

Planning & Zoning Committee Meeting

June 26, 2024

Present: Wayne Stover, Jonathan Burnett, Bill Brockenbrough, Richard Pratt, Sue Muncey, Jennifer Reitz, and Nick Smith were in attendance.

1. **Call to Order**: Mr. Stover brought the meeting to order at 7:00 p.m.
2. **Pledge to the Flag**: Mr. Stover led the pledge.
3. **Approval of Minutes**:

Mr. Burnett made a motion to accept the Planning & Zoning minutes of 05/22/24 in written form. Mr. Brockenbrough seconded the motion. Motion carried unanimously.

4. **Determination of Quorum**: Mr. Stover stated a quorum was present.
5. **Old Business**: Mr. Brockenbrough stated we are continuing the workshop on the Comprehensive Plan. Mr. Burnett brought up the short-term rentals. It was discussed but never approved. They would have to get a permit. A lot of these are in the developments which are not zoned for multi-family. They would have to very careful about giving a permit allowing something that is not allowed. I believe they tabled it.
6. **New Business**:

Workshop to Discuss and Make Suggestions to the Town of Clayton's Comprehensive Plan

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Ms. Reitz asked if the committee wanted her to walk through the Municipal Comprehensive Land Use Plan Annual Report. The Office of State Planning sends this out every year to track the status of the comprehensive plan. She lets the accomplishments be cumulative. What is in blue is what is new since starting last July. The sewer rehab project phase II is continuing. The receipt of the EV's. The streetlight conversion program. She asked if that was completed or still ongoing. Mr. Burnett said the last time he was there they were still putting up. He believes it is close to being completed. Ms. Reitz stated for State Planning purposes, these are really high-level accomplishments. The sidewalk installation repair is definitely something. The sidewalks and the bike path were a priority in the last one. There are big changes in regarding the annexation, both in the charter and introducing and adopting the ordinance. It was introduced in 2023 but adopted in April. We also have the building permit process and the licensing. These were both adopted. Also establishing a new Town Hall and Police Department. Ms. Reitz asked if there was anything else to say about the new building. Mrs. Muncey stated they have not started it yet.

Mr. Brockenbrough asked how the Town acquired its two new electric vehicles and their charging stations. The police department wrote a grant and got them. It was for two electric vehicles. One for the Code Enforcement Officer and one for the School Resource Officer. One charging station is at public works and one is at the school. The school is providing electricity to power the one. Mr. Brockenbrough stated that was exciting. Mr. Burnett stated we do not have any public charging stations. Mr. Brockenbrough stated that is something to talk about. Ms. Reitz stated besides the long list above, really updating the comprehensive plan will be one of the major accomplishments.

Ms. Reitz stated she saw in the minutes three different residences using DDD funding for improvements. That is definitely something State Planning wants to see. They partner with the Delaware State Housing Authority. Mr. Brockenbrough had a question under D – the first bullet point does the word float belong there or is it just the parade itself? Ms. Reitz stated you are right. It is probably the parade itself. Are there any other events that need to be mentioned? Mr. Burnett asked if the senior center was able to use DDD funds. Mr. Stover said no – they did not qualify.

Ms. Reitz stated question 3 is a question they added last year or maybe two years ago. With the housing situation in the state, they are really trying to focus on housing and how affordable housing is being created. She did not change the wording from last year. It lists the goals. You went to a full-time code enforcement officer last July and some of the accomplishments. We can put the three houses under here that were rehabbed. We can add the vacancy registration. She saw in the minutes that there were amendments to the registration and continuing to improve that program. The third one in terms of annexation is focusing on developing in recorded subdivisions. Annexation is being rethought. We can put that it is being reconsidered as part of the comprehensive plan update.

Mr. Burnett wanted to discuss developing for low income. We should probably mention the apartments. Apartment buildings tend to fall into that category. There are 53. Mr. Brockenbrough agreed to add Railroad Square Apartments. Ms. Reitz stated you are correct. The cost of the apartments does not sound affordable, but you are increasing the supply by definition. That is something the state wants to see. Mr. Burnett stated right now the cost of rentals is through the roof. When things work their way down, those will adjust and I think be classified again more as lower income.

Ms. Reitz stated since we are drawing up a new plan, we will reflect on current priorities. The last one is technical assistance. The new town hall and police station is something that you would like to get help with. Ms. Reitz stated there are ones listed from last year – applied for a FEMA grant to create GIS mapping of the electric distribution system. Mr. Burnett stated we will need to get you an answer on that. Mr. Burnett stated we did run fiber network between the town hall and the public works building. Part of the intent for that was when we move to the AMI meters. They are wireless where you can do a network. There is intent to be able to tie in that fiber, extend the fiber out for the AMI meters. Ms. Reitz stated that would go under achievements. The last one listed here is the town seeking a grant to purchase AMI. Mr. Burnett stated we have not received a grant for the AMI at this point. That is through DEMEC. Ms. Reitz stated you received the planning grant through DNREC to complete storm drainage and conveyance mapping to meet MS-4 requirements. This project is 60% complete and the next step is a

conditions assessment. What is the status of that? If you could point me in the right direction, I can track that down. Mr. Burnett stated that would be Dave Ross. Ms. Reitz stated that would be the annual report. I can make those changes tomorrow and send for signature and submission.

Ms. Reitz moved on to the next two chapters. The last plan was done before the Downtown Development District Program was adopted. This was updated for the new plan. The DDD from 2019 to present was updated on page 51. This discusses some of the accomplishments. We joined the Kent Economic Partnership. We launched the new page on the town's website, attending workshops and events, installing, and dedicating the new town clock, and John Pridemore Park.

There were three projects listed in the downtown development plan. One was Clements Supply, 50 Clayton Avenue. Mr. Burnett stated that is still on hold. There has been work done on the inside, but nothing visual on the outside. Ms. Reitz stated we will leave that one status quo.

The next is Clayton Railroad Station. Mr. Burnett stated the train station is under new ownership. Right now, it is being rented out just to offset expenses. The intent is to develop a nonprofit, a historical society. This would be more history documenting more of a museum. It would be very similar to Duck Creek Historical Society. It would be in partnership with them. That is the long-term plan. Then they can start writing for grants. Ms. Reitz asked if the historic society was the new owner. Mr. Burnett stated it is owned by Clayton Whistle Shop LLC and it has one member who happens to be me. I also own the old train station. There is a food truck there occasionally. I have collected a lot of stuff having to do with Clayton history, the Clayton Bank, and buying stuff from auctions. We will be videotaping older members of the town and interview them trying to document a lot of that history.

Ms. Reitz stated she saw the ice plant referenced. Is that where the auction house is now? Mr. Burnett said yes. Mr. Halko died. His wife owns it now. There were always concerns about a lot of lead and issues. There was a lead smelter in there for a long time when they were doing the batteries and connections. There is an auction house in the back. The old mayor still does a lot of the battery type stuff and machining back there. It is not historic but some pole barns were put up in the back. Straight Line Fencing is back there. Ms. Reitz stated she also works with the EPA on technical assistance for brownfield. There are funds available for assessments. Mr. Burnett stated if you are a government entity there is money available. If it is privately owned there is not.

Ms. Reitz stated the third project that was listed was 301 Smyrna Avenue. It is vacant property. It is listed as reserved for construction of a new home by Habitat. They do not build until they have a few in the area. Ms. Reitz stated it is being maintained which is half the battle. The only remaining opportunity was 310 Smyrna Avenue.

Ms. Reitz stated that aside from the three priority projects, those were the remaining identified opportunities under the Downtown Development District, and asked the Committee whether there are others we want to list. Are there others that you want to list? Mr. Burnett stated at 111 and 113 Highland Avenue. Ms. Reitz asked if they were two different houses. Mr. Burnett stated it is a duplex. He stated it is a complete gut. The foundation and the outer walls will be the only thing left. I will get a variance and put a small basement and the whole roof line is changing. Mr.

Burnett asked if we should list West Street. The house will be demolished. There are some houses that have been vacant for a long time.

Mr. Burnett discussed Liberty Knoll II. They are in the second phase of the townhouses but it has been sold several times and never built. It has been since 2008. There are approved plans if you can build it based upon those approved plans without changes. Mr. Burnett stated his opinion would be to drop it all together. The second phase is the one that is in question. Mr. Stover and Mr. Brockenbrough stated it should stay.

Ms. Reitz stated this is part of the housing chapter and housing analysis. What it is supposed to be like the build out plan like how much housing is, what potential of housing is left within the town, and then annexation would obviously be a whole other layer on this. Essentially you are saying there is not a whole lot of land left. In the housing projections we are very low, but again, the housing projections do not include annexation in them. It is based on the existing boundary. From the state's perspective, they are worried about affordable housing and making sure that we have that, the town allows for a variety of housing – additional housing. The recommendations are in the last plan. We are continuing code enforcement efforts which I think still applies. Identify additional opportunities for housing rehab, which again makes sense for maintaining the stock that is there supporting infill housing. There are still a couple of lots, but not many. Land use regulations do provide for a variety of housing. Ms. Reitz stated all the demographics have been updated. Ms. Reitz stated in the 2020 census data, there is zero vacant housing. There is a small margin of error. Mr. Burnett asked if that includes buildable lots. Ms. Reitz stated no that is vacant houses. They break it into occupied houses, housing units, and vacant housing units.

In the 2020 census or now in the 2022 American Community Service Survey, went up 110,000 to 300,000 in Clayton which is just below the state's median value of owner-occupied housing units and significantly above both Kent County and Smyrna. It was interesting. The gross rent actually stayed just about the same for Clayton, while Clayton was already much higher than the state average. The median gross rent was \$1,000 and Clayton was listed at \$1,413. It went up as \$1,539 as the median. Mr. Burnett stated you cannot find anything at \$1,500 in the town.

Ms. Reitz stated there is a lot of talking about different things. Whether it is different types of housing units being allowed, accessory dwelling units, or increased densities. What is the feeling on accessory dwelling units?

Mr. Burnett stated it is a slippery slope. One of the discussions was when they were adopting the latest building code. His concern with them was do you guys realize it includes tiny houses which are those accessory structures you are talking about. The states and counties are still trying to figure that out. You have the same issues with the permits as you would with the Air BnB's, VRBO's. You allow someone to put up a shed and turn it into a tiny house that is livable. That is multi-family and residential. Where do you draw that line? Ocean City pushed to adopt the 2018 building code because they had developers that wanted to build whole developments of just tiny houses. Mr. Brockenbrough stated he thinks it is different from an accessory dwelling. Mr. Burnett stated we have quite a few in town. Some have been converted, one on Rodney Street, a lot of them in the alleys. Those are all accessory structures that are livable. He stated he has heard both sides of the argument. We have very little land that allows some multi-family but as soon as you open up that can of worms. I do not have a problem with accessory structures having

to do with shed and pole barns. You can't call it a second to primary house. We should let the state and the big counties figure them out and then kind of follow suit. Mr. Brockenbrough asked what our code currently says. Ms. Reitz for accessories, for using a garage, or putting a second unit within your house even if some of them are called elder housing or a granny suite. Mr. Burnett stated we do allow it.

If we are going through the Planning & Zoning ordinances, there is an ordinance in there to have a structure accessory. A structure on a property and it does not clarify. Mr. Brockenbrough stated it is an accessory structure. It is an accessory dwelling unit. Mr. Smith stated those are two separate things as I understand them. Mr. Brockenbrough stated yes they are. Mr. Smith stated if the dwelling part is not there, somebody is not allowed to live in it. Mr. Burnett stated there is not, but our ordinances allow us to have. Mr. Smith asked accessory dwelling or accessory structure? Mr. Burnett stated we do allow structures. My neighbor on Rodney Street has a building behind it and she rents out down the alley. There are about 10 to 20. How do you limit them? Mr. Smith stated they did try and pass that bill. It did not make it out of committee this year. The League pushed back. It took away a lot of the authority from the Planning & Zoning and the Board of Adjustment. It pretty much trumped them and they said we do not care what it says we are going to allow. A lot of the municipalities pushed back in the committee phase. We will look back into it before it comes back up. Ms. Reitz asked is this something we want to put out there as exploring in the future and maybe it is just one zoning district? Maybe it has to be an existing garage or something like that. The state is pushing it. We just want to be ahead of it. Mr. Smith stated another aspect of what the state is pushing is that you could not have parking. Mr. Smith stated a lot of the bill does not make sense. Ms. Reitz stated they are not going to drop it. New Castle County allows it on a property above five acres. Is it something we want to list as a recommendation to explore. Mr. Smith stated leave it in the exploratory phase. Ms. Reitz stated maybe it is just the town center.

Mr. Burnett stated it should be decided at a higher level than here because we can change. Ms. Reitz stated the comp plan is just recommendations to have discussions. The next slide is one's household size. It keeps getting bigger. Households have grown up to 1300. It is 30% growth.

Mr. Burnett asked Mr. Smith if 605 West Street was going to build. Mr. Smith stated the intent was he was going to build.

Ms. Reitz stated under economic development in the last plan had two ideas. One was updating signage standards. I am pretty sure that has been done. The second was the idea of requirements for site plan review even when a building is not proposed for expansion. Mr. Burnett stated let us say I go to redo the inside of the property and do not change the outside. I think it should still go back for plan review. Ms. Reitz stated this is specific to the DDD. Her thought is you are changing the use of the building. Mr. Smith stated it would not need a site plan. When referencing the DDD a lot of this stuff is not any kind of expansion to the structure. It is just working on the existing. Mr. Burnett gave the example of changing the old ice plant into apartments. Mr. Smith stated that is new construction and falls under a different ball game. Mr. Smith stated when applying for the DDD you are just making upgrades to their existing structure. Mr. Burnett stated with town center there is no chart of what is allowed and not allowed. Everything comes to Planning & Zoning. The intent is to give us the freedom to keep the small town feel and look of this area, that mix of commercial and residential. We want to make sure

the change they are making even though they are not changing the footprint could change that whole look of the town center.

Ms. Reitz went back to the signage. Mr. Stover stated we spent quite a bit of time on signage about four or five years ago. COVID came along and everything got put on the back burner. Ms. Reitz stated we will double check on those and see. She stated that is all she has. She will need to get back to the committee on the annexation map.

Mr. Stover stated there was one minor thing on the front page. It says that Atlantic Tractor and the last part of it says that it has a storage facility. They sold that a long time ago.

Mr. Burnett read the following: the town center district preserve strength in Clayton. Small town atmosphere. Retail and residential use consistent with the scale and existing character of the town center to encourage economic stability. Improving the town level goes through all of it, and then when you go through permitted uses and structures which you would normally go into the chart, everything our town center say too. Site plan review – there is not a single approved one. It does not require a site plan. When you look up the dwellings in the town center zone, the town council may authorize more than one family dwelling in conjunction with a commercial building. In addition to determining whether or not application meets the general criteria for granting, the board must also make a finding that in the conditional use is keeping with the intent of the town. Everything has to come through us. Ms. Reitz stated the way she read it was there should be an administrative review of certain things. Mr. Smith stated he instructed the past town manager and a new town manager when it comes to things of this nature, if there is a question, kick it back to Planning & Zoning.

Ms. Reitz stated she has a couple of tweaks to make to the annual report and she will send it to Sue tomorrow.

Mr. Burnett made a motion to accept the Annual Report with the noted changes to be forwarded to the town council for final approval. Mr. Brockenbrough seconded the motion. Motion carried unanimously.

7. **Next Meeting:**

Mr. Stover made the suggestion of taking off the months of July and August and come back in September. Mr. Burnett stated we would have to see where we are. Ms. Reitz stated we are in a good place. Mr. Brockenbrough was concerned about the survey going out. Ms. Reitz stated we need to update the neighborhood map. She recommends sending it out in either August or September. Mr. Smith stated that would have to go through council. He recommends having a quick August meeting to get an approval so he can approve it at the September Council Meeting. Mr. Brockenbrough suggests we meet in August.

Mr. Stover made a motion to take July off and come back in August. Mr. Brockenbrough seconded the motion. Motion carried unanimously.

Mr. Stover stated the next meeting will be on August 28, 2024.

8. **Adjournment:**

Mr. Brockenbrough made a motion to adjourn. Mr. Pratt seconded the motion. Motion carried unanimously. The meeting was adjourned at 8:15 p.m.

Recording Secretary,

Sue Muncey