

City Council of the Mayor and Council of New Castle
Public Hearing and Special Meeting • Tuesday – June 5, 2012 – 6 p.m.
Town Hall – 201 Delaware Street

Present:

Council President William Barthel
Councilperson John Cochran

Councilperson John Gaworski
Councilperson Ted Megginson
Councilperson Teel Petty

Also present: Mayor Donald Reese, Treasurer Janet Carlin, City Administrator Cathryn Thomas, Police Chief Kevin McDerby, City Solicitor Daniel Losco, City Planner Marian Hull

A public hearing shall be held concerning Ordinance No. 477, which proposes to amend the City of New Castle Zoning Code to add a new zoning designation: the Downtown Gateway (DG) district, along with creation of DG district regulations.

President Barthel provided a timeline for how this proposed ordinance has gotten to this point. On July 21, 2009, Council approved the City's Comprehensive Plan. In it was the Downtown Gateway district proposal. Shortly after that, Council was approached by a citizen who has a property located within the proposed district who had a potential project. The City Solicitor at the time and the City Planner advised that Council needed to start looking at the Downtown Gateway (DG) District, which it did. On September 23, 2010, Council held a public hearing on the DG District. At that meeting, Council heard from a number of people who were affected by rezoning who had major concerns. Since then, the City has been working to come up with solutions to address many of those concerns. One thing done was to amend the existing code that was of considerable concern to a couple of residents affected by the rezoning. The City also held public meetings along with way. Because of the number of changes made after that public hearing, it was decided Council would start the process over from scratch.

City Planning Marian Hull provided an overview of the DG District. One recommendation of the Comprehensive Plan was the City take a look at the Seventh and South streets area and Ferry Cut-off area as opportunities for redevelopment and reinvestment. The Ferry Cut-off area is a major gateway into the City with substantial commercial development. There was interest in improving the appearance of that development over time as well as making it easier to walk through the area and make it a better gateway for the City. More critically, the Comprehensive Plan recommended looking at the Seventh and South streets area. Much of this area is zoned for industrial and the parcels are quite small. The market for industrial uses has become limited as the kinds of industrial uses have changed. That has been reinforced by the property owners who approached the City and wanted to do something that is not of an industrial nature. Shortly after the Comprehensive Plan was adopted, work began on Planning and Zoning for these areas. These matters were talked about at a variety of public meetings and then translated into zoning language.

Ms. Hull said the DG District has similar permitted land uses as the existing Retail Commercial and Service Commercial districts, except it prohibits auto service uses. Much of the Ferry Cut-off area is zoned Retail Commercial now. It is a major change for some parcels in the Seventh and South streets area.

Ms. Hull said a couple key concerns were heard at the first Public Hearing. One was the City's non-conforming use regulation required non-conforming outdoor uses, along with some other uses, to be phased out of existence over three years. That is a pretty strict requirement toward non-conforming uses. The City has since changed its ordinance about how non-conforming outdoor uses are addressed. Rather than being phased out over three years, they can continue in perpetuity as long as they meet certain screening standards. The second concern related to a big part of the ordinance change being to encourage reinvestment in these areas and to encourage reinvestment that is likely to be of a higher value land use. But the concerns related to the current economy and how likely is it they will be able to attract that in the next couple years, and what happens to a property owner who has a non-conforming use.

Ms. Hull said they looked at ways to transition to the DG District to provide property owners with more flexibility. One change proposed is to permit the use of existing structures for what it is zoned today or what

is being proposed. It becomes a permitted use. The final change is that today in the district is a self-storage use. The idea is to allow existing self-storage uses remain as permitted and be able to expand in the future.

President Barthel opened the public hearing at 6:13 p.m

Dorsey Fiske, of 26 East Third Street, said she has been asked by the Trustees to express their concern. The Trustees have five properties there and there is a prohibited use for drive-throughs. The Trustees have several medical buildings and at some point may like to have a pharmacy drive-through window. They would prefer to see that put into a special-exception category.

Rev. Williams, a member of the Progressive Club on West Third Street, said they have a lot there and may in the future want to build something. He asked how it would affect the additional use of that property. He said it is currently zoned Open Space for Recreation.

Ms. Hull said if it is zoned currently for Open Space for Recreation, the proposed rezoning would allow for much broader uses than what is allowed today. Those additional uses include residential uses, retail, personal services, professional business offices, mix-used, restaurant, professional businesses and institutional uses. There is also a provision for uses determined by Council as being of a similar nature.

John DiMondi thanked City Solicitor Losco for working out some of the more difficult problems with his property. He pointed back to the Planning Commission right before it voted for the Gateway District. He said Ms. Hull made a statement to the Commission members that industrial users could keep their zoning until they didn't want it. He said it alleviated any problems he had with it and some Planning Commission members took the statement to heart. He said he wondered where that statement went and her recommendation. He said Council is rezoning people's properties without their permission. Council is taking away their livelihood, and does not like the way they live and how they live. He added Council wants to change what people do for a living, and asked if they want to do that without them having a say in it. He said people should come to Council if they want it changed, and economics drive development not Planning Commissions. He said people should have a choice unless they are a nuisance. He said he does not have a single citation against his property. He said none of the members of the Council nor the Planning Commission are affected by this change. He said Council is thinking pie-in-the-sky if they think it is going to be Delaware Street down Seventh Street; it will never be that way. He described it as a social experiment to move the people out.

Benjamin Barnette, of 420 W. Seventh St., said when he bought his property it was zoned Industrial but it had a house on it. He was told if it burned down he could not rebuild it. He came to Council which rezoned it to R-3. He asked where he goes now.

Ms. Hull said R-3 uses are also allowed in the Gateway District. The home would be a permitted use.

Josie, a member of the Community Progressive Club, said she had a concern about the types of things that can be put on the Progressive Club's property. She said she was involved with the imminent domain in Wilmington when that was going on and you can't take it for investment. It has to be for schools and similar type things.

Ms. Hull said nothing is being taken. These uses refer to what the property owner can do with their property. As the property owner, there are a lot more uses potentially under the proposed Gateway District zoning. The zoning for the property now is Open Space, which has the most limited set of uses.

Eric Mayer said he owns a property that is part of the rezoning. He said he attended the Planning Commission meeting when they went over it and the industrial part, and it sounded fine to him. He would just like something to get done on it so he can do something with his property. He said he also did not check it out until his attorney called him after Administrator Thomas had contact him about the meeting. He said it means he can only do with what is there, he can build any more. He said he doesn't like it.

John Hoffman, of 113 W. 7th St., asked with Route 9 what DelDOT plans to do. Right now his property is R-2, which is perfect. He asked what will happen if this development takes off, and eminent domain does become an issue. He said he attended the meetings. He is scared that he will get another letter that says it is being rezoned again. He asked what plans DelDOT has with redevelopment or widening Route 9.

Ms. Hull she is not aware of any plan on DelDOT's behalf in this corridor in terms of widening or changing.

Administrator Thomas said the owners previously contacted by DelDOT regarding their properties relate to the Washington Street Project, which has been on the books for many years and is going to be built this summer. Anyone who has any property impacted by this DelDOT project was contacted related to their property and potentially DelDOT obtaining easements or rights-of-way. The Washington Street Project includes Washington Street, West Seventh Street and South Street. She had no knowledge of any future projects in the area.

Mr. Hoffman said there is already a traffic issue on West Seventh Street. Now it is going to add more traffic with development. He believes the people on Sixth Street would have the same view.

Len Saari, commodore of the New Castle Sailing Club, said the club has property on Seventh and South streets. The property is screened, they do some outdoor storage and it looks residential. There is a barn there.

Ms. Hull said she would need to look at the screening but it looks like it would be OK.

Tom Tritelli, a member of St. Peter's Church and on the Pastoral Council, asked about the area on Route 9/ New Castle Avenue and Third Street, that junction, and why it was not included in this ordinance.

Ms. Hull said the area had some more environmental restraints on them, and there was a concern about expanding the zoning district into such an area. It would involve allowing a lot of coverage, which could make it more difficult to control the water.

Patrick Walsh, owner of Tri-State Truck Sales, which is at 201 E. Sixth St., on the corner of the new district. He objects to it because the top of the list for prohibited uses is vehicles sales. He said it feels like it is being targeted. He said he would rather see efforts made to control the flooding in that area. The flooding will prohibit the proposed uses being outline. He asked about the 10-year window of use.

Ms. Hull said under the proposed changes for the first 10 years the property would be a permitted use, so there would be no changes. After 10 years, it becomes a non-performing use, which means as long as the current owner or someone else continues that use, it is allowed to continue. If it was discontinued for a year, for example, and then someone wanted to come in start that use again it would not be permitted.

Solicitor Losco said the owner would not be able expand or build a new building. The owner would be able to renovate. There are not a lot of Board of Adjustment options.

Rev. Williams said it sounds like a lot of governmental control over residents and what they can do. He said that is what is very distasteful in the whole plan. He said the black community has seen this through the years in New Castle.

Kevin Thomas, of 706 Delaware Street, asked if it is going to be a historic district with shutters and brick sidewalks.

Ms. Hull said there are design standards but it is not historic. There will not be required brick sidewalks but there will need to be sidewalks.

Councilperson Cochran made a motion to adjourn the public hearing on Ordinance No. 477 into a public hearing on Ordinance No. 490. Councilperson Petty seconded the motion. The motion passed unanimously.

A public hearing shall be held concerning Ordinance No. 489, proposing to rezone properties to be included in the newly created Downtown Gateway (DG) zoning district.

President Barthel opened the hearing at 6:42 p.m.

Mayor Reese asked if Council will take written questions. President Barthel said it would.

Councilperson Petty made a motion to adjourn the public hearing to Special Meeting. Councilperson Megginson seconded the meeting. It passed unanimously.

Special Meeting

1. First and Second Reading of Ordinance No. 477, which proposes to amend the City of New Castle Zoning Code to add a new zoning designation: the Downtown Gateway (DG) District, along with creation of DG district regulations.

President Barthel said the Council will not take action on rezoning at this meeting. Council is required to do a first and second reading. A third reading would take place at a later date.

President Barthel and Administrator Thomas read Ordinance No. 477.

President Barthel did the second reading.

2. First and Second Reading of Ordinance No. 489, proposing to rezone properties to be included in the newly created Downtown Gateway (DG) zoning district.

President Barthel read Ordinance No. 489.

President Barthel did the second reading.

Councilperson Petty made a motion to adjourn the meeting into an Executive Session for collective bargaining. Councilperson Gaworski seconded the motion. It passed unanimously.

The meeting was adjourned at 7:12 p.m.

Respectfully submitted,

Michael Dickinson
New Castle City Clerk