

MINUTES

CITY PLANNING COMMISSION

February 20, 2018

Present: Desmond Baker (Vice-Chair), Lloyd Budd, Patrick Carter, Joseph Chickadel, Anthony J. Hill and Tanya Washington (Commission Members); and Gwinneth Kaminsky, Tim Lucas and Gemma Tierney (Planning).

The meeting was convened at 6:01 pm by Desmond Baker. Mr. Baker asked Gwinn Kaminsky, Planning Manager with the Department of Planning and Development, to give an announcement. Ms. Kaminsky welcomed Anthony J. Hill to the Planning Commission, noting that Mayor Purzycki had appointed Mr. Hill at the end of January 2018. She provided a brief description of his professional background.

Mr. Baker then convened the public hearing.

PUBLIC HEARING

Resolution 03-18: A proposal to rezone two blocks bounded by Front, Walnut, Second, and Lombard Streets (seven parcels), from C-2 (Secondary Business Commercial Centers) to C-3 (Central Retail). Zoning Referral 548-18.

Gemma Tierney from the Department of Planning and Development presented the analysis for Resolutions 02-18 and 03-18 concurrently. Resolution 03-18 addresses a proposal to rezone two blocks bounded by Front, Walnut, Second, and Lombard Streets from C-2 (Secondary Business Commercial Centers) to C-3 (Central Retail). Resolution 02-18 addresses amendments to the 2003 “Neighborhood Comprehensive Development Plan for the East Side Analysis Area” (CDP) to recommend the rezoning and to recommend a “Transportation” land use for four of the parcels.

Ms. Tierney presented a series of slides to accompany the Department’s analysis of the rezoning, including a map to illustrate the area proposed for rezoning. Ms. Tierney stated that DelDOT applied for this rezoning because they have acquired four of the seven parcels on the west block, where they propose to build a transit center. She noted that they plan to operate the transit center with Colonial Parking, a private parking company. She elaborated that the current C-2 zoning does not permit passenger terminals, while the proposed C-3 zoning does.

Ms. Tierney outlined two alternate routes to permit the construction of a passenger terminal on the proposed transit center site: 1) apply for a rezoning to another zoning classification that permits passenger terminals; or 2) apply for a use variance. She said that DelDOT and the City had determined that rezoning to C-3 was the most appropriate action.

Ms. Tierney described the current zoning and land uses of the two blocks proposed for rezoning. She said that the existing C-2 zoning is intended for secondary shopping outside of the central business district, and is therefore not typically appropriate for downtown locations like

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the subject blocks. She noted that therefore the Planning Department recommends rezoning the two blocks rather than just the transit center site. She described the land uses on the west block as a parking lot, social services organization, and car rental place, and the land use on the east block as a social services organization.

Ms. Tierney described the current zoning and land uses of the surrounding area. She said that the East Side neighborhood (zoned R-5B) lies to the northeast, a metal fabricator (zoned M-1) to the southeast, the Wilmington Train Station (zoned C-3) to the southwest, and a Chase Bank building (zoned C-4) to the north.

Ms. Tierney said that the proposed C-3 zoning is intended for portions of the central business area that contain the City's main retail district. She stated the reasons that the Planning Department finds C-3 to be an appropriate zoning category for the area, which are as follows:

1. Existing land uses in the subject area and the surrounding area will continue to be matter-of-right.
2. C-3 zoning is more appropriate for downtown areas than is C-2.
3. The rezoning would expand a C-3 zone to the west.

Ms. Tierney moved on to Resolution 02-18. She stated that the resolution proposes amendments to the CDP to recommend the proposed rezoning and a "Transportation" land use for the proposed transit center site, and to add a description of the "Transportation" land use category.

Ms. Tierney described the Planning Department's public notification process for the public hearing. She explained that a legal notice of the hearing had been published in the News Journal, and the Department mailed another public notice to surrounding property owners, occupants, and the standard Planning Commission mailing list. She stated that she received two inquiries from East Side residents regarding impacts of the proposed rezoning on the surrounding area, and that they received information about the fact that the proposed rezoning would not change current land uses and zoning regulations in the rest of the East Side, outside of the area proposed for rezoning. She also described the standard circulation of the meeting agenda via mail, email, the City website, and by posting in the City/County Building lobby.

Ms. Tierney concluded by stating that the Department of Planning recommends approval of Resolutions 02-18 and 03-18.

Mr. Baker asked the Commissioners whether they had any questions. As there were none, Mr. Baker asked members of the public to share their questions and comments. Tina Robinson came to the podium and introduced herself as a long-time resident in the East Side neighborhood currently living at 427 E. Second Street. She said that she is deeply concerned with the transit center proposal. She noted that it seemed that the zoning map on one of the slides in Ms. Tierney's presentation did not include all the surrounding businesses. She stated that the East Side community is extremely underserved, has a high proportion of low-income renters, and is

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already subjected to air and noise pollution from several surrounding uses, such as the Wilmington Train Station, a taxi stand, and two manufacturers that use toxic processes. She said that the City and DeIDOT must be aware of an asthma study and other public health reports relevant to Wilmington, and that, considering these reports, they should be ashamed of the transit center proposal, as it adds another burden on the East Side neighborhood.

Ms. Robinson said that many other members of the East Side community were not at the public hearing because they were at work, but their absence does not mean they support the proposal. She said that she has found that government decisions that may be detrimental to communities are often made when community members do not come to decision-making meetings. She also said that she did not understand why the Sunday Breakfast Mission (located on the east block) also had to be rezoned to C-3 as part of the proposal. She urged DeIDOT to choose another location that has not already been subject to the health and environmental impacts the East Side has experienced, noting that there are other nearby parking lots farther from the East Side neighborhood.

Ms. Robinson showed a copy of the “Environmental Justice for Delaware” report (2007) and quoted a recommendation from it, which was to “adopt and enforce strict motor vehicle emissions standards and limit heavy-duty truck traffic and idling in residential areas.” She showed a copy of a newspaper article that stated that the transit center was part of the State’s plan to attract Amazon, and noted that this made it seem that the government was choosing business interests over the community. Mr. Baker stated that the transit center was planned long before Amazon had made its announcement that it was searching for a second headquarters location. Ms. Robinson asked to finish her statements for the record. She showed the “Burden of Asthma in Delaware Update” (May 2016) and said that she was one of the writers of the “East Side Blueprint Community Strategic Plan,” which did not include a recommendation for a transit center at the proposed site. Mr. Baker stated that DeIDOT had held several public meetings regarding the transit center and asked Ms. Robinson if she had attended any of them. Ms. Robinson said that she was speaking for an impoverished community for whom it is not possible to take off from work to attend public meetings. Mr. Baker said that the meetings were at 6:00 pm or 7:00 pm. Ms. Robinson responded that she was working two jobs at the time the meetings were held and therefore could not attend, reiterating that other community members could not attend meetings because of jobs.

Ms. Robinson left the podium and Mr. Baker asked if there were any other questions. Council Member At-Large Samuel Guy came to the podium and introduced himself. He asked if the transit center could be built if the proposed rezoning did not occur. Ms. Tierney responded that if the parcel remained C-2, DeIDOT could apply for a use variance for the four parcels that they own. Council Member Guy asked Ms. Tierney to confirm that the current process (a rezoning proposal) must go before City Council, while a use variance application does not. Ms. Tierney confirmed that the use variance application would only go to the Zoning Board of Adjustment.

Council Member Guy stated that many residents find that building the transit center and moving bus stops from Rodney Square is not in the community’s interest. He said that the fact that community members did not come to the meeting did not mean that they do not care, and in

some cases, it simply means that they do not know where to voice their concerns, or what the pivotal points are in these transit planning processes.

Council Member Guy said that the City currently faces a situation wherein the powerful are exploiting marginalized groups to make money. He then directly addressed the Planning Commission, stating that they are being asked to facilitate this situation by supporting transit changes to which many residents are opposed. He said that the State is misusing Federal money by using it to gentrify the City rather than improve the transit system. He asked the Commission to recognize that this rezoning proposal is a larger issue than what was presented in the Department's analysis. He said that, by the time City Council considers the rezoning, the City government will be much more aware of City residents' objections. Council Member Guy asked if the Planning Commission could affect the number of Council votes required to rule on this case, or if they were simply making a recommendation. Mr. Baker confirmed that the Commission could only make a recommendation.

Council Member Guy left the podium and Mr. Baker asked if there were any more comments. Lloyd Budd asked if there was a representative from DelDOT present, and Bill Thatcher Delaware Transit Corporation (DTC) came forward. Mr. Budd asked if DelDOT had conducted any health impact studies prior to proposing the transit center plan. Mr. Thatcher came to the podium and introduced himself as facilities manager for DTC, a division of DelDOT. Mr. Thatcher said that DTC did not conduct a health impact study, but he could not speak for DelDOT. **Mr. Baker stated that he attended two of DelDOT's earlier public meetings, where he learned that DelDOT had an environmental impact study that looked at health impacts.** Ms. Kaminsky added that Wilmington Initiatives, a three-agency partnership, had included this project in their annual public presentation.

Mr. Baker closed the public hearing and convened the regular meeting at 6:22 pm.

REGULAR MEETING

Approval of the minutes of the January 16, 2018 Planning Commission Meeting

Mr. Baker asked the Commission to make a motion on the minutes of the January 16, 2018 City Planning Commission meeting. Mr. Budd moved to approve the minutes, and Tanya Washington seconded the motion. All members voted to approve the minutes.

New Business

Resolution 02-18: Proposed amendments to the 2003 "Neighborhood Comprehensive Development Plan for the East Side Analysis Area" to add Map D-9 (Area 8: Proposed Zoning Changes) and to amend Map E (Proposed Land Use).

Mr. Baker asked if the Commissioners had any additional questions regarding Resolutions 02-18 and 03-18. As there were none, Mr. Baker called for a vote regarding Resolution 02-18. Patrick Carter moved to approve the resolution, and Ms. Washington seconded the motion. Mr. Budd

abstained from the vote. The remaining members of the Commission voted to approve Resolution 02-18. With five yeas votes, the resolution was approved.

Resolution 03-18: A proposal to rezone two blocks bounded by Front, Walnut, Second, and Lombard Streets (seven parcels), from C-2 (Secondary Business Commercial Centers) to C-3 (Central Retail). Zoning Referral 548-18.

Mr. Baker called for a motion regarding Resolution 03-18. Mr. Hill moved to approve the resolution, and Mr. Carter seconded the motion. Mr. Budd abstained from the vote. The remaining members of the Commission voted to approve Resolution 03-18. With five yeas votes, the resolution was approved.

Resolution 04-18: A proposal to remove portions of W. 27th and W 28th Streets, between N. Broom Street and the CSX rail line to the north, from the official City Map.

Ms. Kaminsky from the Department of Planning and Development presented the analysis for Resolution 04-18, which addresses a request from Campanella Way LLC to remove the northern ends of the 1000 block of W. 27th and W. 28th Streets (between N. Broom Street and the CSX rail line) from the official City Map. She presented a series of slides to accompany the Department's analysis, including maps to illustrate the location of the proposed street removal. She stated that Paul Campanella's Auto and Tire Center, an auto service business, had recently relocated to 1015 W. 28th Street, and that the proposed street removals will facilitate specific improvements to the property that will make vehicular traffic within and around the property more efficient. She stated that the improvements include an addition to the existing building, a parking lot on the south and east sides of the building, parking bays along the north side, and fencing.

Ms. Kaminsky described the current land uses immediately surrounding the two blocks, which are Fulton Paper Company (Fulton Paper and Party Supplies), Barlow Upholstery, an insurance office, a shared parking lot and several residential units. She said that public access to the private properties along the two streets is being maintained.

Ms. Kaminsky stated that the block segments proposed for removal are included in the deeds of two of the commercial parcels, and are therefore not owned by the City. She said that Campanella's and Wesley Realty Company, the owners of the two parcels, had executed a shared access easement for these segments to ensure that Campanella's and Fulton Paper and Party Supplies have adequate vehicular and pedestrian access to the northern side of their properties. She stated that the agreement allows for a shared private drive along the vacated portion of W. 27th Street, continuing east behind Campanella's to W. 28th Street.

Ms. Kaminsky noted that the blocks do not contribute to the surrounding traffic circulation because they terminate at the rail line. She added that the City-owned southern portions of the blocks will remain public, two-way streets, providing access to the other parcels along the blocks, and that the removals will not affect City utilities.

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Ms. Kaminsky said that the street removal proposal was circulated to City departments for comment. She said that the Transportation Division of the Department of Public Works supports the removal. She noted that the Division had stated that the removals would be beneficial to all parties, that they allow the City to relinquish the operation and maintenance of a street that has little or no value as a transportation asset, that they enable the economic development of a parcel without unnecessary restrictions that a municipal right-of-way would require, and that they do not create any negative impact on the surrounding properties. She continued that the Deputy Chief Fire Marshal does not oppose the removals, and that he had noted that the Campanella and Wesley Realty properties must follow Delaware State Fire Prevention Regulation 705 by maintaining accessibility to their structures. She also said that the Planning Department does not oppose the removals because they are not anticipated to cause negative impacts.

Ms. Kaminsky noted that procedures for City street closings and right-of-way disposition are prescribed in Chapter 42-11 of the City Code, and that once a street is removed from the official City Map by Council ordinance, the method of its disposition is determined by ownership, subject to a judicial determination in accordance with applicable state law.

Ms. Kaminsky stated that a public notice regarding the street removal was mailed on February 8th to surrounding property owners, occupants, and the standard Planning Commission mailing list. She also described the standard circulation of the meeting agenda via mail, email, the City website, and by posting in the City/County Building lobby. She said that one call was received inquiring about the auto center property address, its location within City limits, payment of taxes, and zoning.

Ms. Kaminsky concluded her presentation by stating that the Department of Planning recommends approval of Resolution 04-18 subject to department comments, and that the Planning Commission's recommendation will be forwarded to City Council, who are anticipated to address it in March.

Mr. Baker asked the Commissioners whether they had any questions or comments. Mr. Baker asked Ms. Kaminsky why the street removal action was necessary considering that the City Map does not show the subject block segments as being owned by the City. Ms. Kaminsky responded that the City has an easement to use the block segments as City streets, and that this action would extinguish that easement. Mr. Baker asked about figuring out issues relating to Fulton Paper and Party Supplies accessing the rear of their property, and Ms. Kaminsky stated that the owners of the parcels had executed a cross-access easement. Mr. Baker commented to Ms. Washington that in the portion of the City Code that Ms. Kaminsky had provided to the Commissioners, only the pronoun "he" was used, and that the City should work to make the Code gender-neutral. Mr. Baker also expressed his appreciation that Campanella's had moved to its new location. Finally, Mr. Baker asked about how a chain across the entrance to one of the block segments affected Fire Marshal access to the site. One of the property owners who was present in the audience responded that the chain can be unlocked. Ms. Kaminsky added that, in situations like this, the Fire Marshal would typically have access to a lock box.

Mr. Baker asked the Commissioners whether they had any other questions or comments. Roger D. Wilson, a member of the public, said that he would like to comment on the proposal. He came to the podium and introduced himself, saying that he lives at 2711 N. Broom Street. He stated that some of residential buildings that Ms. Kaminsky mentioned when describing the area's land uses are apartments rather than single-family houses. He thanked Mr. Campanella, the owner of the auto service center, for permitting neighbors to park in a portion of his parking lot when it is not in use, and commented that Mr. Campanella had improved the appearance of the property. Mr. Wilson concluded by stating that his only objection is that the auto service center has an odd-numbered address, which defies the convention of even-numbered addresses being on the south side of streets. Mr. Baker asked Ms. Kaminsky if the assigning of addresses is in the City's purview, and Ms. Kaminsky said that the Post Office assigns addresses. Mr. Lucas added that New Castle County assigns addresses to parcels, and that Mr. Wilson could contact the County Department of Land Use regarding the issue. Mr. Wilson left the podium.

Deborah Benson, a member of the public, said that she would like to comment on the rezoning proposal. Mr. Baker responded that the public hearing for that item had ended, and that Ms. Benson could instead speak at the public hearing that City Council will hold for the rezoning. Council Member Guy said that he thought that Ms. Benson should have the opportunity to speak at the present meeting. Mr. Baker reiterated that Ms. Benson could instead speak at City Council's public hearing.

Mr. Baker called for a motion regarding Resolution 04-18. Joseph Chickadel moved to approve the resolution, and Mr. Carter seconded the motion. Mr. Hill abstained from the vote, stating that he had previously provided legal advice to the City on the matter. The remaining members of the Commission voted to approve Resolution 04-18. With five yea votes, the resolution was approved.

Resolution 05-18; MS-18-01: Major Subdivision application from Interfaith Community Housing of Delaware, Inc., which proposes to subdivide 301 West 6th Street into two parcels, and to convert one of the existing buildings into a two-unit condominium.

Tim Lucas from the Department of Planning and Development presented the analysis for Resolution 05-18. He stated that the subdivision proposal is subject to Planning Commission review because it includes a condominium declaration. Mr. Lucas presented a series of slides to accompany the Department's analysis, including maps, aerial images and plans illustrating the proposed subdivision.

Mr. Lucas stated that the subdivision had been circulated to City departments for comment. The following comments were provided:

1. On the Condominium Declaration Plan:
 - a. Sheet 1: Change the labels for the basement access and outside steps from "Unit One" and "Unit Two" to "Unit A" and "Unit B" for consistency between the plan and supporting documents.

- b. Sheet 2, First Floor Plan: The stairs for Unit B are incorrectly shaded with the pattern for Unit A.
 - c. Sheets 2 and 3: The square footages for the common elements do not match totals for Unit A plus Unit B. Further clarification may be needed.
2. The condominium declaration plan is inconsistent with the enabling declaration document and Code of Regulations, as “General Common Elements” and “Limited Common Elements” are absent from the plan. According to the definitions in Schedule B, “General Common Elements” and “Limited Common Elements” further differentiate “Common Elements” and appear throughout the declaration document and on page 16 of the Code of Regulations. It should be decided if any of these elements need to be further depicted on the plan to match the declaration document.

Mr. Lucas concluded his presentation by stating that the Department of Planning recommends approval of Resolution 05-18, to subdivide 301 West 6th Street into two parcels, and to convert one of the existing buildings into a two-unit condominium. He noted that the comments he had just presented must be incorporated into the final subdivision plan prior to recordation.

Mr. Baker asked the Commissioners whether they had any questions or comments. Mr. Baker then commented that he is glad to see that Interfaith is working on affordable housing projects in the City. As there were no other questions or comments, Mr. Baker called for a motion regarding Resolution 05-18. Mr. Carter moved to approve the resolution, and Mr. Hill second the motion. All members voted in favor of Resolution 05-18.

Adjournment

Mr Baker called for a motion to adjourn the meeting. Mr. Chickadel moved to adjourn, and Ms. Washington seconded the motion. All members being in favor, the meeting was adjourned at 6:48 pm.