

**MINUTES
CITY PLANNING COMMISSION
May 21, 2019**

Present: Desmond Baker (Acting Chair), J. Brett Taylor, Anthony J. Hill, and Lloyd Budd (Commission Members); and Herb Inden, Gwinneth Kaminsky, Jessica Molina and Dorien Snyder (Planning).

The meeting was convened at 6:12 p.m. by Desmond Baker.

Approval of the minutes of the April 16, 2019 Planning Commission Meeting

Mr. Baker asked the Commission to make a motion on the minutes of the April 16, 2019 City Planning Commission meeting. Mr. Hill made a motion to approve the minutes, and Mr. Budd second the motion. All members voted to approve the minutes.

REGULAR MEETING

New Business

Resolution 7-19: A proposal by the Union Park Automotive Group, Inc., to remove Pasture Street, between Pennsylvania Avenue and W. 11th Streets, from the official City Map.

Ms. Gwinneth Kaminsky, from the Department of Planning and Development, presented the report for Resolution 7-19: a proposal by the Union Park Automotive Group Inc., to remove Pasture Street from the official City Map. Ms. Kaminsky stated that the Applicant would like to obtain ownership of the street so that they can properly maintain it, as well as investigate the possibility of widening the roadbed to better serve customers, staff and the public. She mentioned that this action required the recommendation of the City Planning Commission and the approval by City Council.

Ms. Kaminsky reported that the City street bisects the area bounded by Pennsylvania Avenue, W. 11th Street, Brobson's Lane and Dupont Street, which is located in the West Side neighborhood. She said that Pasture Street extends for one block, and is approximately 293 feet in length and 20 feet in width. Ms. Kaminsky affirmed that the street serves two-way traffic, and although there is no dedicated parking lane, parking occurs along both sides of the street, typically on the adjacent sidewalks given the narrow width of the right-of-way.

Ms. Kaminsky indicated that the Applicant controlled all of the properties within the two blocks that abut the right of way, through various entities and LLCs. The site has 14 parcels, six of which directly abut Pasture Street. She stated that the only means of access to four of these parcels is through Pasture Street.

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Ms. Kaminsky presented a series of photos that showed the existing condition of Pasture Street. The photo slides began at the intersection of Pasture Street with Pennsylvania Avenue. She mentioned that the street is flanked by the car dealership and the inventory lot further south. She further reported the condition of the street bed, which was in fair to poor condition and in need of re-paving. She reviewed the current land uses surrounding Pasture Street. She said that Pasture Street is located within a large C-2 (Secondary Business Centers) zoning district.

Ms. Kaminsky reported that Pasture Street is a two-way City street that largely provides a secondary means of access to the auto dealerships located adjacent to it. These businesses have their primary frontage along Pennsylvania Avenue, and are also accessed from W. 11th Street, Dupont Street and Brobson's Lane. She stated that Pasture Street does not significantly contribute to the surrounding traffic circulation system or serve the community, largely because it is surrounded by a larger grid of city streets that support the necessary circulation patterns.

Next, Ms. Kaminsky shared the comments of the Department of Public Works, Fire Marshal's Office and the Department of Planning and Development regarding this proposal.

The Department of Public Works supported the street removal, stating that there will be minimal impact to the street network. The Water Division noted that there is an 4" water main within the right-of-way, and the Public Works Commissioner indicated that utilities would be abandoned in place and that the Department will further determine the need for any access easements required as a condition of the street removal.

The Fire Marshal's Office had no objections with the transfer of ownership of Pasture Street to Union Park Automotive Group for the purposes of street maintenance but noted that this roadway must be maintained as an open street to allow access by emergency responders to the adjacent dealership.

The Department of Planning noted that Pasture Street does not appear to significantly contribute to the general circulation or traffic distribution pattern in the immediate area. The Applicant owns the adjacent businesses, which have their primary access provided by other streets; and there are no findings to suggest that the removal of the right-of-way would create a detriment to the general public.

Ms. Kaminsky stated that Pasture Street is the sole means of access for four smaller parcels within the block to the west. She clarified that had the Applicant requested the street be closed in its entirety, consolidation of these parcels would have been required. She further mentioned that if any of these four parcels are to be sold in the future, access rights along Pasture Street would have to

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be established. However, given the Fire Marshal's Office requirement that the street remain open to vehicular access, access to these parcels should not be an issue.

The Planning Department further noted that, for the purpose of future development, all of these properties were located in a C-2 secondary business zoning district, which does not have a street frontage requirement. Ms. Kaminsky discussed the procedures for city street closings and right-of-way disposition as prescribed in Section 42-11 of the City Code. She stated, in the case of Pasture Street, that although City ownership of the right-of-way could not be established; there can be a legislative finding of lack of public interest in the right-of-way and Council can remove the city street from the Official City Map by Ordinance. Once the street is removed, the determination of property rights shall be a judicial decision in accordance with applicable state statutes.

Ms. Kaminsky stated that the Planning Commission's May 21st meeting agenda was posted in the lobby of the Louis L. Redding City/County Building, placed on the City website, and sent to those on the standard City Planning Commission mailing list on May 13, 2019.

Ms. Kaminsky concluded her presentation by saying that Resolution 7-19 recommends to City Council that Pasture Street, between Pennsylvania Avenue and West 11th Street, be removed from the Official City Map, conditioned upon City Department Comments.

Mr. Baker asked Commission Members if they had any questions. Mr. Hill asked Ms. Kaminsky to confirm that all businesses or entities bordering Pasture Street are all controlled functionally by the same person or persons. Ms. Kaminsky confirmed that Mr. Hill's statement was correct. Mr. Hill asked for confirmation that the utilities were going to be abandoned in place. Ms. Kaminsky told Mr. Hill that Public Works would guide the process and determine any necessary easements once the street removal took place.

Mr. Budd wondered what would happen in the event that one of the parcels gets sold to a different entity that does not control Pasture Street. Ms. Kaminsky said that access would be conveyed by deed. If a parcel was to be sold to an outside entity, easements would have to be granted through the sale.

Mr. Baker asked if the public would still have use/access of the street. Ms. Kaminsky said that it is the intent of the applicant to leave the street open. She restated that the Applicant was concerned about the status of the street bed and would like to be able to maintain it without going through the City. The Applicant had also expressed interest in widening the street since it is a two-way street and they need parking for their dealership. In addition, the Fire Marshal's Office is requiring that the street remains open. Mr. Baker also asked if they will actually have the physical deed to the

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space. Ms. Kaminsky stated yes and clarified that the Applicant would have to go through the court process to obtain ownership. Mr. Baker discussed his concerns regarding the street removal as it may appear as the City was gifting the space. Ms. Kaminsky stated that this was not the case, as the City does not own the street. Mr. Baker further stated that in the public domain there should be some record of how much the street would cost. Ms. Kaminsky stated that the Planning Department contacted the Law Department and Public Works to search the records for ownership. She clarified that it was not gifting per say, in that, the City doesn't own it to gift it. Ms. Kaminsky said that the only thing the City was doing is removing the street from the Official City Map.

Mr. Taylor informed the Commission that there was an opportunity to get some remuneration from the street removal if the street goes on the owner's deed which would then be subject to property tax inclusion as well as stormwater and rental charges. He said that the cost of maintaining the street is the owner's as well as any subsequent charges and taxes that would come as a result of it being part of the owner's deed.

Mr. Hill then clarified that when the City is found to own the land underlying a public street, usually, the Applicant would be required to have an appraisal done and pay fair market value. He stated that in this instance, as Ms. Kaminsky stated, the Applicant would have to file an action with the Court of Chancery and the Court would determine the value. Mr Hill elaborated that each abutting owner would normally receive a portion of the right-of-way to the middle line. He stated that in this instance, the same person owns the properties on both sides of the street, so the court would most likely give the Applicant the entire street. Mr. Hill agreed with Ms. Kaminsky's statement, and said that the Law Department was unable to determine who owns the land underlying the street which is why the City is not entitled to compensation other than what Mr. Taylor mentioned in terms of new funds that come in when the property is reassessed.

Mr. Baker mentioned that the utilities run in the middle of the street and the City at one point had control over this place. Ms. Kaminsky stated that the City requires easements to put utilities across private property and did not necessarily own the land.

Mr. Baker asked the Commission Members if they had any additional questions. Mr. Baker asked the Commission Members for a motion. Mr. Taylor made a motion to approve Resolution 07-19: A proposal by the Union Park Automotive Group, Inc., to remove Pasture Street, between Pennsylvania Avenue and W. 11th Streets, from the official City Map. The Motion was second by Mr. Hill. With all members being in favor, Resolution 07-19 was Approved.

New Business

Mr. Inden from the Department of Planning and Development presented the Wilmington 2028 Comprehensive Plan. He stated that he was seeking a motion from the Commission Members to forward the Comprehensive Plan to the State's Preliminary Land Use Review Process, also known as the "Plus Process". He elaborated that it will take 30 days to receive a response from the Plus Process. If there are changes, the Planning Department will negotiate with them, which can take anywhere from one to two months to get through that process. He clarified that the Planning Department will come back to the Planning Commission and hold a public hearing and request their recommendation for approval of the document and from there it will go to City Council (early Fall).

Mr. Inden explained what a comprehensive plan was and the importance of it. He explained that the document is State-mandated, driven by policies and actions related to municipalities' land use and related activities. He elaborated that if the City was not careful, it could be sued as in the case with Middletown. He further stated the importance of being careful of what goes into the Plan and paying attention as it relates to land use decisions. He emphasized that this is State-mandated law which requires municipalities to revisit their Comprehensive Plan every five years and adopt a new plan every ten years. He clarified that the State gets involved because land use decisions are made at the local level but most of the infrastructure and services are supplied by the State. He informed the Commission that the State's purpose is to help budget and be more efficient.

Mr. Inden mentioned that the 2028 Comprehensive Plan was community driven. The Plan's outreach process included steering committees, numerous interviews, online and paper surveys (2000 responses); ten focus groups with the last focus group comprised of 300 participants. From the community's input, the City's vision and guiding principles of equity, health, sustainability, resiliency, and safety were developed. He shared some of the comments collected from the community such as, "a City of opportunity for everyone", "a safe healthy and sustainable City", and "a City that connects neighborhoods and communities". He mentioned that the five goal areas for the City were: strong and safe neighborhoods; healthy and thriving communities; robust local economy; connected city and region; and sustainable and resilient City.

Mr. Inden informed the Commission that the new plan continues to have a Citywide component, but it also included the City's eleven Neighborhood Plans. He explained that the current eleven Neighborhood Plans were updated on an as-needed-basis for the most part and dates varied. By including them in one Comprehensive Plan, he stated that the Neighborhood Plans would be easier to understand and kept up-to-date. He reviewed a few examples, showing the five goal areas on a map, along with key issues, assets and challenges, input, and future land use map. He also shared the current and future land use maps; he highlighted that the City was mostly residential on both maps.

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Mr. Inden discussed the implementation plan that covered vacancy, code violations, violent crime hot spots, and housing/neighborhood stabilization target areas. He discussed the timeframe of the plan and the need to develop policies that will help mitigate some of the existing issues. He then shared some of the recommendations to improve these issues based on the five goal areas developed based on the public outreach input. He also mentioned that flood hazard areas and sea level rise were addressed in the plan.

Mr. Inden finished his presentation by requesting a motion to forward the Wilmington 2028 Comprehensive Plan to the State's Preliminary Land Use Review (PLUS) process. He restated the PLUS process and how the Plan would be later presented again to the Planning Commission for a public hearing and recommendation for approval.

Mr. Baker asked Commission Members if they had any questions. Mr. Hill asked Mr. Inden to clarify if anyone takes the lead in figuring out what areas might be right for redevelopment. Mr. Inden replied that those changes are based on what is presented in the plan. Mr. Hill used downtown as an example and asked Mr. Inden if the zoning of some close by blocks would change based on current development. Mr. Inden clarified that the plan does an overall suggestion for future land use for the City, as a whole, and not at a block level. Mr. Inden said that this was not spot zoning.

Mr. Budd asked Mr. Inden who the Planning Department is working with in order to mitigate sea level rise. Mr. Inden stated that the Planning Department is currently working with the Department of Public Works and DNREC. In addition, he shared with the Commission that there is a plan effort under way to come up with policies to help mitigate the problems for future land use and building codes. Mr. Budd asked Mr. Inden if he had sought help from international groups, such as, people from the Netherlands. Mr. Inden stated that he has not sought help from international groups, but he stated that the City has been working with engineers who specialize in sea level rise and they were aware of mitigation strategies used in other countries.

Mr. Baker said that he was very impressed with the efforts of the Planning Department and the many community meetings it held in order to get input from the public. In addition, Mr. Baker said that he was fascinated with the questions from the public and the issues they were raising. In addition, he was very pleased with all the data and maps included in the plan that could help other City Departments.

Mr. Baker asked if there were any additional questions or comments from the Commission Members. Mr. Baker asked Commission Members for a motion. Mr. Hill made a motion to forward the Comprehensive Plan to the State's Plus Process Committee. Mr. Budd second the motion. With all members being in favor, the motion to forward the Comprehensive Plan to the State's Plus Process Committee was approved.

Adjournment:

Mr. Baker called for a motion to adjourn the meeting. Mr. Hill made a motion to adjourn, and Mr. Budd second the motion. With all members being in favor, the meeting was adjourned at 6:50 p.m.