ms. Weir stated that, because they did not know how large the second hotel might be, it was impossible to speak to the scale of the parking garage.

Mr. Budd then inquired whether a traffic study would be conducted. Mr. Lucas responded that he was unaware of any planned traffic study, and that it would only occur if requested by the Department of Public Works' Transportation Division. Mr. Budd asked whether the Transportation Division had expressed any concerns about the traffic impact. Mr. Lucas answered that their main concern at this point in the planning was that no additional curb cuts shall be added along Justison Street. Mr. Budd elaborated on his question by stating that there were other businesses around the site, and asked how they would be affected by increased traffic stemming from the hotel. Ms. Weir answered that it was unlikely that there would be many vehicles coming in and out of the hotel parking at any given time, because this hotel brand does not attract a lot of large groups, people would check in and out of the hotel at different times, and there was no restaurant in the hotel. Mr. Budd clarified that he was concerned specifically with traffic during construction. Mr. Lucas noted that he believes that developer was going to request to build seven stories, which was why the Zoning Manager had said that the construction might require variances.

Mr. Baker reiterated Mr. Budd's question, asking about where patrons of the surrounding restaurants would park during construction. Mr. Lucas explained that the surface parking lot located within the subdivision site is owned by the Riverfront Development Corporation, and is only being used on an informal basis by the Chase Center, while the Shipyard Shops have their own parking lot.

Mr. Budd stated that he was concerned that if they approve this subdivision proposal, the Commission would be confronted with problems once construction began. Ms. Washington noted that the surrounding parking lots would not be affected by the construction. Mr. Lucas explained the reason for moving one of the curb cuts on Justison Street. Ms. Washington clarified that she was referring to the Chase Center parking lot, which could be accessed from another street. Mr. Lucas identified the street as S. Madison Street, and added that Pettinaro Park Drive, which runs along the south side of the subdivision site, provides access to the Chase Center parking lot. Mr. Budd asked when the aerial image of the subdivision site, which was the slide being displayed, had been taken. Mr. Lucas responded that he did not know. Mr. Budd stated he did not think the image was up to date. Mr. Lucas moved to another slide. He pointed out that it showed the Westin Hotel, and it was therefore relatively recent. He also noted that Google had updated their aerial images in early 2017.

Ms. Weir asked whether there were any additional questions from the Commission members. As there were none, she called for a motion. None of the Commissioners responded. Gwinneth Kaminsky stated that the requirement to add the Zoning Manager's two comments to the subdivision plan is not reflected in the analysis or the Resolution. She explained that if the Commissioners wanted to include the Zoning Manager's comments as a condition in the Resolution, they would first vote to amend the Resolution, and then vote to approve it as amended. Ms. Weir called for a motion to amend Resolution 8-17 to incorporate the requirement that the subdivision plan include one of the two alternative revisions provided by the Zoning Manager. Ms. Washington made a motion to amend the resolution. Mr. Carter seconded the motion. All members voted in favor of amending Resolution 8-17.



Ms. Weir then asked for a motion to approve the amended Resolution 8-17. Mr. Carter made a motion to approved Resolution 8-17 as amended, and Ms. Washington seconded the motion. All members voted in favor of Resolution 8-17 as amended.

**Resolution 9-17; MS 17-05: Major subdivision application from the Buccini/Pollin Group on behalf of the City of Wilmington entitled, “Justison Landing Parcel 1”, which proposes to subdivide one existing parcel into two parcels. The property is located at 308 Justison Street.**

Mr. Lucas presented the analysis for Resolution 9-17, which addresses an application from the Buccini/Pollin Group to subdivide one existing parcel into two parcels for future development. He explained that the applicant’s proposal is subject to review by the City Planning Commission because it is a major subdivision, and that it qualifies as a major subdivision because the site is located within the regulatory floodplain.

Mr. Lucas presented a series of slides depicting photographs of the proposed subdivision site, as well as the subdivision plan. He noted that the proposed subdivision site is currently occupied by the temporary River Rink ice skating rink and Constitution Yards Beer Garden. A slide of the subdivision plan overlaid with the boundaries of proposed subdivision was shown. The three parcels were labeled Parcel 1A and Parcel 1B. He explained that Parcel 1A, as proposed, would be approximately 1.28 acres in size, Parcel 1B would be approximately 0.85 acres, and that both parcels would share frontage on Justison Street.

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 Public Works and the Department of Planning and Development. The Department of Public Works’ Sewer and Streets Division provided one comment:

- The Sewer and Streets Division reviewed the plans and indicated that an existing utility encroachment must be addressed with Public Works prior to development.

The Department of Planning and Development required several revisions to the plan, which were summarized as follows:

- Add 5’ contour elevation lines to the plan.
- Provide basic zoning requirements in the General Notes for the proposed hotel use, i.e., Height Restrictions, Floor Area Ratios, and Building Coverage Ratios.
- Change the Certification of Ownership to match the City’s standard language.

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 saying that the Department of Planning and Development recommends approval of the major subdivision plan submitted by the Buccini/Pollin Group, which proposes to subdivide one existing parcel, located at 308 Justison Street, into two 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 or comments from the Commission members. As there were none, she called for a vote. Mr. Carter made a motion to approve Resolution 9-17 as presented, and Ms. Washington seconded the motion. All members voted in favor of Resolution 9-17.

### **Adjournment**

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 6:59 p.m.