

**MINUTES**  
**CITY PLANNING COMMISSION**  
**March 19, 2019**

Present: Desmond Baker (Acting Chair), Joseph Chickadel, J. Brett Taylor, Anthony J. Hill, and Tanya Washington (Commission Members); and Herb Inden, Gwinneth Kaminsky, Gemma Tierney, and Jessica Molina (Planning).

The meeting was convened at 6:03 p.m. by Desmond Baker. Before proceeding, Mr. Baker summarized the meeting's purpose, rules, and procedures for participating. He also notified attendees that a representative from VanDemark & Lynch, Inc, would be conducting a presentation on behalf of the Petitioner, Riverside Hospital Redevelopment, LLC. Afterwards, Council Member Linda M. Gray would be presenting on behalf of the Brandywine Hills Community Association.

**Approval of the minutes of the February 19, 2019 Planning Commission Meeting**

Mr. Baker asked the Commission to make a motion on the minutes of the February 19, 2019 City Planning Commission meeting. Mr. Taylor moved to approve the minutes, and Mr. Chickadel second the motion. All present members voted to approve the minutes.

**PUBLIC HEARING**

**Resolution 04-19: A proposal to rezone one parcel of land, located at 700 Lea Boulevard, from R-2 (One-Family Semi-Detached Dwellings) to R-5A1 (Apartment Houses Low-Medium Density). Zoning Referral 551-19.**

Ms. Gemma Tierney from the Department of Planning and Development presented the report for Resolution 04-19. Ms. Tierney explained that while the public hearing was for Resolution 04-19, the City Planning Commission would also be considering the related Resolution 03-19. Resolution 03-19 proposed amendments to the Comprehensive Development Plan for the Northwest Analysis Area, where the subject parcel was located. She clarified that Resolution 03-19 was required to be decided upon prior to Resolution 04-19, because the City's Zoning Map must match the zoning and land uses proposed in the Comprehensive Plan.

Ms. Tierney shared an aerial image, looking north, of the subject parcel at 700 Lea Boulevard. She disclosed that the parcel was currently vacant, and that it had been vacant since 2012 when the Riverside Hospital was demolished. She stated that on May 19, 2017, this rezoning was requested by Riverside Hospital Redevelopment, LLC, the buyer of the property. The buyer, under Section 8 of the Agreement of Sale, was authorized to seek final unappealable approval from the City of Wilmington to rezone the property. She explained that the Petitioner was requesting the rezoning because they proposed to develop the parcel with a three to five-story

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apartment complex. This development proposal would not be permitted under the current R-2 zoning, but it would be permitted under the proposed R-5A1 zoning.

Ms. Tierney shared the applicant's rezoning request process from 2017 to 2019. She said that this rezoning proposal was originally scheduled to be considered at the September 19, 2017 City Planning Commission (CPC) meeting and was withdrawn from the agenda at the request of the Petitioner. She stated that on September 18, 2018, the Petitioner submitted an update to their May 2017 rezoning application and requested to have the rezoning proposal rescheduled for the October 16, 2018 CPC meeting. Ms. Tierney shared that in early October, the rezoning proposal was removed from the October agenda at the request of the Petitioner, and on February 11, 2019, the Petitioner requested to have the proposal added to the agenda for March 19, 2019 CPC meeting.

Ms. Tierney gave a summary of the height, bulk and use regulations of the current R-2 zoning and the proposed R-5A1 zoning. She stated that R-2 zoning permitted one-family semi-detached dwellings, with a maximum height of 3 stories or 40 feet, and that there was no maximum floor area ratio (FAR). She elaborated that other uses permitted as a matter of right in the R-2 zoning included: churches, schools, colleges and universities (which may include a dormitory on the same lot), public libraries and museums, municipal firehouses, and neighborhood police stations. She explained that the proposed zoning R-5A1 permitted apartment houses low-to-medium density with a maximum height of five stories or 60 feet. She stated that the R-5A1 zoning required a maximum FAR of 2.0, and that other uses permitted as a matter of right included: detached and semi-detached dwellings with or without conversions, row houses with or without conversions, schools, public libraries and museums, churches, municipal firehouses, and neighborhood police stations.

Ms. Tierney pointed out that the subject parcel was surrounded by diverse land uses and zoning districts. Her aerial images showed that the parcel was surrounded by zoning districts R-1, R-2, R-5A, R-5B, and M-1. In addition, to the southwest of the parcel, there was a shopping center outside of the City of Wilmington zoned CR (Commercial Regional). Ms. Tierney stated that the Department of Planning considered the R-5A1 zoning category appropriate for the area because it was designed to permit low-to-medium density apartment developments, especially where they can buffer single-family house neighborhoods from more intensive residential and certain commercial uses. She said that the Planning Department had also considered the current R-2 and the R-5A zoning districts. Neither of those zoning districts permitted the proposed development by the Petitioner. She clarified that the current R-2 zoning would not permit any multi-family housing. Therefore, it would not allow for development that would act as a visual buffer between the surrounding land uses.

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Ms. Tierney restated that the City Planning Commission was also considering Resolution 03-19. This resolution recommended amendments to the Comprehensive Development Plan for the Northwest Analysis Area. The amendments are to two maps, Map D, the Proposed Zoning Changes Map, and Map E, the Proposed Land Use Map. She noted that in the report previously provided to the Commissioners, the letters of these two maps were inadvertently reversed. She clarified that Resolution 03-19 had been amended to reflect the correct letters corresponding to each map.

Ms. Tierney discussed the public notice procedures that were followed for the public hearing. In response to the public notifications, she said that the Department of Planning received two phone calls requesting additional information about the proposed rezoning. In addition, there were two letters that opposed the rezoning. These letters were received when the rezoning proposal was previously scheduled to be considered at the September 2017 CPC meeting. Ms. Tierney was able to contact one of the senders. This person reiterated on March 14, 2019 that they still objected to the proposed rezoning. She was unable to reach the sender of the other letter.

Ms. Tierney concluded the presentation by stating that the Department of Planning found that the proposed R-5A1 zoning was appropriate for the subject parcel because R-5A1 zoning is designed to serve as a buffer between certain land uses, and the subject parcel is in a location where it could appropriately buffer between these land uses. Therefore, the Department recommended the approval of the Resolution 03-19, which recommended amendments to the Comprehensive Development Plan for the Northwest Analysis Area, and Resolution 04-19, which recommended the rezoning of the subject parcel from R-2 to R-5A1.

Ms. Tierney asked the Commissioners if they had any comments or questions. Mr. Hill asked if there were any occupancy caps on the R-5A and R-5A1 zoning districts, other than those set by the eighteen units per building or FAR. Ms. Tierney responded that only R-5A had that additional cap of 18 units per building. Both zoning districts were just regulated by height and FAR. Ms. Gwineth Kaminsky, Planning Manager, clarified that it is the number of units and not occupancy that defined the density. Mr. Hill agreed and explained that he used the terms interchangeably. Ms. Kaminsky then elaborated on the setback differences between the R-5A and R-5A1 zoning districts. Mr. Baker asked about the status of the road that runs between the shopping center and the subject parcel. Ms. Tierney replied that the road is in the County, and that it would remain as a public road. The Commissioners had no further questions for the Planning Department and invited the Petitioner's representative to begin their presentation.

Engineer Stephen Johns presented on behalf of the Petitioner, Riverside Hospital Redevelopment, LLC. Mr. Johns stated that there had been seven meetings with different

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community groups to discuss the project. As a result of those meetings, some changes were made to the project based on the requests by the community. Some of those changes included moving the building on Lea Boulevard farther away from the road; designing only three stories to the front half of the building that faces Lea Boulevard; decreasing the number of units from two hundred to one hundred and sixty-three; decreasing the number of parking spaces to three hundred and four; adding green space to the parking area; adding an entrance to the site on 37<sup>th</sup> Street; adding additional landscape and a sidewalk; and changing the façade of the building (softer colors and more stone). Mr. Johns shared some illustrations that reflected the mentioned changes and finished his presentation by disclosing that the site owners had negotiated a Declaration of Voluntary Assurances with the local community, which placed additional restrictions to the property.

Mr. Baker asked Mr. Johns about the use on the first floor. Mr. Johns replied that all three buildings have parking on the first floor. Mr. Chickadel asked Mr. Johns to elaborate on the façade stories since he saw four on Lea Boulevard, and Mr. John mentioned that there were only three. Mr. Johns clarified that because of the slope on the site, the view changes from three to four stories. But regardless of the location, the front of the building would have parking on the first story and apartments on the next three stories. Mr. Chickadel asked about the height from ground level to the parapet, and the height for the backside of the other apartments. Mr. Johns said that the parapet height was fifty feet or less, and that the backside was sixty feet or slightly less. Mr. Chickadel confirmed that the maximum allowed height would be sixty feet, to which Mr. Johns agreed.

Mr. Baker asked the Commission Members if they had any additional questions for Mr. Johns. Mr. Hill asked Mr. Johns for the square footage of the entire site. Mr. Johns replied that it was about 4.8 acres. Ms. Tierney added that she had converted it to square feet and it was one hundred and ninety-nine thousand square feet. There were no further questions.

Mr. Baker called Ms. Linda Gray to the stand, so she could deliver her presentation on behalf of the Brandywine Hills Community Association. Ms. Linda Gray introduced herself as the President of the Brandywine Hills Community Association. She said that the neighborhood was located in North Wilmington, and that it had over two hundred and sixty homes. Ms. Gray thanked the developer for the ongoing cooperative work since 2017 and stated that the Brandywine Hills Community Association supported the zoning change from R-2 to R-5A1 as long as the Declaration of Voluntary Assurances was part of the meeting's record. Ms. Gray pointed out that the Commission may have a discrepancy on the letter dated September 10, 2018 that was addressed to Ms. Gwinneth Kaminsky. She said that on the letter, page two, it stated "the Petitioner is now proposing to construct an upscale, plus or minus, one-hundred-and-seventy-unit apartment complex on the property. A thirty-unit reduction of the proposed use".

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Ms. Gray clarified that on the Declaration of Voluntary Assurance, it states that there will only be one hundred and sixty-three units. This completed Ms. Gray's presentation. She handed a duplicate original copy of the Declaration of Voluntary Assurances to the Chair.

Meeting attendees who wanted to address the Commission during the public hearing filled a sign-in sheet. Mr. Baker opened the meeting to public comments and started to call the attendees who signed-in. The first participant on the list was Ms. Martha Carper. Ms. Carper introduced herself as a neighborhood resident. She first thanked all the people who had worked on the project. She stated that the community had been working with Capano since 2018, with the goal to find a compromise. The compromise was for Capano to build apartments on the property, but the project would be smaller in size and scale and compatible with the surrounding neighborhood. She said that there had been numerous changes in the last eight months. These changes significantly reduced overall footprint of the proposed project and its impact on the community. However, there were still a few things that needed to be resolved such as the provision of a second entry to the apartment complex on 37<sup>th</sup> Street, sidewalks, street lights, and landscaping along 37<sup>th</sup> Street. She then said that the case to rezone the property was weak. As an example, she said that there was only one building within a half mile radius of the property that was four stories high. In addition, there were over four hundred apartments in the area, all of which were three stories in height. So, the request to build a five-story building in the neighborhood was out of character. In addition, she was concerned that the residents adjacent to the site could be adversely impacted. Ms. Carper stated that the R-5A1 zoning was relatively new to the City and had never been used in a neighborhood similar to Brandywine Hills. She also saw the development of the apartment complex as an opportunity to offer a different type of an apartment complex versus the existing apartments in the area, and it could potentially bring in a younger more affluent clientele. Ms. Carper stated that the density of the proposed apartment complex would have a FAR of 1.4 which was less than the maximum 2.0. In addition, the setbacks and second entrance on 37<sup>th</sup> Street would redirect traffic away from residents who live on Lea Boulevard. She concluded that the revised plan would be a positive thing for those in the area. However, the only way to ensure that this project met the preference of the community was by putting restriction in place to ensure that the proposed footprint was never increased. She finished her presentation by stating that she believed it was a good project and would add to the overall appearance of the area. She acknowledged that it would make the neighborhood look different but that the advantages outweighed the potential disadvantages. For that reason, she supported the rezoning provided the issues of enforcement are resolved at City Council.

Mr. Baker thanked Ms. Carper and called Mr. Anthony J. Johnson to the stand. Mr. Johnson identified himself as a resident of the City's first district. His property and his mother's property were both adjacent to the development site. He urged the Department of Planning and Development to decline Resolution 04-19. He stated that the set site was located within a five-

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mile radius of existing apartment complexes: Lea Boulevard Apartments, Pebble Hills Apartments, Brandywine Hills Apartments, and two other apartment units. Mr. Johnson believed that all these apartment complexes helped introduce crime, drugs, prostitution, increased traffic, trash, noise, and home and car burglaries. He said that the addition of the proposed development would negatively impact property values and increase the difficulty of selling a property. He concluded his presentation by restating that he urged the Department of Planning to decline Resolution 04-19 based on the reasons he had stated.

Mr. Baker thanked Mr. Johnson and called Ms. Jane Crowley to the stand. Ms. Crowley introduced herself as a neighborhood resident. She stated that she has been a proud resident for fifteen years. She was very concerned about the nature of the proposed rezoning. She urged the Planning Commission to not approve this rezoning. She supported Mr. Johnson's argument about the high number of apartment complexes in the area. She stated that many Wilmington residents were questioned about their decision to live in the City. But she believed that Wilmington was a good and proud place to live. She stated that the proposed rezoning would erode that, and the neighborhood would be in serious jeopardy. Ms. Crowley thanked the audience and walked back to her seat.

Mr. Baker thanked Ms. Crowley and called Ms. Kathy Butler McDermott. Ms. McDermott introduced herself as a neighborhood resident, whose property was adjacent to the subject parcel. Ms. McDermott expressed that she was deeply concerned and deeply against the idea. She stated that there had been a lot of community meetings. However, these meetings and selected group of attendees were not a reflection of the entire community. She clarified that these groups did not represent her interests. Ms. McDermott disclosed that she lives on Lea Boulevard and was already experiencing traffic issues. She was concerned with the additional traffic the new apartment complex would bring to her street, in addition to the natural light that the proposed buildings would be blocking. Ms. McDermott said that this was not what the neighborhood looked like when she moved in, and she was concerned with the negative impacts the proposed project would bring to the neighborhood and her property. Ms. McDermott concluded her presentation by opposing the proposed resolution and suggested the consideration of other zoning categories with no more than three story buildings.

Mr. Baker thanked Ms. McDermott and stated that there were no more people on the sign-in sheet. A gentleman in the audience raised his hand, and Mr. Baker invited him to the stand. The gentleman introduced himself as Mr. Keith Lake, 29-year neighborhood resident. Mr. Lake shared the stories of different open space parcels in the neighborhood. Essentially, after the parcels were empty, numerous proposals for apartments were created. The neighborhood association opposed the proposals and that is how they have been able to maintain some open

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spaces. Mr. Lake said the proposed apartment complex would double, triple, or quadruple the street's traffic. He clarified that he was not against development on this site; his opposition was that the proposed development was too massive for the neighborhood. He suggested that the proposal should be reviewed again, specially studies that detailed traffic and sewer runoff. He stated that the neighborhood already has sewer runoff problems that they are currently trying to address with the County. Mr. Lake was also concerned that over time the quality of the apartments would decrease, bringing unwelcome people to the neighborhood. He finished his presentation by recommending to the Commission another review.

Mr. Baker addressed the Commission and clarified that even though the neighborhood's community association and the developer had an agreement, the Commission's vote on the rezoning was solely on the compatibility of the uses. Mr. Johnson, a previous speaker, raised his hand. Mr. Baker invited him back to the stand.

Mr. Johnson noted that though there is an agreement between the neighborhood's association and the developer, it was important to keep in mind that the number of people making these decisions were minimum. He stated that many property owners who are adjacent to the site were against the proposed development. These owners were not part of the conversation, and their recommendation would be otherwise. He urged the Commission Members to take that in consideration. Mr. Baker thanked Mr. Johnson.

Ms. Kaminsky clarified that the Commission's vote on the resolution would be solely based on the rezoning and merits of the rezoning, whether it is appropriate and consistent with the neighborhood. The Commission would take into consideration the existing uses and area's character to make the determination.

A lady in the audience raised her hand. Mr. Baker invited her to the stand. The lady introduced herself as Ms. Jeanne Remedio, who has been a neighborhood resident for approximately forty years. Ms. Remedio addressed community members who were opposed to the project and asked them to consider other projects that would be allowed under the existing zoning but might not enhance the neighborhood. As an example, she cited other apartment complexes that had no architectural value or storage units. She acknowledged that storage units would not increase traffic, but also would not enhance the neighborhood. She was sympathetic with the adjacent property owners and gave credit to the developer for the character of the façade, the addition of the entrance on 37<sup>th</sup> Street, and the additional landscape and sidewalk. Ms. Remedio concluded her remarks by stating that she believed that the proposed project was a good use of the land and an asset to the neighborhood.

Another lady in the audience raised her hand. Mr. Baker invited her to the stand and announced that this would be the last comment allowed for the public hearing. The lady introduced herself as Ms. Jereline Coleman, a neighborhood resident. Ms. Coleman asked the Department of Planning what they considered in a rezoning from residential semi-detached to apartment complexes. She was not certain if the land use study included an impact analysis on traffic, crime, noise, and air quality. Ms. Tierney replied the Department of Planning mostly covers zoning ordinances, such as density and land uses. Ms. Coleman replied that as a resident, their concerns were a little greater than that. Ms Coleman was concerned with air quality and traffic since the project proposes over three hundred parking spaces. She stated that those parking spaces are three hundred new cars in the neighborhood adding pollution and people commuting during rush hour. Ms. Coleman explained that there was a light at the intersection of Lea Boulevard and Monroe Streets, and that there wasn't that much traffic. But if all the new parking is added, it would increase the traffic, noise, and pollution. She stated that just considering the land use does not consider the residents that live nearby the site. Ms. Coleman finished her remarks by stating that the community is a hidden gem in Wilmington and the new development would change that. Because of this, she was opposed to the proposal. Mr. Baker thanked Ms. Coleman and closed the public hearing session.

## **REGULAR MEETING**

### **New Business**

**Resolution 03-19: Proposed Amendments to the 1998 “Comprehensive Development Plan for the Northwest Analysis Area” to amend Map D (Proposed Land Use) and Map E (Proposed Zoning) to recommend zoning and land use changes for the property located at 700 Lea Boulevard.**

**Resolution 04-19: A proposal to rezone one parcel of land, located at 700 Lea Boulevard, from R-2 (One-Family Semi-Detached Dwellings) to R-5A1 (Apartment Houses Low-Medium Density). Zoning Referral 551-19.**

Mr. Hill asked the Department of Planning and Development if they knew what FAR requirements and types of use were permitted on the County's Commercial Region District. Mr. Hill also asked about the existing traffic pattern surrounding the parcel subject. The Chair, with the assistance of the neighborhood residents, answered his question.

Mr. Baker asked Ms. Kaminsky that since the Declaration of Voluntary Assurances does not have any weight on the rezoning, if the document would be given to City Council. Ms.



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Kaminsky replied that the Declaration of Voluntary Assurances could be included in the Planning Commission file, but it should not be referenced in any of the resolutions.

Mr. Baker asked the Commissioners if they had any additional questions or comments. There were none. Mr. Baker asked for a motion on Resolution 03-19: Proposed Amendments to the 1998 “Comprehensive Development Plan for the Northwest Analysis Area” to amend Map D (Proposed Land Use) and Map E (Proposed Zoning) to recommend zoning and land use changes for the property located at 700 Lea Boulevard. Ms. Kaminsky clarified, before any votes, that there was a technicality. She elaborated, that as Ms. Tierney had mentioned, the letters on the maps were inadvertently switched. So, the resolution had been corrected and the vote would be on the revised Resolution 03-19. Mr. Chickadel made a motion to approve Resolution 03-19 as revised. Ms. Washington second the motion. With all members being in favor, Resolution 03-19 was approved.

Mr. Baker asked for a motion on Resolution 04-19: A proposal to rezone one parcel of land, located at 700 Lea Boulevard, from R-2 (One-Family Semi-Detached Dwellings) to R-5A1 (Apartment Houses Low-Medium Density), Zoning Referral 551-19. Mr. Hill made a motion to approve Resolution 04-19. Mr. Taylor second the motion. With all members being in favor, Resolution 04-19 was approved.

**Adjournment**

Mr. Baker called for a motion to adjourn the meeting. Mr. Hill moved to adjourn, and Ms. Washington second the motion. All members being in favor, the meeting was adjourned at 7:06 p.m.