

Proposed Delaware apartments: Developer wants reset, may file suit

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A developer said it plans to start from scratch in its bid to get city approval for an apartment project, while at the same time threatening to sue a Delaware City Council member who objected to the plan at a planning commission meeting Feb. 7.

The planning commission May 2 could discuss the apartment complex planned by MedRock LLC along Houk Road.

The project had been under consideration by council, which April 9 granted MedRock's request to pull two ordinances off the agenda.

The planning commission earlier recommended that council reject the two ordinances: one to approve the combined preliminary and final development plan; the other presenting a zoning-text amendment to allow the number of apartment units to be changed.

The proposal calls for a 180-unit apartment complex, called Willowbrook Apartments, on 15.5 acres at the northeast corner of Houk Road and DiGenova Way, near the Delaware Community Center YMCA. The plan originally called for 140 units.

Twelve residents criticized the plan during the April 9 council meeting.

Among the complaints were the developer's request to increase density, the potential for increased traffic that could threaten children's safety and a desire for landscaping and plants that would screen the apartments from view.

During that meeting, city officials emphasized the project is not affiliated with Willowbrook Christian Village, which operates two retirement, assisted-living and nursing facilities in Delaware.

MedRock principal Ronald Sabatino and his attorney, Jeffrey M. Lewis, told council they want to start over the approval process to address residents' concerns.

Also discussed was MedRock's targeting of council member Lisa Keller, who voiced concerns at the Feb. 7 planning commission meeting about the proposed increase in apartment units.

Keller also "questioned what the plans for the bike path were and that plans do not include the development of Boulder Drive," planning commission meeting minutes say.

MedRock's allegations against Keller are the topic of six letters exchanged between Lewis and Delaware City Attorney Darren Shulman from Feb. 12 to March 12.

In the letters, Shulman challenges Lewis' claims.

Shulman wrote: "I believe a suit based on the arguments you have presented would be frivolous. If you decide to proceed with a lawsuit, the city will seek reimbursement for any legal fees incurred in its defense."

Lewis wrote that by speaking at a planning commission meeting, Keller's actions "are troubling from a legal standpoint and in my opinion could subject herself personally, as well as the city of Delaware, to liability ..."

Lewis said a city council acts in a quasi-judicial capacity if it takes steps certain steps with previously established planned urban-development zoning, such as amendments or approving development plans. Such administrative acts must afford procedural due process to applicants, he wrote. He cited examples of case law.

Shulman replied that council's actions are legislative, not administrative. The planning commission's vote was a recommendation to council, not a ruling or an appeal as Lewis suggested, he wrote.

He also cited cases and said those Lewis cited do not apply to the specifics of council's deliberations.

Lewis on March 12 noted: “A favorable decision by council on my client’s applications will serve to moot the above issues ...”

Keller told *ThisWeek Delaware News* she would participate in future council votes on the development.

The apartment project is in the Second Ward, which she represents.

“To recuse myself would be to deprive 10,000 people in Ward 2 a voice in the process,” she said.

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