

**Planning Commission Meeting for New Castle City took place on July 26, 2010 at 6:30 p.m. in the City of New Castle's Town Hall.**

Members Present: David Bird, Chair  
Bill Simpson, Co-Chair  
Joe DiAngelo  
Dorsey Fiske  
Vera Worthy  
Florence Smith  
Susan Marinelli  
Dr. Jack Norsworthy\*

City Planner: Marian Hull, URS

Mr. Bird called the meeting to order at 6:35 p.m. Roll call was taken. Mr. Bird welcomed new member Susan Marinelli to the Planning Commission. Condolences were expressed to the parties representing the Riverbend Subdivision upon the passing of colleague William Wichess.

\*Dr. Norsworthy arrived at 6:39 p.m.

Approval of Minutes – Ms. Fiske noted one minor text change on page 2. **A motion to approve the June minutes as amended was presented by Mr. DiAngelo and seconded by Mr. Simpson.**

Note: Ms. Fiske questioned a statement made by Mr. Balick at the last meeting that 'Parkway Gravel was the original owner but there was always an understanding that Mr. Capano would succeed Parkway.' She stated this may have been the case but it was not known in town. Mr. Bird suggested Mr. Balick could speak to this during his presentation if he wishes.

Riverbend Subdivision – This is a request from Mr. Capano, developer of the Riverbend Subdivision, to change the status of that development to eliminate its current 55 and older age-restricted community. This matter was referred to the Planning Commission by City Council for review and recommendation.

Mr. Adam Balick, an attorney with Balick and Balick, is presenting on behalf of Riverbend. Ms. Fiske objected to receiving relevant documentation concerning this project until today. Mr. Balick responded that they are not asking the Planning Commission to act on anything it is not comfortable with. He proceeded to provide insight into the documentation that was distributed. The applicant has responded item by item to the concerns that the Planning Commission wanted the applicant to address and was noted in Ms. Hull's correspondence. He noted that in her memo Ms. Hull mentions information from the State of Delaware. It is Mr. Balick's understanding that the Planning Commission was not looking for the applicant to obtain that information. He highlighted by item the process used to provide information.

Traffic Analysis – How would removing the deed restriction of 55 and over to an unrestricted community impact the City's resources? A University of Delaware (UD) report dated January 2006 was used. The report studied the issue of active adult community trip generation rates. (*Study provided to Commission as Exhibit A.*) Also used was traffic information from 2008 that DelDOT did on trip counts along Route 9. Lastly they applied the projections of the survey to actual data taken from the DelDOT report. (*Mr. Balick referenced materials distributed to the Commission.*) If the request to change to an unrestricted community is approved, there would be about a 2.6 increase in total trips generated. This reflects a full

build up of the community (210 total homes). The initial projection of the developer was that it would take about 4 years for full development. If the deed restriction is not removed and the project remains solvent they are projecting 10 years for full absorption of the community.

Mr. Simpson referenced Mr. Balick's statement (to Ms. Hull's memo) about reducing from 210 to 190 based on 80 town homes being reduced to 60 town homes. Mr. Balick said the 60 town homes represent the number of homes that Cornell Homes has tentatively agreed to purchase from the developer. Cornell Homes has agreed to build a town home that deviates from the model home that has already been built. There would be two parking spots underneath the town home versus the one parking spot in the current model. *(Mr. Simpson noted parts of Mr. Balick's response about this issue that can be easily misunderstood. Mr. Balick clarified his concerns.)*

They do not have DeIDOT data for peak trips but the UD data for peak trips would be expected to increase as a result of approval of the change in restriction. An age-restricted community of comparable size to Riverbend shows trips during peak hours were expected to increase about 70%.

Fiscal Impact – City services such as road maintenance, snow removal, and trash removal will not be provided. The City has agreed to pay the tipping fee only for trash. Concerning police and fire calls, Mr. Balick noted the police calls are connected to factors such as the density, socio-economic, age of residents. No other data was provided.

Revenue should not change because the number of houses remains the same, the value of the houses is the same, and the developer's contribution by way of an impact fee will not change.

The applicant does not see any change in the use and supply of electric and water services. The number of residents would not greatly impact these services if the 55 and over restriction is removed (Mr. Balick referenced the 2009 Census data showing no meaningful change in number of people who reside in this community if the restriction is removed.) He deferred to the MSC to further address electric and water. Ms. Hull does not agree with Mr. Balick's data. She said that households in a 55 and over community typically do not have more than two people and the data provided does not show people under the age of 18 as being prohibited from living in one of these homes. Mr. Balick said he provided the best data available and was unaware of sources for more accurate data.

Mr. Bird commented that there is a limitation on the number of people who can reside in a home if it is a 55 and over community. If the restriction is removed it may become more difficult to monitor the number of people living in a particular home. He also expressed concern with the number of vehicles that may be attached to a home if the restriction is removed.

Mr. Balick conceded there would be more people living in the community if the restriction is removed. But he offered that Riverbend is projected to be a low-density community. *(Further discussion on this point followed.)*

Dr. Norsworthy questioned if Mr. Balick can show what the difference would be between flexible use and unrestricted residential. Mr. Balick said that unrestricted use would fall below industrial use but higher than restricted use residential. *(Mr. Balick referenced the materials distributed to the Commission.)*

Ms. Fiske inquired about the cost of the homes. Mr. Balick said they would be about \$370,000 which represents a blended amount of single-family homes and town homes. *(Discussion followed that included transfer taxes, real estate taxes and voluntary contribution to the City from the developer.)*

Single Point of Access – The concern with a single point of ingress/egress surrounds flooding. An access point via Dobbinsville was proposed for emergency personnel to use to access the community. The access point is on Trustees' land and Ms. Fiske said the Trustees declined to do this. She added that Mr. Ferrara approached Mr. McConnell who said he would permit use of Centerpoint for a fee. Mr. Simpson explained that the original plan had the entrance coming out in a possible flood plain preventing ingress/egress. One plan that was proposed was to use the railroad right-of-way off Washington Street and turn left onto the road leading to Centerpoint Blvd. and make entrance to the development that way. It was believed this would be too difficult. The second proposal was to go behind Dobbinsville to the end at 8<sup>th</sup> Street and make a left and extend 8<sup>th</sup> Street over Trustees' property. Many streets interconnected and some were paper streets. At the time permission was going to be granted and compensation granted to the new street at the entrance to the development. This did not take place. The final proposal was if the bypass was constructed they would cross the railroad tracks onto Mr. McConnell's property at Centerpoint Blvd. The problem still exists with crossing the railroad tracks. At that time Norfolk Southern had closed that crossing and Mr. Chris Castagno informed that that crossing could be opened.

He believes the 'ideal situation' would have been for Mr. Ferrara to approach the Trustees and get approval for use of 8<sup>th</sup> Street continued across their property.

Ms. Fiske said the Trustees were not asked and Mr. Ferrara began constructing the road. She said the bypass was taken out of consideration by the sitting City Council on the request of Mr. Ferrara against the advice of the Planning Commission and DelDOT.

Mr. Balick said if the Trustees change their position, the applicant would agree to give the bypass back to the City as a condition of getting the restriction changed.

On Street Parking – There are not many options for on street parking. If town houses are permitted to be built by Cornell Homes, it would add 60 additional off street parking spaces. The 80 town homes that have already been built or are in progress (20 town homes) would have three (3) off street parking spots but all others would have four (4) off street parking spots. Mr. Balick noted that they are providing double the parking spaces that are required in the City Code.

School Bus Access and Pick Ups in the Absence of Sidewalks – Mr. Balick used a diagram to show Commission members the location of bus stop concrete pads (6X6) that would be dictated by the density of school-age children in the development. He assured that no child would need to walk more than a block/block and a half to reach a bus stop. Any City bus service would be separate.

From Route 9 to the entranceway they are planning a 4' wide concrete sidewalk. There is not enough sidewalk space in the development but they propose a 4' wide painted pedestrian bike lane. Interior roads are 26' wide and taking the 4' bike lane away still allows room for two-lane traffic. This is consistent with other New Castle County subdivisions.

Recreation Facilities -- They are suggesting waiting until they know better the age level of the children who may be living in the development. Recreation space has been set aside.

Route 9 Bypass – The concerns the developer has is the impact the bypass has on the development (accessing into the development, noise and visuals).

Again referencing materials distributed to the Commission, Mr. Balick restated the declaration of deed restrictions. They propose striking the restriction on the age limitations and where necessary, the ordinance by Mayor and Council to amend the Comprehensive Plan concerning the bypass. They would be willing to strike this as well.

Mr. Balick concluded his presentation and answered questions from the Commission.

Mr. Bird asked what the impact would be on the school district. Mr. Balick does not understand how to address the City's concern about the way the schools would be impacted. Ms. Hull said the City's concern is in total tax impacts on its residents. Part of this is the City's tax bill and part is the school's tax bill. Market rate residential housing costs more to serve than the taxes it generates and part of this is the school district. Often school taxes are the highest tax residents pay. Mr. Bird added that population also affects schools. *(Further discussion on this topic took place that included traffic, bus safety, the park at Dobbinsville, and a connection from this community to the river side of Route 9.)*

Ms. Hull reported she will have her traffic engineers look at the plan. Mr. Balick has presented a good analysis on the revenue side but she has some concerns with cost-like items. She will research further.

It is understood that the property owners want to move forward on this project but information needs to be reviewed before this Commission can recommend a decision. Mr. Bird asked Commission members to be ready to make a recommendation at its August meeting.

Mr. Balick pointed out that his remarks about the bypass aren't meant to reflect they think it is feasible. Further, if this one issue lingers they request if the Commission is satisfied they will give the City the concession, so if other issues continue into the Fall the project isn't slowed down.

**Dr. Norsworthy made a motion to put off making a decision until next meeting to hear a review from URS traffic engineers. Ms. Smith seconded the motion. The motion was carried by unanimous vote.**

Mr. Chip Patterson from the Municipal Service Commission (MSC) would like to know what the process is for MSC to make comments to whatever recommendation the Planning Commission makes to City Council. Mr. Bird stated they are welcome to make comments/provide input before the recommendation is made. MSC can also attend the City Council Meeting to offer comments/input or offer same by way of letter to City Council. There will be no separate public meeting on this subject. Mr. Simpson requested MSC provide the Planning Commission with their concerns on how this project would affect their infrastructure. Mr. Patterson does anticipate making comments noting major concerns they have. If this body recommends an unrestricted community there are certain concessions they feel the developer should provide. Mr. Bird suggested Mr. Patterson express his concerns to the Planning Commission for consideration before it makes a recommendation. *(Discussion followed.)*

*(Mr. Balick provided amended plans to the Commission.)*

Budget Review – Chairman Bird reported we are in a new budget year. Our initial budget for this year totals \$35,000. Dr. Norsworthy inquired how much was spent last year.

**Mr. Simpson made a motion to request from Accounting and City Administrator the Planning Commission's budget for the year just ended. Dr. Norsworthy seconded the motion which was passed by unanimous vote.**

DeIDOT Traffic Impact Studies – Ms. Hull distributed materials last month about this issue. She reported that DeIDOT does have a process that the local planning entity follows. She noted the types of specific triggers that attract a traffic study. *(She detailed the process for Commission members and discussion took place throughout her presentation.)*

Rezoning Study Update – Ms. Hull informed that all the changes and updates the Planning Commission suggested have been codified and in the proper format and submitted to the City administration to be placed on the City Council's agenda.

#### Commission Member Comments

Dr. Norsworthy informed he may not be available for the August meeting.

Mr. Simpson expressed concern about sidewalks in his neighborhood. Some areas do not have sidewalks and those areas are the responsibility of MSC and the City of New Castle. Sidewalks are the responsibility of the property owner. He has complained many times to the City to no avail. It is a safety concern for pedestrians.

Mr. DiAngelo thinks a cost analysis should be obtained on the bypass proposal now. The bypass is extremely costly. Many of the things presented tonight by the Riverbend group are doable and would work but he is still concerned.

The applicant's offer of a bypass was revisited. Dr. Norsworthy believes the applicant is interested in developing a good-quality community that will benefit the City. He also feels the Trustees should work with the applicant to get the second entrance accomplished. Mr. Simpson stated the technical committee (many years ago) insisted on a second access for the development. At that time the MSC said there was plenty of infrastructure planned to supply the community. He believes there was a buy in from the Trustees for this property to allow a non-well-developed road to be extended from 8<sup>th</sup> Street to their road. Ms. Fiske serves on the Trustees' Property Development Committee now and said they have strong issues with Mr. Ferrara and added the Trustees never agreed to sell the land and she thinks the bypass road that was proposed in the beginning should be used. Dr. Norsworthy said the bypass road was not intended to be used as a second entrance. Mr. Simpson said there were two issues that can stop the bypass. Firstly, Mr. McConnell's willingness to sell his property, and second is the railroad's ability to grant a crossing.

Mr. Bird commented on a number of newspaper articles about water contamination and the rise in the river level that were published in recent News Journal publications.

Mr. Bird reported that his term as the Planning Commission's representative on the Historic Area Commission (HAC) is coming up for review. He asked if any Commission members are interested in serving on HAC. No one expressed an interest at this time.

Comments from the Public – No comments from the public were received.

Next Meeting – The next meeting is scheduled for 8/23/10 at 6:30 p.m.

Adjournment – **A motion was made by Dr. Norsworthy to adjourn the meeting and seconded by Ms. Fiske. The meeting was adjourned at 8:20 p.m.**

Respectfully submitted,

*Debbie Turner*

Debbie Turner  
Stenographer