



CIVIC LEAGUE For New Castle County

Informed Citizens for Sound County Growth

P.O. Box 11523 - Wilmington, DE 19850

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May
2011

STATEMENT OF PRINCIPLE

Monitor and selectively evaluate government actions including laws, regulations and policy.

Provide appropriate forums for informing as well as soliciting input from the public.

Establish positions based on responsible studies and consistent with the aims and purpose of the organization.

Advocate these positions.

Founded in 1962, the Civic League is non-profit volunteer organization, which studies and illuminates County and State government actions concerning comprehensive developments and the quality of life and is a vocal advocate of relevant positions.

County Comments is the official publication of the Civic League for New Castle County.

Chuck Mulholland,
President

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COUNTY COMMENTS

CIVIC LEAGUE FOR NEW CASTLE COUNTY

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MEETING

Tuesday, May 17, 2011

6:30 PM at the Bear Library
101 Governor Place (Route 7 & 40)
Bear, DE 19701

AGENDA

Randy Westergren will comment on " his recent findings regarding various shortcomings in the Board of Assessment office in New Castle County, resulting in a severe loss of current and past property tax revenue for the County."

Mixed Use - Mixed Signal

I have been asked by some in the Civic Community to post this because it appears to be a flagrant abuse of power by Land Use.

Some of you may know that when a developer tells you he wants Office Neighborhood (ON), he may mean mixed use by-right. You might ask so what? Well, lots. Mixed use is a clever mechanism in the code to permit, commercial as well as a small amount of professional and residential. Here is what is happening to the first mixed use project developed in 1999, at a place called Stoney Creek Plaza on Limestone Road Route 7 across from Goldey Beacom. It quickly morfed from office to mixed use to by right. The initial plan called for a parking garage on the first level with commercial. Soon the parking garage was history and more commercial took its place. Following some protracted acrimony concerning written agreements not being fulfilled, we discovered we had an ace in the hole because Wilmington Trust, one of their major tenants, badly needed a sign which was located on the record plan in a bad location. In order to resolve the dilemma, the developer agreed to 2 notes on the record plan. One note had to do with signs since the sign code only permitted 2 square foot signs in ON. The other note had to do with various uses.

Everything went OK until 2010, when a pizza shop, which was prohibited, put up an illegal sign as well. A complaint was filed 2/28/11 but no violation was discovered. The two notes had been deleted and the sign violation was a Board Of Adjustment ruling which didn't show up on the new record plan. The new record plan called for an outdoor patio which required not only extra parking but also eliminated 9 parking spots because the patio protruded into the fire lane. Instead of the 184 spots required on the new record plan a new number of 131 spots was deemed adequate. I was told that "Section 40.22.616 allows for a reduction in the total number of parking spaces that would otherwise be required by two or more uses that do not experience coincident peak demands". As to the two notes which were removed "inadvertently, however the absence of such reference has no effect on their validity which are recorded are still in effect" This was after the planner said he had the right to remove the two notes because he felt they were illegal. "The planner said the reference alleging that alcoholic beverages, the note said no such thing". He did acknowledge that "drinking establishments" were prohibited although he had no idea why the author chose that reference and it was a moot point.

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I requested the current square footage of the change in tenants over the past 10 years of the mixed uses in order to calculate parking spots based on the above Section 40.22.616 above. The planner told me " I have no reason believe the uses and tenancies are in violation and do not conduct nor have the resources to conduct inventories based on idle speculation".

As to the illegal sign, "this is being evaluated". "I hope your suggestion to revoke the Certificate of Occupancy means revocation of the sign permit and not closing the business and putting employees out of work due to an oversized sign". The planner seems to show a bias in favor of the developer instead of the code. I discussed this with the planner on 3/9/11 and he requested I put my concerns in a letter. I did that 3/14/11 certified mail, return receipt requested. I finally received his response email dated 4/25/11 which was 6 weeks and 3 email follow ups.

Is it any wonder that developers love mixed use when they can have commercial by right and have some loss leader apartments. In this case, who wants to live above a pizza shop with liquor license and hours until 11:00 PM. Or maybe tenants would prefer a dry cleaner or beauty salon?

Limestone Road is one of the few 4 lane roads not polluted with gaudy development and horrible signs. We have been very active to successfully discourage that type of development because once it begins, it cannot be stopped.

Respectfully submitted by Fritz Griesinger, Community Advocate (50 years)

PS: 1) In my 4/7/11 email to the planner, I noted in part a form letter from Dave Culver "The Department sincerely appreciates and understands your concerns and under no circumstances will we approve a plan until it has undergone the rigorous review process that is part of the New Castle County Code (NCCC) land use process. Please note that the Department is bounded by requirements of the NCCC and we do not have the discretion to be arbitrary and capricious with our reviews and approvals"

PS: 2) I visited Land Use 4/14/11 and filled out a FOIA request for the file. It was obviously incomplete and the planner was unavailable

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Civic Friends

At last evenings (March 30, 2010) NCC Comp Plan meeting, I persistently asked the County Staff and the consultants (JMT) about the current status statistics for un-built lots in record plans (i.e. approved lots, pending record plans, vacant housing) and the potential build out of existing zoning County-wide at the breakout session of the Comp Plan meeting. The answer from the JMT Staff and the County official was that “we don’t have that numbers here and available”. This is basic inventory, a sound principle used throughout the entire business world.

Competent land use planners start with sound demographic and statistical data as the prerequisite for land use planning. Unfortunately, this does not appear to be occurring with the NCC comp. plan update. It appears that the information needed for making informed decisions is being deliberately hidden from the public participants at these meeting, or perhaps that the county has not collected the data that is required. We had hoped to have discovered how the State reviewed the current comprehensive plan, as prescribed in 9 Del Code 2658(c). Unfortunately, the required report and state review was never done, at least not since the year 2000.

As a result, I would like to take a moment and share some analysis of these statistics. Below, you will see a summary table that demonstrates that as of today, we have approved or pending record plans to meet 86% of the projected housing need for New Castle County out to the year 2040. We also have an additional 40% of this need met with existing vacant housing. As such, NCC already has met 126% of the projected housing need out to the year 2040.

As many of you know, I have strongly argued that to even consider some reasonable efforts to protect working lands (like farms & harvested forest areas), and open space through a Transfer of Development Rights program. We can keep doing business as usual, or we must correct our zoning imbalance. There is simply too much land allocated to development to have a market for TDRs, a land protection program based on density tradeoffs, or to be able to focus growth in areas where we can target public spending for infrastructure in a responsible and cost effective way. The front page of today’s News Journal repeats the DelDOT funding problems, nearing \$1 Billion dollars in the near future.

Please review, recheck, analyze, interpret, and debate the numbers in the table. Feel free to do your best to refute them. While there are some assumptions made in my analysis, I am confident and willing to debate these numbers with anyone interested. I believe such discussion will only confirm their accuracy and stimulate the difficult DISCUSSION THAT MUST TAKE PLACE IN AN OPEN AND TRANSPARENT MANNER if we hope to have a meaningful and useful comp plan developed for New Castle County. My biggest fear is that well intentioned members of the public get lured by the fad planning exercises being presented by JMT and NCC, without being given the factual data to put them in context.

The table is based on the most current numbers used by the Delaware Demographic Data Subcommittee, supplemented by numbers recently released with the 2010 census (i.e. population numbers & vacant housing numbers).

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For an article by Chuck Mulholland concerning real estate conditions,
Visit www.CivicLeagueforNCC.org. Click on “Letter to County Council”

Status of Meeting the Projected Need for Housing in NCC out to the Year 2040

Projected Number of Houses needed out to the year 2040 = 37122		
	Number of Houses	Percent of Projected 2040 Need
Current number of Houses in Approved & Pending Record Plans	32029	86%
Current Number of Vacant Houses	14860	40%
Lowest Estimate of Additional Housing Allowed under Current Zoning	13488	36%
Percent of 2040 Housing Need Met as of 2011	60377	163%

1 - This is based on the total of undeveloped lots in existing record plans and pending plans for both unincorporated NCC and incorporated municipalities. It is possible that some of the pending plans may not be approved, but the vast majority is expected to be approved by NCC Council.

2 - The 2010 census data identifies 14,860 vacant houses in NCC. Filing of these homes would meet the projected housing need. An unknown number of these homes could be uninhabitable at present. Regardless, these homes represent an ideal opportunity to strengthen existing communities, redevelop derelict and underused housing, and help meet our affordable housing needs throughout NCC.

3 - This is a very low estimate of the undeveloped land zoned for residential growth in NCC. It includes all Suburban (S) and Suburban Reserve Land that is not protected Agricultural Preservation, State Open Space protected lands (Parks, Wildlife Areas, State Forests), or other deed covenants. The estimates use a 1 house per acre estimate for S zoned land and a 5 house per acre estimate for SR zoned land. Due to the range of allowable plans under the S zoning and the workforce overlay that is increasing these lands to 3-4 dwellings per acre, this number is realistically expected to be as much as three to four times higher than the low estimate used. This number could be in excess of 30,000 dwelling units under the workforce housing code changes. Redevelopment allowances could also significantly increase this number.

Please seriously consider these numbers and their implications for the future of New Castle County. Remember the law of supply and demand affects current housing values. Perhaps it will inspire you to advocate strongly for a correction to the imbalance of zoning in New Castle County and to insist on development of a comprehensive plan that includes the necessary action of down zoning as its central theme. Downzoning is a prerequisite step to enable a balance of growth and protection of our quality of life in NCC.

You will likely get a push back from some elected officials about construction “jobs”. Simply ask them why with so many existing approved lots we are not already over run with construction jobs. The fact is that we have already overbuilt the County, the market is saturated, and that there is an excessive amount of land already approved for development to absorb any construction job growth. Downzoning will have NO EFFECT on job creation for housing development.

Thank you,
Dave Carter, Vice President, CLNCC