

A NEW REDEVELOPMENT ORDINANCE FOR NEW CASTLE COUNTY

Councilman Weiner and Councilmen Reda and Tackett have proposed two separate ordinances which they hope will undo what they perceive as inequities in the current redevelopment ordinance. Following are Councilman Weiner's responses to League questions on the topic. New Castle County Land Use Department General Manager, David Culver, on behalf of Councilmen Reda and Tackett, responded that they "do not have any comment ... at this time." Mr. Culver refers our members to the Redevelopment Annual Report, found by clicking on "Redevelopment Projects 2010 Annual Report" at <http://www2.nccde.org/landuse/Planning/PlanningReview/default.aspx>

You will note that Councilman Weiner raises the issue of "paper redevelopment," a request for redevelopment that will take advantage of density bonuses and a waiving of Traffic Impact Studies (perks which the developer gets for redeveloping property) for development which Councilman Weiner considers not an actual redevelopment project. There is a possibility that Mr. Weiner's ordinance would screen out, in terms of the bonuses for redevelopment, the reuse of properties which have been previously developed or partially developed but which would not qualify as "redevelopment" sites because the buildings are not in disrepair. Hence, the density bonuses would not be so readily allowed. With increased difficulty in securing additional densities the developers may be then pressured by economic considerations to request permission to build in Levels 3 and 4, areas where the State Planning Office discourages development.

1) What are the main differences between your proposed ordinance and the current redevelopment ordinance?

Councilman Weiner: The most significant difference is that the Weiner Amendment disallows "redevelopment" of non-existent structures. Council never meant to allow that when it enacted the original ordinance. In contrast, the Reda Ordinance allows any recorded, unbuilt plan to escape the 5 year sunset provision under the Unified Development Code, potentially change use, build all the previously approved gross floor area, plus 50,000 square feet. That creates detrimental consequences in terms of unfunded infrastructure because redevelopments don't even pay impact fees or for needed traffic improvements.

2) Why do you think your ordinance is an improvement over the current ordinance?

Councilman Weiner: The Weiner Amendment better defines "redevelopment" as applying to existing, already constructed structures. Relaxed approval and study standards would only apply if the same or less intensive future use is proposed from a traffic standpoint, to avoid a disastrous additional, unfunded strain on limited infrastructure.

The plain language of the current redevelopment ordinance requires demolition of at least 50% of the old buildings on a property. The word "demolished" does not mean "never constructed." A building which has never been constructed is not the same concept as a building which has been demolished. Unfortunately, in practice the plain meaning of the current law has been ignored and plans proposing no demolition, such as Governor's Square, have been accepted and processed as redevelopment plans. The Weiner Amendment puts a definitive end to this.

3) Why do you think your ordinance is an improvement over Councilmen Redas (or over Councilman Weiner's)?

Councilman Weiner: The Reda Ordinance effectively exempts redevelopment plans from a Traffic Impact Study (TIS) because that requirement only applies if DeIDOT requests the TIS. Under the Memorandum of Understanding between the County and DeIDOT, redevelopment

plans do not require a TIS, so there is also an exemption from building traffic improvements to offset the traffic the redevelopment will bring.

In addition, the Reda Ordinance allows “paper redevelopment” of 100% vacant land. No demolition of existing buildings would be required... This is “an end run” around a proper major plan submission and plan sunseting. For example, Governor’s Square III is a major project so it should follow the normal plan processing rules and not get more special treatment by using a “paper redevelopment” end run around the process.

There is NO public hearing or comment on any “paper redevelopment” site plans. Thus there is no transparency or input from the public. The Weiner Amendment provides for greater public input on whether a plan qualifies for redevelopment treatment.

4) Will your ordinance cover the re-use of a currently developed property that is not in disrepair? If so, how? If not, how will the redevelopment of such properties be handled?

Councilman Weiner: A currently developed property could certainly qualify for redevelopment under the ordinance I proposed if it is “underutilized.” Such properties indeed have problems where “the private market is not providing significant economic activity to achieve the desired level of improvement.” Since redevelopment projects go through less review and do not pay impact fees, I want to limit the application of the designation to properties that really need help to encourage investment and end the practice of “paper redevelopment”---or granting a developer approved but unbuilt square footage on green space plus 50,000 GFA with no traffic impact study or mandate to pay for traffic improvements, even when a change of use is proposed (i.e., office to retail). I don’t think it is responsible to create unfunded problems for DeIDOT.

5) Which, if any, of the 10 principles of Smart Growth would you say that your proposed ordinance will promote? How?

Councilman Weiner: The Weiner Amendment will provide incentives to property owners and developers to reuse properties that once were thriving but that now are rundown, abandoned, or not as useful as they could be because of a state of disrepair or functional obsolescence while protecting open spaces and agricultural lands from development. Smart Growth by definition directs the most intensive development to the currently built environment where infrastructure is adequate [or] improvements are planned with a viable funding mechanism.