

FORT DUPONT REDEVELOPMENT AND PRESERVATION CORPORATION
DESIGN AND HISTORIC PRESERVATION COMMITTEE MEETING

The Fort Dupont Redevelopment and Preservation Corporation (FDRPC) Design and Historic Preservation Committee meeting was held on April 10, 2023 at the Delaware City Library, 250 5th Street, Delaware City, Delaware with Chair Doug Eriksen presiding. Committee members present were Ms. Laura Lee, Ms. Roberta DeLeo, Mr. Rob McPherson and Mr. Richard Forsten.

Staff members present were Mr. Tim Slavin – Executive Director and Ms. Janice Moturi – Deputy Director/Controller.

CALL TO ORDER

Chair Eriksen called the Fort DuPont Redevelopment and Preservation Corporation Design and Historic Preservation Committee meeting to order at 3:36 p.m.

OLD BUSINESS

Chair Doug Erikson stated that part of the old business would be to determine what the committee is, what it does, how it fits into everything, and then how it interfaces with Delaware City.

Mr. Richard Forsten provided a review of the role of the Fort DuPont Redevelopment and Preservation Corporation (FDRPC) Design and Historic Preservation Committee (DHPC) as it pertains to the declaration of covenants on the properties in Fort DuPont and a brief history of the declaration, noting the following:

- The initial declaration was revised after a year and a half to include special provisions related to the Grassdale project.
- Residential subdivisions typically have deed restrictions. Those deed restrictions typically include an architectural review committee which has to approve any exterior modifications and, ordinarily, that committee also has the first pass at enforcing deed restrictions.
- If somebody does something that is prohibited, the DHPC is then charged with saying yes, it is, or no, it is not, a violation. If the violation is not remedied, ultimately the DHPC can go to court to force compliance.
- Initially, deed restriction complaints, changes to architecture, and design and historic preservation issues are heard by the DHPC.
- The declaration calls for the DHPC to set up a whole series of architectural guidelines, which has been done.
- There is a carefully defined historic overlay district in Delaware City and Delaware City has its own Historic Preservation Commission (DCHPC) that approves things; however, its jurisdiction is, in theory, limited to that overlay.

Members discussed at length conflicting standards and restrictions between Fort DuPont and Delaware City and the difficulty those conflicts present in terms of following approval processes. For example, Ms. DeLeo explained that Delaware City required fences to be either a white wooden fence or a black iron fence. She obtained approval from the FDRPC DHPC to install a white PVC fence, which was preferable

due to maintenance concerns. When she went to City Hall in Delaware City, she was told that she could not install a PVC fence in Delaware City.

Mr. Forsten clarified that the DCHPC has jurisdiction over architectural details in its zone of influence and Delaware City may have a blanket prohibition on PVC fencing. He advised that since Fort DuPont has been annexed into the city, it is subject to all of the normal Delaware City rules and regulations. If Delaware City passed a law banning flagpoles anywhere in the city, that ban would also apply in Fort DuPont, although existing flag poles might be grandfathered.

Mr. Forsten advised that there was a difference between what the DCHPC could do and where it can have a say, but the town itself has broader powers that affect everything. He noted that they could make an argument with the city that some of its rules and regulations just do not apply to Fort DuPont, based on language in Fort DuPont's charter. Mr. Forsten stated that it was not a fight that the FDRPC had chosen to pick because that could lead to other repercussions. He also advised that the General Assembly could change the charter at any time. Mr. Forsten noted that if Delaware City passes general zoning regulations, they will apply to Fort DuPont because they are in Delaware City. He stated that if a ban on PVC fences in Delaware City is in their code, it is enforceable in Fort DuPont.

Ms. Laura Lee advised that the change to allow PVC fencing was approved because the wood fences were rotting. She noted, however, that they would not be supportive of PVC fencing in the more historic district. Ms. Lee pointed out that if the Delaware City Historic Preservation Commission had jurisdiction over those decisions, they do not have any knowledge of the Fort DuPont Design and Historic Preservation guidelines and this is the forum to protect the guidelines. She stated that she did not think their missions were the same.

Mr. Forsten advised that the FDRPC's legal obligation was to appoint the DHPC and the DHPC has certain charges that it has to conduct that are not part of the overall Historic Preservation Commission for Delaware City. He also noted that Delaware City does not want to be in the business of enforcing the deed restrictions, reviewing the architecture, or approving plans in Fort DuPont. There is a committee under the declaration that was specifically formed to do those two things.

Chair Eriksen noted that, as a committee, they needed to be cognizant of any Delaware City code considerations and guidelines so that they do not approve something that is prohibited. He noted that they had the ability to recommend variances. Mr. Forsten advised that any variance request would be heard by the Board of Adjustment.

Mr. Rob McPherson asked if the DHPC's role was to enforce restrictions and ensure that the standards were being met or if it was preservation and advisory for building updates. Responding, Mr. Eriksen stated that he thought it was both.

Mr. McPherson suggested that they begin work on the standards because some of those standards were not followed by previous leadership. He noted that his own house did not meet the standards.

Ms. Roberta DeLeo suggested that fencing and wooden window surrounds should be considered when reviewing the standards.

Mr. McPherson reminded members that some of the houses were built before the new standard went into place so they needed the updates.

Mr. Eriksen suggested meeting monthly to update the document.

Mr. McPherson thought that tying this document to the declaration was important because they contradict each other on placement the placement of things and what you can and cannot do.

Members agreed that the standards document should be updated to be in line with the corporate charter and the Delaware City codes.

Mr. Slavin advised members that they currently have a few violations that they have to discuss with a new homeowner and he is hoping that it could be done in a collegial way. He noted that a lot of staff decisions were made without being brought to the committee and they waived things that are now causing problems that are going to come to the DHPC and it is going to be after the fact enforcement. Mr. Slavin stated that there were half a dozen violations coming before the DHPC.

Mr. Slavin stated that they were entering into the next phase in the next 6 to 12 months where they will have to formalize the DHPC and form an Annual Maintenance Committee. The Annual Maintenance Committee will review the charges for common area units, which have not yet been assessed to the homeowners. Mr. Slavin noted that this will not be a popular topic and people are going to have violations, and that is not going to be a popular topic either. He summarized the next steps as being appointment of the maintenance committee, determining the scope and membership of the maintenance committee, and holding a community meeting to explain upcoming changes. Mr. Slavin advised members that he requested Ms. Janice Moturi, Deputy Director/Controller, to begin work on a pro forma for maintenance costs on the campus, which would be assessed against the common area maintenance fee. He noted that there are companies that handle this and they will likely rely on a company to collect the assessments.

Mr. McPherson advised that when he signed the contract to buy his house, it was stated right in the contract that it could be up to \$500 per year and no more. Ms. DeLeo added that it was in perpetuity because they had faith in the development.

Mr. Slavin stated that, within six months of the end of the calendar year, they are supposed to present what the list of charges was and, prorated, what that would be against the property owners for the common area maintenance fees. He noted that it was not simple math because they have tenants, some of who are state agencies, and they have to figure out how they are going to calculate all that. They also have to determine what is maintenance versus improvement and what is maintenance versus infrastructure. Mr. Slavin advised that they will need to be able to explain it all the way through. They will also need to determine those definitions with other people and residents involved. He stated that one criticism was paying common area maintenance on areas that are open to the public and the answer is that it is in the declaration. Mr. Slavin noted that district common areas are only for use by residents of that district and that the boat ramp is open for everyone, in perpetuity.

Ms. DeLeo stated that another criticism was paying property taxes that should cover everything. Mr. Slavin advised that it was early on when they were being charged for streets. He noted that the streets have been dedicated and those costs will go away and will not be added to the proforma.

Mr. Forsten advised that he was asked to join the DHPC committee when the corporation was first set up and, since that time, their firm represents Fort DuPont. He stated that he did not think it was appropriate that he sit as a committee member and also as the attorney for the corporation. Mr. Forsten advised that if someone appeals a decision of the DHPC to FDRPC, he will have been a committee member and then he will be the attorney for the board trying to advise them. He noted that he was happy to continue attending the meetings, at least for a while, on a pro bono gratis basis, just to help with the transition.

NEW BUSINESS – DECK DESIGN REVIEW - 918 REYNOLDS STREET (YVONNE FLAGG)

Chair Doug Eriksen advised members that they had received a request for a deck design review from Ms. Yvonne Flagg at 918 Reynolds Street. He noted that they would like to build a wraparound porch. Mr. Eriksen stated that he looked at the plans and they seem to be in keeping with other porches/decks that people have put on the back of adjacent properties, except for the fact that it wraps around the whole corner and has an awning. He advised that Ms. Flagg will need to get a building permit from Delaware City, but as part of that, because she is within The Fort DuPont Historic District, she needs the approval of the Fort Dupont Design and Historic Preservation Committee.

After a lengthy discussion regarding deck dimensions, setback requirements, and placement members scheduled a meeting for April 24, 2023 at 3:30 p.m. at the Fort DuPont Administrative Office to review the deck plans.

PUBLIC COMMENT

None.

NEXT MEETING

The next meeting is scheduled for Monday, April 24, 2023 at 3:30 p.m. at the Fort DuPont Office, 260 Old Elm Avenue, Delaware City.

Members discussed future meetings and agreed to meet the fourth Monday of each month at 3:30 p.m.

ADJOURNMENT

Mr. Forsten moved for adjournment, seconded by Ms. Lee and unanimously carried.

Meeting Adjourned at 4:17 p.m.

APPROVED: April 24, 2023