

TOWN OF ELSMERE PLANNING COMMISSION MEETING MINUTES

November 1, 2022
6:30 P.M.

CALL TO ORDER: Commissioner John Jaremchuk called the meeting to order at 6:30 PM.

PLEDGE OF ALLEGIANCE:

MOMENT OF SILENT PRAYER FOR THOSE WISHING TO DO SO:

ROLL CALL:

CHAIRMAN	JOHN JAREMCHUK	PRESENT
COMMISSIONER	ROBERT ANDERSON	PRESENT
COMMISSIONER	DEAN DYER	PRESENT
COMMISSIONER	JOHN POCKETS	ABSENT
COMMISSIONER	MARK DZIEGIELEWSKI	ABSENT
COMMISSIONER	VACANT	
COMMISSIONER	VACANT	

PUBLIC COMMENT:

Fred Carlson, 104 Western Avenue, asked if there will be a new a new zoning map once the decision is made as to what the Town is going to consider. Are the residential properties going to be removed?

APPROVAL OF MINUTES

Approval of the minutes from the October 4, 2022, Planning Commission Meeting.

ACTION: Chairman Jaremchuk made a motion to approve the minutes from the October 4, 2022, Planning Commission Meeting. Commissioner Dyer seconded the motion.

VOTE: 3 in favor, 2 Vacant, 2 Absent Motion carried

Anderson – Yes, Pockets – Absent, Dyer – Yes, Jaremchuk – Yes, Dziegielewski – Absent

OPENING STATEMENT:

None

NEW BUSINESS:

Councilwoman Joann Personti said that she had forwarded five emails that were back and forth about the Comprehensive Plan and the future land use map that was in the attachment is not the same map that is in the finalized Comprehensive plan. She is not sure where the change was made and at what level. Through her research, she could not find anything that pertains to the change in the map. She hopes that the Planning Commission will recommend some sort of correction to the Comprehensive Plan.

Councilwoman Sally Jensen said the Planning Commission created the map under the purview of Sean O'Neill, the paid consultant from the University of Delaware which is part of the adopted and certified Comprehensive Plan. She feels that the Planning Commission and Mr. O'Neill must revise the map there by revising the Comprehensive Plan. To perform this in her purview, the Planning Commission should have the Town Clerk contact Mr. O'Neill to learn the process of how to have the maps amended. She feels the Planning Commission should not have to do this, nor Council or Town staff should not have to do the work. Whatever the process may be to revise the map and/or the Comprehensive Plan which would need to be revised since the map will be changing. How is this done, and would it need to be recertified by the State of Delaware? Should the paid consultant oversee answering these questions because she does not know the answer, nor does she think Council has the knowledge either.

Chairman Jaremchuk stated he does not feel turning anything over to the University of Delaware is a choice since the error was made by them. He feels the revision will be easily rectified by Council.

Chairman Jaremchuk commented that we are guided by Title 22 of the Delaware Code. These are the laws that allow the Planning Commission to be allowed and demand a Comprehensive Plan.

Chairman Jaremchuk stated that Chapter 22 of the Delaware Code Section 702-C, states when you create a Comprehensive Plan, an official zoning map must be included for the Town. That was done but in error.

Chairman Jaremchuk stated that Chapter 22 of the Delaware Code Section 702-D, states after the Comprehensive Plan or a portion thereof is adopted by the municipality in accordance with this chapter, the Comprehensive Plan shall have the force of law and no development shall be permitted except what is consistent with in the Comprehensive Plan. Therefore, as the Comprehensive Plan is written currently has the force of law. However, 22 Delaware Code Subsection 705 states change of, or addition to change of map and states that once the Comprehensive Plan has been approved and filed it can be

amended by the municipality by ordinance as long as whomever has the copies of the plan such as the State, New Castle County receives the amended version.

Chairman Jaremchuk is recommending having the Attorney draft an Ordinance to amend the Town of Elsmere 2021 Comprehensive Plan by replacing map 5, on page 26, entitled "Future Land Use map" per the wishes of most of the Council. Each Council person can supply input to decide which properties are going to be Mixed-Use and which ones are not. Then pass the ordinance and send a new map to the State of Delaware, and whomever else has a copy to replace page 26. All that needs to be done is to pass an Ordinance revising the map and submit it.

Councilwoman Jensen appeals that the Town has paid the consultant \$25,000.00 and has made a grave error and the consultant should correct the error.

Chairman Jaremchuk asked Councilwoman Jensen do you think the consultant will admit to making an error? They are going to say this is what you wanted therefor it is what was put into the Comprehensive Plan.

Councilwoman Personti agreed with Chairman Jaremchuk that she agrees Council needs to have input, but she also thinks that the Consultants should supply all new books to the Town at no cost.

Multiple conversations were had as to who should oversee correcting the error. Councilwoman Jensen and Personti feel the consultants should correct the maps and Chairman Jaremchuk feels the maps can be corrected internally, and an Ordinance passed to make the correction.

Commissioner Dyer said he could easily edit and update the map in question. That it is merely color changes on the map.

Councilwoman Jensen is not sure if any of the Town staff is qualified to make such changes.

Chairman Jaremchuk stated the entire Comprehensive Plan would not need to be corrected just the one page of the map would need to be supplied to whom has the books and replaced. He commented that he would not ask the University of Delaware to correct the Comprehensive Plan because there is a possibility that the Town could end up losing and they could get their attorneys involved. His suggestion is to make the update quickly, cleanly and time sensitive as possible to make the Constituents satisfied.

Councilwoman Jensen said she does not feel this is about making the Constituents satisfied. It is about getting it through and to the correct personnel and she does not know if there are any Town staff that would know the correct process as to how to do this.

Chairman Jaremchuk stated the process is written in Title 22. The correction is made by the municipality by an Ordinance and supply it to the County and State levels.

Commissioner Anderson asked was the address list part of the Comprehensive plan?

Chairman Jaremchuk stated it was not, just the map was and he spoke to Town Clerk, Diana Reed, and she said she took the map, reviewed it, and added the address list from the map.

Code Enforcement Officer Allen repeated that he said it at the last meeting and will say it again that this is his first Comprehensive Plan, and he agrees with Councilwoman Personti that somewhere the map has been totally skewed. He remembers a Planning Commission meeting where everything was reviewed line by line. All the recommendations and Ordinances but this map was missed. He feels that to rectify it should be a simple task but by higher authority. A google map document where the map can be viewed and comments made may be a start.

There were several discussions amongst the Councilwomen and the Chairman about earlier reverse subdivided properties.

Chairman Jaremchuk stated he is providing suggestions and feels the process does not need to be re-invented.

Councilwoman Jensen suggested that the Planning Commission reach out to the Town Clerk to reach out to the University of Delaware regarding the inquiry of the map and come back to the Planning Commission with the results of the inquiry.

Chairman Jaremchuk responded that he feels the Town Council should reach out to the Town Clerk. In the absence of a Town Manager this can be done.

Commissioner Dyer commented that there are two separate issues at hand. No one seems to know where IPA got the guidance for the addresses to select. We can continue with making the correction or slow the process down by reaching out to IPA and have them do the research.

There were multiple conversations amongst Councilwomen and Chairman Jaremchuk as to the zoning map in the Comprehensive Plan that was supplied in earlier meetings is different than the actual map in the approved Comprehensive Plan. Why was it changed and how did this not get caught in the review process.

ACTION: Chairman Jaremchuk made a motion to ask that Council draft an Ordinance to amend the 2020-2021 Comprehensive plan pursuant to 22 Delaware Code Section 705 replacing map 5, page 26 entitled "Future Land Use Map" with a new in Ordinance with the wishes of the majority of Council, written anyway Council would like with including or excluding properties. Commissioner Anderson seconded the motion.

VOTE: 3 in favor, 2 Absent, 2 Vacancies Motion carried

OLD BUSINESS:

None

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:

None

PUBLIC COMMENT:

None

ADJOURNMENT:

ACTION: Commissioner Anderson made a motion to adjourn the meeting.
Commissioner Dyer seconded the motion.

VOTE: 3 in favor, 2 absent, 2 Vacancies Motion carried

Anderson – Yes, Dyer – Yes, Jaremchuk – Yes, Pockets – Absent, Dziegielewski - Absent

At this time, the meeting was adjourned.

Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.


JOHN JAREMCHUK, CHAIRMAN


ROBERT ANDERSON, SECRETARY