

MINUTES
CITY PLANNING COMMISSION
July 21, 2020

Present: Desmond Baker (Acting Chair), Jennifer Adkins, Joseph Chickadel, Anthony J. Hill, Brett Taylor and Tanya Washington (Commission Members); Herb Inden, Gwinneth Kaminsky, Tim Lucas, Matt Harris, Debra Martin, Jessica Molina and Dorien Snyder (Planning); Aaron Baker (City Solicitor's Office).

In following Governor Carney's Proclamation #17-3292, due to the recent outbreak of the COVID-19, the City Planning Commission Meeting was conducted virtually to maintain social distancing and to keep all constituents safe. Members of the public were invited to join the City Planning Commission Meeting by accessing the meeting through the website zoom.us.

The virtual meeting was convened at 6:08 p.m. by Mr. Hill.

PUBLIC HEARING

- 1. Resolution 15-20: A proposal to rezone 1914, 1920, 2004 and 2006 N. Market Street; 50 Race Street; and 1901, 1903, 1905, 1907, 1915, 1925, 1927 and 1929 Hutton Street from C-1 (Neighborhood Shopping) to C-2 (Secondary Business Centers). Zoning Referral 553-20.**

Mr. Matt Harris from the Department of Planning and Development presented the report for Resolution 15-20: A proposal to rezone 1914, 1920, 2004 and 2006 N. Market Street; 50 Race Street; and 1901, 1903, 1905, 1907, 1915, 1925, 1927 and 1929 Hutton Street from the current C-1 (Neighborhood Shopping) to C-2 (Secondary Business Centers). Zoning Referral 553-20. This presentation was accompanied by a series of slides.

Mr. Harris started his presentation by sharing background information with the public. He stated that in April 2020 Wilmington City Council was petitioned by Sacred Heart Housing, Inc. to apply for the rezoning of the properties from the current C-1 to C-2 and is the contract purchaser and equitable owner of the properties. He further stated that the properties are owned by Brandywine Village LLC and BVII, LLC. Mr. Harris said that the Market Street buildings are vacant, and the adjacent Hutton Street properties are partially paved vacant lots.

Mr. Harris stated that the proposal includes low to moderate income senior apartments for the site; demolition of 1914, 1920, 2004 and 2006 North Market Street; development of a new three-story mixed-use building with ground floor commercial storefronts along North Market Street; upper story apartments; and a new four-story apartment building along Hutton Street will be constructed including a roof deck and lounge.

Mr. Harris described the location of the site and surrounding areas. He stated that the site is zoned C-1 Neighborhood Commercial. He explained that the existing zoning is designed to provide sites for convenient retail and personal service establishments for a small tributary. He noted that there is minimum impact upon adjoining or surrounding residential development and that residential uses are limited to two families per floor.

City Planning Commission Meeting Minutes

July 21, 2020

Page 2

Mr. Harris described the surrounding zoning. He stated that the O Open district includes Brandywine Park, a small passive park located directly south of the proposed rezoning. He added that the R-3 One Family Row Houses is limited to 3 stories and allows institutional uses such as schools, churches, community centers and hospitals; and that the W-4 Waterfront Residential Commercial constitutes medium to high density residential, retail and office development. Mr. Harris noted that mixed-use buildings are permitted with a limited number of commercial uses.

Mr. Harris said that the proposed rezoning is C-2 Secondary Business Commercial Centers. He explained that this zoning is located along major corridors and it is designed to permit neighborhood commercial establishments. He noted that heights are limited to 15 stories and this zoning is established along North Market Street beginning at 34th Street, and that it is the closest C-2 zoning along the corridor. He also noted that in 1996 a rezoning of Market Street was undertaken to remove the C-2 zoning district from portions of the corridor, including the subject parcels. He clarified that no non-conforming uses will be created as part of this rezoning.

Mr. Harris noted that no amendments to the 2028 Wilmington Comprehensive Plan were necessary as part of this zoning action because C-2 Zoning is consistent with the land use recommendation in Wilmington 2028 Plan.

He stated that the Plan calls for Neighborhood Mixed Use which C-2 supports. He further stated that this rezoning also supports several objectives of the Prices Run/Riverside/11th Street Bridge and Baynard Boulevard sections of Wilmington 2028 Plan as follows:

- Prevent nuisance properties and stabilize vacant properties
- Make neighborhood commercial corridors and centers clean, safe and attractive
- Enhance the attractiveness of city gateways
- Enhance Concord Avenue and North Market Street as attractive gateway corridors

Mr. Harris stated that the area was added to the National Register of Historic Places in 1971. He noted that the National Register of Historic Places are different than a City Historic District. Mr. Harris said that the Greater Brandywine Village Urban Renewal Plan was adopted in 2001. Mr. Harris explained the C-1 limits scale of development to remain in character with the historic district and that the heights of buildings are limited to three stories. He further explained that the C-2 zoning permits heights up to 15 stories which would be out of character with the historic district.

Mr. Harris shared his outreach efforts. He stated that he mailed a public notice to approximately 500 property owners and residents on July 8th, 2020. He also stated that a Legal Notice was published in the News Journal on July 13, 2020. Mr. Harris also noted that one email inquiry from an adjacent property owner expressing objection and a phone call from Council Member Loretta Walsh expressing support.

Mr. Harris summarized his analysis and restated that the rezoning creates consistency between the current C-1 zoning and the proposed C-2 zoning and the 2028 Wilmington Comprehensive Plan. He stated that neighborhood mixed use is appropriate along major corridors and that while no C-

City Planning Commission Meeting Minutes

July 21, 2020

Page 3

2 zoning is in the immediate area, there is C-2 zoning beginning at 34th Street on Market Street. He noted that no nonconforming uses will be created. He also noted that the rezoning permits a level of density and heights up to 15 stories that would be out of character with the Brandywine Village National Register Historic District and that C-2 permits in some cases, unlimited hours of operation for some commercial businesses.

Mr. Harris concluded his presentation by stating that the Department of Planning and Development recommends the approval of Resolution 15-20; A proposal to rezone 1914, 1920, 2004 and 2006 N. Market Street; 50 Race Street; and 1901, 1903, 1905, 1907, 1915, 1925, 1927 and 1929 Hutton Street from C-1 (Neighborhood Shopping) to C-2 (Secondary Business Commercial Centers). Zoning Referral 553-20.

Mr. Harris reported that he is open for questions.

Ms. Washington asked about the number of stories proposed for this project. Mr. Harris stated that the plan includes a 3-story building on North Market Street and a 4-story building on Hutton Street.

Mr. Baker asked the Commission Members if they had any additional questions or comments for Mr. Harris.

Mr. Hill asked if C-1 and C-2 are considered neighborhood mixed use zoning districts in the 2028 Wilmington Comprehensive Plan. Mr. Harris stated that C-1 and C-2 are considered neighborhood mix use under the Comprehensive Plan.

Mr. Hill asked if the Dollar General that sits to the Southwest on Market Street is a by-right use in C-1. Mr. Harris stated yes.

Mr. Chickadel asked if the developer where to make changes to the plan to reflect 15 stories will CPC, the Planning Department and/or City Council have the opportunity to place parameters on the height. Mr. Inden stated that he did not believe the project would be developed to 15 stories and that Planning would follow up with the FAR and see what they deem allowable. Mr. Inden noted that Planning is looking into modifying the C-2 zoning category regarding the 15-story limit.

Mr. Baker asked if review of the Plans would go through the National Design Review and Preservation Commission. Mr. Inden stated that it would go through the local Design Review and Preservation Commission regarding the demolition phase of the project.

Mr. Hill asked for confirmation regarding the demolition of the structures on the property and if the Design Review and Preservation Commission would review the plan. Ms. Martin stated yes. Mr. Hill asked what triggers the review. Ms. Martin stated that the City has a demolition review ordinance, and this property is in the National Register Historic District which is one of the categories that triggers the review. Mr. Hill asked if DRPC would have the ability to review any proposed demolition which would also indicate redevelopment of the site. Ms. Martin stated yes.

Mr. Baker asked the Commission Members if they had any other questions or comments for Mr. Harris. There being none, Mr. Baker opened the meeting to the public. There were three comments from members of the public.

1. Mr. Larry and MaryAnn Hammermish, residents of 90 Superfine Lane, asked if the proposed development could be accommodated through a variance instead of rezoning. Mr. Harris stated that discussion was had with the City's Zoning Administrator and his recommendation was rezone the property. Mr. Harris noted that if the Commission was interested into exploring a variance instead that option is available. Mr. Inden stated that the Zoning Administrator stated that it would require numerous variances and good planning purposes to actually use in a more appropriate category. The Hammermishs' position is that they oppose the rezoning.
2. Mr. Andy McCready, owner of one of the units of Superfine Lane, asked if written comments are still available. Mr. Inden stated that the proposed rezoning would go before City Council. Mr. Baker stated that individuals are permitted at the City Council meetings. Mr. McCready's position is that he opposes the rezoning.
3. Mr. Michael Mackay, past President of 1980 Superfine Lane, shared comments of his support of the rezoning.

Mr. Baker asked the members of the public if they had any additional questions or comments for Mr. Harris. There being none, Mr. Hill explained to the public members that they will have another opportunity to express their thoughts at a future City Council public hearing regarding this rezoning.

Mr. Baker moved into the regular meeting.

REGULAR MEETING

A. APPROVAL OF THE MINUTES OF THE MAY 19, 2020, PLANNING COMMISSION MEETING.

Mr. Baker asked the Commission Members for a motion to approve the minutes of the May 19, 2020 Planning Commission Meeting. Mr. Hill made a motion to approve the minutes. Ms. Washington second the motion. With all Commission Members in favor, the minutes for the May 19, 2020 Planning Commission Meeting were approved.

B. NEW BUSINESS

1. **Resolution 15-20:** A proposal to rezone 1914, 1920, 2004 and 2006 N. Market Street; 50 Race Street; and 1901, 1903, 1905, 1907, 1915, 1925, 1927 and 1929 Hutton Street from C-1 (Neighborhood Shopping) to C-2 (Secondary Business Centers). Zoning Referral 553-20.

Mr. Baker asked the Commission Members if they had any additional comments or questions for Mr. Harris.

Mr. Hill asked if the Floor Area Ratio (FAR) in the C-2 zoning is 3 or 5. Mr. Harris stated 5. Mr. Harris clarified what the Ministry of Care is proposing based on his calculations, stating that with that FAR and that size site, 215,000 square feet could be developed on how ever many stories you want. Their current project with the 2 proposed buildings is approximately 137,000 square feet, based on what the Ministry of Care is proposing to develop.

Mr. Baker asked the Commission Members if they had any additional questions or comments for Mr. Harris. There being none, Mr. Baker asked for a motion on Resolution 15-20: A proposal to rezone 1914, 1920, 2004 and 2006 N. Market Street; 50 Race Street; and 1901, 1903, 1905, 1907, 1915, 1925, 1927 and 1929 Hutton Street from C-1 (Neighborhood Shopping) to C-2 (Secondary Business Centers). Zoning Referral 553-20. Ms. Washington made a motion to approve Resolution 15-20. Mr. Taylor second the motion. Ms. Washington, Mr. Baker, Ms. Adkins and Mr. Taylor voted to approve the measure. Mr. Chickadel voted against the measure, and Mr. Hill abstained. Resolution 10-20 was approved by majority vote.

2. Resolution 16-20; MS-20-08: Major Subdivision application from VanDemark & Lynch, Inc., on behalf of BPG Land Partners IV, which proposes subdivide one existing parcel, located at 103 South Market Street, into three parcels.

Mr. Lucas from the Department of Planning and Development began his presentation with an introduction regarding the change in format and content of the subdivision reports. Mr. Lucas stated that the primary change is that instead of listing recommendations to the Commission, the report now limits itself to the Department's findings. He also stated that the change should remove and hopefully avoid some potentially confusing language as to who is advising whom and allow the Commission to provide advice in whatever form it sees fit. He further stated that while the included draft Resolution includes language with a recommendation, the Resolution can, of course, include any comments or recommendations that the Commission wishes to provide to the Department.

Mr. Tim Lucas next presented the report for Resolution 16-20; MS-20-08: Major Subdivision application from VanDemark & Lynch, Inc., on behalf of BPG Land Partners IV, which proposes subdivide one existing parcel, located at 103 South Market Street, into three parcels. This presentation was accompanied by a series of slides.

Mr. Lucas explained that the proposal is considered a major subdivision, and is subject to comment by the Planning Commission, because the site is located in a regulatory floodplain. Mr. Lucas clarified that no construction is proposed by the plan.

Mr. Lucas stated that the property is located on South Market Street, adjacent to the Market Street Bridge and Christina River. The 1.37-acre site is located in a W-4 Waterfront Residential/Commercial zoning district.

City Planning Commission Meeting Minutes

July 21, 2020

Page 6

Mr. Lucas said that the plan proposes to subdivide the subject parcel into three new parcels A, B, and C as presented on the slides.

Mr. Lucas noted that the preliminary plan was circulated to City departments for comment. He discussed the following comments as presented in the slide presentation:

1. The Zoning Manager of the Department of Licenses and Inspections reviewed the plan and stated that for those areas where landlocked lots are being created, there should at least be temporary access easements created to serve prior to the street dedication.
2. The Department of Planning and Development requires the following:
 - If required by the Department of Public Works, temporary utility easements should also be provided to landlocked lots prior to street dedication.
 - Draft easement documents must be provided at the time of final plan submission.

Mr. Lucas stated that the Department of Planning and Development finds that the preliminary major subdivision plan for 103 South Market Street substantially meets the requirements for conditional approval as described in the City's Subdivision Regulations.

Mr. Lucas noted that all formal recommendations to the Department by the City Planning Commission via Resolution 16-20, as well as all comments and advice provided by the Commission at the July 21, 2020 meeting, shall be considered by the Department prior to it taking any action to approve or disapprove the preliminary plan.

Mr. Lucas also noted that if the Department grants conditional approval of the preliminary subdivision plan, review and approval of the final plan will proceed according to the process outlined in the City's subdivision regulations.

Mr. Baker asked the Commission Members if they had any questions or comments for Mr. Lucas.

Mr. Baker noted that he is a member of the Riverfront Development Corporation Board, BPG and the City Planning Commission and said that there is a Master Plan for the aforementioned property. He further noted that his affiliations have no impact in his voting and that he is exercising his right to vote as a public advocate for development of the downtown and riverfront area.

Ms. Adkins asked if the Master Plan was publicly available. Mr. Baker stated that is available and that one could obtain a copy of the Plan through Megan McGlinchey. Mr. Lucas stated that the subdivisions are based on DelDot's Plan for the new South Orange Street which is the proposed future right-of-way mentioned in the report and that this project is independent of the Master Plan which was not considered during the review.

Mr. Baker asked the Commission Members if they had any additional questions or comments for Mr. Lucas. There being none, Mr. Baker asked for a motion on Resolution 16-20; MS-20-08: Major Subdivision application from VanDemark & Lynch, Inc., on behalf of BPG Land Partners IV, which proposes subdivide one existing parcel, located at 103 South Market Street, into three

parcels. Mr. Hill made a motion to approve Resolution 16-20; MS-20-08. This motion was second by Ms. Adkins. With all Commission Members in favor, Resolution 16-20 was approved.

3. Resolution 17-20; MS-20-09: Major Subdivision application from VanDemark & Lynch, Inc., on behalf of BPG Land Partners V, which proposes subdivide one existing parcel, located at 0 South Market Street, into two parcels.

Mr. Tim Lucas from the Department of Planning and Development presented the report for Resolution 16-20; MS-20-08: Major Subdivision application from VanDemark & Lynch, Inc., on behalf of BPG Land Partners IV, which proposes subdivide one existing parcel, located at 103 South Market Street, into two parcels. This presentation was accompanied by a series of slides.

Mr. Lucas explained that the proposal is considered a major subdivision, and is subject to comment by the Planning Commission, because the site is greater than 2.5 acres and is located in a regulatory floodplain. Mr. Lucas clarified that no construction is proposed by the plan.

Mr. Lucas stated that the subject property is located along the east bank of the Christina River approximately 500 feet southwest of the Market Street Bridge and that the 5.77-acre site is located in a W-4 Waterfront Residential/Commercial zoning district.

Mr. Lucas noted that the plan proposes to subdivide the subject parcel into two new parcels, A and B. He further noted that a proposed parcel A will be non-contiguous and consist of 4 parts, A1, A2, A3, and A4.

Mr. Lucas explained that the preliminary plan was circulated to City departments for comment and that two departments provided the same comments as 103 South Market Street, as follows:

1. The Zoning Manager of the Department of Licenses and Inspections reviewed the plan and stated that for those areas where landlocked lots are being created, there should at least be temporary access easements created to serve prior to the street dedication.
2. The Department of Planning and Development requires the following:
 - If required by the Department of Public Works, temporary utility easements should also be provided to landlocked lots prior to street dedication.
 - Draft easement documents must be provided at the time of final plan submission.

Mr. Lucas stated that the Department of Planning and Development finds that the preliminary major subdivision plan for 0 South Market Street substantially meets the requirements for conditional approval as described in the City's Subdivision Regulations.

Mr. Lucas noted that all formal recommendations to the Department by the City Planning Commission via Resolution 17-20, as well as all comments and advice provided by the Commission at the July 21, 2020 meeting, shall be considered by the Department prior to it taking any action to approve or disapprove the preliminary plan.

City Planning Commission Meeting Minutes

July 21, 2020

Page 8

Mr. Lucas further noted that if the Department grants conditional approval of the preliminary subdivision plan, review and approval of the final plan will proceed according to the process outlined in the City's subdivision regulations.

Mr. Baker asked the Commission Members if they had any questions or comments for Mr. Lucas.

Mr. Hill asked the purpose in keeping Parcels A-1 through A-4 a non-contiguous parcel instead of 4 separate parcels. Mr. Lucas explained that the future extended South Orange Street will run parallel to the river and South Market Street. He stated that this is the first of several subdivisions that the City will consider based on size and location of parcel. Mr. Lucas noted that after the completion of the subdivisions, there will be a land transaction between the owner the Riverfront Development Corporation, which is partially funded through DeIDot. He said the components of parcel A will be transferred all at once and at some point, the remaining parcels A-2 through A-4 and a small part of A-1 future subdivisions will render parcels that would be consolidated which will look like partial City blocks. He further explained that the future development of South Orange Street and the new Riverfront on the East bank will end up looking like a traditional City street grid.

Ms. Adkins asked if the Transportation Department will own Parcel B. Mr. Lucas stated that the final intent is that Parcel B will become an Official City Street under the City ownership. The acquisition to the right-of-way is the responsibility of DeIDOT. He noted that DeIDOT has no interest in owning most City street beds in the long term. It is an intermediary step in a larger process. Ms. Adkins asked if the area along the river would be owned by the City. Mr. Lucas said yes and that there will be future subdivisions potentially dividing the new riverfront/riverwalk from the City's right-of-way and ownership of those parcels have yet to be determined.

Mr. Taylor commented that the Department of Finance is in favor of dividing the parcels and having individual parcel numbers for the sake of appropriately allocating storm water charges, property taxes and other utility charges.

Mr. Baker asked the Commission Members if they had any additional comments or questions for Mr. Lucas. There being none, Mr. Baker asked for a motion for Resolution 17-20; MS-20-09: Major Subdivision application from VanDemark & Lynch, Inc., on behalf of BPG Land Partners V, which proposes subdivide one existing parcel, located at 0 South Market Street, into two parcels. Mr. Hill made a motion to approve Resolution 17-20. This motion was second by Mr. Taylor. With all Commission Members in favor, Resolution 17-20 was approved.

A. ADJOURNMENT

Mr. Baker called for a motion to adjourn the meeting. Mr. Hill moved to adjourn, and Ms. Washington second the motion. With all Commission Members in favor, the meeting was adjourned at 7:03 p.m.