

Planning Commission Meeting for New Castle City took place on August 23, 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
Susan Marinelli

Members Absent: Dr. Jack Norsworthy
Florence Smith

City Planner: Marian Hull, URS

Mr. Bird called the meeting to order at 6:38 p.m. Roll call was taken.

Approval of Minutes – Mr. Simpson made a motion to approve the July minutes. Mr. DiAngelo seconded the motion. Ms. Fiske raised a question about a statement made by Mr. Balick on page 3. The text indicates ‘the applicant would agree to give the bypass back to the City...’. It is believed that ‘single point of access’ was being referenced rather than ‘bypass’. **Mr. Simpson tabled his motion until the recording is reviewed. Ms. Fiske seconded his motion.** The stenographer will review the recording and provide clarification to the Chair.

Mr. Bird announced that item 4 on tonight's agenda has been removed by the applicant. The subject was a preliminary presentation of a proposal for a school use to be located on West 7th Street.

Continuation of Request from Mr. Capano, Developer of the Riverbend Subdivision – Mr. Greg Lingo of Cornell Homes stated the proposal to remove the 55 and over restriction is a result of the economic downturn and they are asking for the ability to sell the homes without a restriction. The project will fail as it currently stands. He noted the Twin Lakes community in Newark as an example of a 55 and over community that had the restriction removed and is now selling homes.

Ms. Melanie Anderson of Balick and Balick appeared on behalf of Adam Balick. Mr. Bird referenced materials Mr. Balick provided at the last meeting and inquired about the viability of 55 and older communities in Delaware noted in those materials. Mr. Lingo said sales are off but none had gone bankrupt to his knowledge.

Discussion then focused on traffic, including peak hours. Mr. Bird expressed concern with the impact of additional volume as a result of an unrestricted community and believes that there is the potential of this volume increasing about three times during peak hours as a result. Mr. Lingo said that before this community was approved under prior use (industrial) they still feel the market rate housing is less traffic than the prior use would have been. Mr. Bird responded that the property was never developed as an industrial site and changing to a residential use, which the Planning Commission approved as a 55 and over, the traffic generated wouldn't be at the time that traffic would normally be coming in and out of the location. With children in the community you have to factor in school buses during rush hour which also concerns him.

Mr. Lingo said they calculated 183 trips per day. Mr. Simpson noted that Route 9 is already stressed at peak hours and during peak hours traffic would not be the same. Mr. Bird cited the 25 m.p.h. speed limit around the curve leading to the entrance to the development as a concern as well.

Mr. Simpson raised the issue of single point of access. When he served on a technical committee years ago that committee agreed that a second point of access was needed. He does feel this development should continue without a second point of access. Mr. Bird said the technical committee report talks about emergency access and that trying to do it through the industrial park and over the railroad tracks would cause difficulty. The concept was to use access through Trustees land. The developer said they would work with the community to provide emergency access in Dobbinsville. Mr. Simpson said the ideal situation was to extend 8th Street with the permission of the Trustees with a not-developed, but improved roadway. This was brought up in technical committee meetings in 2005 when the Planning Commission approved recommendations. The alternative, in the event the Trustees did not permit this roadway to cross their property, was to develop a similar road along the Norfolk Southern rail right-of-way that would extend to Washington Street. Both roads would be compressed gravel with a gate at either end with a lock.

Mr. Simpson said a recommendation was made to put in one of the stated roads and was a condition of the Planning Commission's recommendation. It was never done and he is unhappy about this matter not being addressed. Ms. Hull referenced a letter (8/19/10) from Mr. David Athey, City Engineer, that says 'since the development was approved in 2006 without a requirement for this alternate access it would be difficult for the City to include such a mandate now coinciding with the lifting of an age restriction.' According to Mr. Simpson, the developer was building the road when the Trustees stopped construction because the developer did not have permission from the Trustees.

Mr. Andy Taylor, Cooch and Taylor, represents the Trustees of New Castle Common. He noted the road was stopped because the developer did not have the permission of the Trustees to build the emergency road there. The developer explained he thought because he had an easement from New Castle County (NCC) for a sewer line that had been there for years he could build a road on top of it, but the easement agreement with NCC is limited to only a sewer line and not for a roadway. There were other encroachments on Trust property by the developer without permission and there was a need from the developer to have some easements for utility purposes from the Trustees. At this time negotiations broke down between the developer and the Municipal Services Commission (MSC). Mr. Taylor wrote a letter (1/30/09) to the developer with a list of items that the Trustees would consider discussing with him. This is where it stopped. Discussion with MSC did not go any further. The Trustees were going to require the developer to have the community deed restricted and any buyers notified that the roadway was for emergency vehicles only and they would have no permission to use the road. The developer at that time was not the same developer that is currently involved. The former developers were Messrs. Capano and Ferrara.

Mr. Bird asked where this matter would stand if the Trustees revisited it now. Mr. Taylor informed that it would need to be discussed as a new matter before the Trustees since there are now several new Trustees.

Ms. Anderson said they are willing to abide by the Planning Commission's wishes and they have experienced other issues that have come up preventing them from continuing negotiations, but they do not plan on abandoning the original plan. They are willing to talk to the Trustees as well.

Mr. Taylor said he has no authority to say if there is any outstanding offer that could be accepted from the developer. It would need to be re-introduced and discussed by the Trustees.

Mr. Simpson said this is a requirement that must be met. A second issue that concerns him is with construction of suitable infrastructure into the development, i.e., water and power. It is his understanding that a strong emphasis was placed on infrastructure from the technical committee. No attempt has been made to make that happen. It is detrimental to the Riverbend community. Ms. Marinelli added that it is not only detrimental to the community, but later it will cost New Castle a lot of money if the infrastructure is not put in place now.

Mr. Lingo offered that if the whole community isn't completed it is going to be detrimental to New Castle. He did not dispute Mr. Simpson's statement.

Mr. Simpson raised the issue of looping the water system which is critical to fire protection. Mr. Lingo responded that Riverbend is committed to making the inter connections sought (170 homes must be sold first) by the MSC. He agreed there is an agreement to do this.

Mr. Bird referred to the MSC letter saying they are neutral on the issue of whether the age restriction should be lifted. He noted other parts of that letter. The tone of the letter expresses a concern with the developer following through with what they are going to do. This will affect whatever recommendations this body makes to City Council. We need some assurance that the developer will follow through with what they have agreed to do.

Ms. Fiske expressed her concern that this community has two points of access and noted the flooding issue at the main entrance. DeIDOT has no plans to work on the flooding problem in the near future. *(Discussion about projected revenue followed.)*

Discussion turned to services the City will not be providing to residents of this community such as snow removal and trash. Mr. Lingo indicated there are plans for a homeowner's association but a certain percentage of homeowners need to be present first.

Ms. Worthy questioned if there would be a homeowner's association or a maintenance corporation. Mr. Lingo stated the homeowner's association would hire a maintenance corporation to help oversee these services. She added the City does not have to maintain the common grounds. Residents will need to see that grass is cut and snow is removed. Mr. Lingo said both groups will exist. Single family homes and townhomes are planned. Mr. Taylor offered that generally properties developed outside the city limits have a maintenance corporation that would be required to handle open space, storm water management ponds, etc. The maintenance corporation is mandatory by the County while the homeowner's association is voluntary. *(Additional discussion on this subject followed.)*

Ms. Hull reviewed Mr. Athey's letter (8/19/10) addressing traffic analysis, single point of access, on-street parking, school bus access and pick-ups, recreation facilities, fiscal impact analysis, Route 9 bypass easement, changes to development design for a non-restricted population, feedback from State agencies regarding impact on State plans and services, sidewalks, and pedestrian/bike lanes. Mr. Lingo addressed concerns noted in this letter.

Mr. DiAngelo believes this community will not survive if the restrictions are not lifted and feels the Planning Commission needs to look at the things that need to be done such as roads, sidewalks, municipal services, utilities and such that must be addressed before this body can give a recommendation. Traffic and schools will take care of themselves. Putting money (bonds) up to cover what needs to be done is a suggestion.

Ms. Marinelli said that aside from the concerns already mentioned, she has seen a number of homes for sale through New Castle proper. Mr. Lingo offered their buyers may not be the ones looking for those homes. He cited two communities where interest is greater than in re-sales. New Castle is attractive because of its location to major arteries.

Mr. Bird stated this is a difficult decision. He recognizes the economic impact on a particular community and also looking at potential revenue to the City going forward. What happens if this project fails? If that happens we are left with a large club house, a few houses already built, possible liquidation or bankruptcy, and perhaps other interest in the property later. There is legitimate concern about further impact on traffic and a potential impact on the school system and other facilities. It has been noted the same concerns about a second point of access and infrastructure. He does not feel he has the information he needs to make the best decision on this matter. He suggested a mini PLUS process since the developer has already been through a number of State agencies. Many of the concerns noted in the PLUS review have been addressed.

Mr. Simpson reiterated that traffic, a second point of access and the right of way and access for utility looping can all be addressed with a bypass over the tracks. Mr. Bird said we don't have a map of where the bypass would be if it were put back in. Ms. Hull advised it can be revisited but there is more to build around with this proposal.

Ms. Anderson addressed Mr. Athey's letter. They believe the issues raised in his letter aren't relevant to the 55 and over deed restriction being lifted. All the issues that have been raised and are relevant have been addressed. The project is in dire straits and needs the restriction to be removed in order for Mr. Lingo to help finish it. They do not have the cash on hand to go through a lengthy process. They are willing to deal with a reasonable timeline and want to do what is necessary to assure this body that lifting the restriction will not negatively impact the City of New Castle. Less than three (3) months or sooner is satisfactory.

Mr. Simpson took exception with the letter from the developer provided tonight saying that the traffic impact is contrary to what the letter states and the second point of access for emergency vehicles is not being required by the Commission to effect a change; it was something that was always supposed to be there.

Ms. Hull commented further on Mr. Athey's written responses. A traffic engineer is needed to address transportation issues. We need to determine what language was in the

development approval concerning the second point of access. If this was not in the original development approval we are on weak ground but we can ask the City Solicitor about it in terms of the change in the number of people in the community. She touched on school buses, recreation facilities, and sidewalks. The applicant has addressed moving people throughout an age-restricted community but we need more information on how this is accomplished with a younger group, including children. She stressed the safety of all residents and noted the applicant needs to educate this body on how their changes within the community will work.

Mr. Bird asked if the issues as noted tonight can be addressed in thirty (30) days and Ms. Anderson believes it is a reasonable timeframe and that they can satisfy the Commission's concerns. Ms. Anderson proposed the Planning Commission vote now and place conditions on the decision that if the restriction is to be lifted it would be conditioned on the Riverbend and the developer satisfying the conditions that concern the Planning Commission and having thirty (30) days to do that. Mr. Bird is reluctant to recommend conditional approval to Commission members. He is not comfortable knowing what conditions should be placed on the project and wants to use thirty (30) days to work with the State and the developer to address our concerns. Commission members concurred. (*Discussion followed.*)

Ms. Hull will prepare a memo for review by the Commission, City Administrator and the applicant showing specific requests of what we are asking for. There are 3-4 points that need to be addressed specifically for this development. The City needs to research the development approval language concerning second point of access.

Planning Commission members were in agreement and the matter was tabled until the September meeting.

Budget Review – Chairman Bird reported we do not have \$35,000 in our budget as noted in our last meeting. We have not spent any money. Our budget is \$18,000 which includes \$1,000 for education, \$12,000 for a capital improvements program, and \$5,000 for expenses. City Council did not include the waterfront parking study because they would like us to fund this through a grant such as WILMAPCO, State or some other organization. Mr. Simpson asked if Mr. Bird had received anything in writing from City Administration which was voted on at our last meeting. Mr. Bird does not have this to date but will have it in time for the September meeting.

Discussion of Planning Studies for 2010-2011 – Mr. Bird stated that the parking and riverfront studies would be good to do but we do not have funding at this time. We can move forward with capital improvements and he asked Ms. Hull to summarize what is involved with the capital improvement program. Mr. Bird provided additional information concerning what the program involves. (*Discussion.*)

Commission Member Comments

Ms. Fiske cautioned that we need to be very careful to ensure all concerns are addressed before making a recommendation on the Riverbend project.

Mr. DiAngelo stressed voting on this project at the next meeting. He feels certain that without lifting the restriction it will fail but we need to make sure everything is in order before granting a recommendation.

Mr. Bird is sympathetic with the economic plight of housing projects but he is not willing to vote for something that may jeopardize the residents. We can better make that a recommendation if the applicant addresses all of our concerns. Commission members further discussed options for the second point of access for the proposed Riverbend community.

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

Old Business

Mr. Bird announced at the July meeting that he was stepping down as the Planning Commission's representative on the Historic Area Commission and he submitted his letter of resignation and recommended Ms. Fiske to be appointed as his replacement. Ms. Fiske has accepted the nomination. City Council must now approve the nomination.

Next Meeting – The next meeting is scheduled for 9/27/10 at 6:30 p.m.

Adjournment – **A motion was made by Mr. Simpson to adjourn the meeting and seconded by Ms. Worthy. The meeting was adjourned at 8:25 p.m.**

Respectfully submitted,

Debbie Turner

Debbie Turner
Stenographer