

## MINUTES OF THE SPECIAL MEETING OF APRIL 6, 2000

A special meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 6, 2000 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:30 P.M. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Hastings, Mr. Johnson, Mr. Lynch, Mr. Wheatley, and Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to adopt the agenda as circulated.

Mr. Schrader explained how the meeting would be conducted.

### Public Hearings

There was a consensus of the Commission that the public hearings for C/Z #1400 and C/Z #1401, the applications of Olde Towne Pointe, L.L.C., be heard together during one hearing, and that the decisions on the applications shall be made individually.

C/Z #1400 -- application of OLDE TOWNE POINTE, L.L.C. to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District and C-1 General Commercial District to a MR-RPC Medium Density Residential District - Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying northwest of Route 18 (Savannah Road), on both sides of Road 269A (Old Orchard Road) and southeast of Railroad, to be located on 188.24 acres, more or less.

C/Z #1401 -- application of OLDE TOWNE POINTE, L.L.C. to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying southwest of Road 269A (Old Orchard Road) and 70 feet north of Route 18 (Savannah Road), to be located on 10.0 acres, more or less.

Mr. Lank advised all parties present that the Commission has a copy of all documents on file, including comments from: the Delaware Department of Transportation (DelDOT) in response to a traffic impact study; the County Engineering Department in reference to the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; the Delaware Office of State Planning Coordination; the Citizens Coalition, Inc.; and letters from the Covey Creek Owners Association; County Bank; Corinne Franzoni and Charlotte Holloway; Charlie Marsch; William R. Peiker; Bayside Health Association; Camilla Conlon of Jack Lingo Realtor; Kathy Engel of Re/Max; Ed and Barbara Freund; Shirley Thompson; and Robert H. Orem, President of the Council of the Town of Ocean View.



Mr. Lank read a letter in support from the Henlopen Soccer Club.

Mr. Lank read a letter from Walter A. Reynolds, Jr., Fire Chief for the Lewes Fire Dept., Inc. which advised that fire and EMS services would be provided by the Fire Department.

The Commission found that James Fuqua, Jr., Attorney, Joseph Hudson, Craig Hudson, and Mike Lynn were present on behalf of the application.

The Commission found that Mr. Fuqua stated in his presentation and in response to questions raised by the Commission that the total site area is 198.3 acres, of which 178.8 acres are zoned AR-1 Agricultural Residential and 19.4 acres are zoned C-1 General Commercial; that the proposed applications include a MR-RPC Medium Density Residential - Residential Planned Community of 188.3 acres with B-1 Neighborhood Business uses on an area of 5.6 acres within the community, and a B-1 Neighborhood Business District containing 10.0 acres at the intersection of Savannah Road and Old Orchard Road; that the proposed zoning housing yield provides for 260 single-family home sites, 110 townhomes, 144 apartments, and 72 flats, for a total of 586 units with a net density of 3.1 units per acre; that the density is similar to the current zoning of AR-1 Agricultural Residential and C-1 General Commercial if fully developed; that they propose to connect to the West Rehoboth Sanitary Sewer District; that Tidewater Utilities will provide central water; that electric, cable, and telephone will be underground; that the State Police are in close proximity; that the Lewes Fire Department will provide fire protection and ambulance services; that the majority of the property has been tilled; that approximately 1.6 acres of Federal wetlands exists on the site; that the application is in compliance with the 1997 Sussex County Comprehensive Plan; that the developers have considered the environmental impact and the traffic impact, and propose a superior living environment; that the Comprehensive Plan references that the site is in a Development District where 4 single-family dwelling units per acre and 10 apartment type dwelling units per acre are acceptable; and that the State Office of Planning Coordination has no objections to the application if certain conditions are met.

The Commission found that Mr. Lynn stated in his presentation and in response to questions raised by the Commission that they propose low density, a thematic community which identifies period architecture, an integration of architecture with land planning, pedestrian oriented planning, and a balance of uses; that the plan has a town center, a residential mix, business and shopping integration, amenities, and open space; that they viewed a 200 acre tract as an unique opportunity to plan a complete community; that they have attempted to establish a community that could function without complete dependence on the automobile, and a community that promoted social interaction and worked as a neighborhood; that they propose a walking community with a diversity of housing styles with places to live that are close to places to shop, with places to live and places to shop close to a broad range of recreation and social activities; that a housing



market analysis was performed to consider growth trends and to consider housing types the area needs; that the analysis projects: that the area is growing with a growth rate of approximately 2.0% through the year 2007; that the property is located to serve second home-buyers, retirees, local residents and workers, local residents either starting a home or down-sizing; that the property is also capable of serving retail facilities and office space; that it estimated an immediate need for about 60,000 square feet of retail space and an estimated long term need for an additional 80,000 square feet of general and medical office space; that sales housing could be absorbed at 80 units per year; that rental housing could be absorbed at 30 - 40 units per year; that neighborhood business (retail) immediate need for approximately 60,000 square feet and office space market could absorb 10,000 to 15, 000 square feet over a 4 - 6 year period; that the concept had to have some relationship with the City of Lewes; that the City of Lewes has core values, which include that Lewes is a community of diversity; that the core value is threatened by an influx of wealthy retirees and vacationers; that for Lewes to remain a fully functional community, it must have a mixture of homes and rentals affordable to people of varying income levels; that they propose a mix of residential housing for varied income integrated with retail services and recreational facilities in pedestrian oriented site planning; that the architecture will include several design periods and will maintain a cohesive appearance and provide residents with a sense of place to allow an individual identity within the larger community; that the housing will include a mix of apartments, townhomes, condominiums, and single family homes so that residents can reflect a variety of age groups, lifestyles, and incomes; that they propose to establish a strong home owners association with covenants and restrictions, as well as detailed architectural guidelines to ensure review and conformance through-out development; that retail and office uses should primarily serve the community and the immediate surrounding area; that recreational facilities, open space and the community center will be within walking distance of the residences; that they will create active plazas and formal gardens for community gatherings that are highly visible and easily accessible; that the town center will be the central axis, locating all neighborhood business along a main street and will link the residential housing to retail services with an extensive network of sidewalks, pathways, and bikeways; that they will provide interconnection of the street pattern throughout the site; that streetscapes will be attractive, generally consisting of a row of trees along the curb and adequately sized sidewalks; that they propose to establish extensive pedestrian/bike links to surrounding communities; that the town center will contain a tower as a pivotal point of the project, and will mark the center of the community and function as a landmark; that they propose to locate a continuous building line along both sides of the streets; that they propose to locate all single family homes to the front of the lot line close to the sidewalks and pedestrian traffic; that there is a lack of affordable housing in the Lewes area; that they propose to design and locate town homes and rental apartments at the core of the town center, easily accessible to shopping and recreational areas; that they propose to integrate the existing DART service with the plan to serve the project and the surrounding community; that they propose to incorporate a



large recycle station within the project to serve the project and the surrounding community; that the project should take approximately seven years to complete; that the project should generate cumulative revenues during the seven years of development of approximately \$69,000,000 from construction cost, transfer taxes, building permit fees, real estate taxes, homeowners association dues, and impact fees; that after build-out an annual revenue of approximately \$599,000 should be accumulated; that real estate tax allocations should generate approximately \$238,000 to the school district; that they anticipate 75 to 90 school age children at build-out; that they propose to create a soccer field with a pavilion which will be open to the surrounding communities; that they propose to create bike paths that coincide with DelDOT plans; that they propose to create garden parks; that they propose an extension of the DelDOT pedestrian/bike paths to Savannah Road; that they propose to reforest approximately 8 acres at the southeast corner of Old Orchard Road and the Railroad; that they propose a 40-foot wide non-disturbance buffer along the west side of Covey Creek and the east side of Dutch Acres; that they propose a 25-foot wide forested strip along the south side of the Railroad; that a 4.5 acre site on the north side of Savannah Road, surrounded by the site, is owned by Joseph and Craig Hudson and will be deed restricted to community services: i.e. police, fire, emergency medical services, library, or museum; that they propose to initiate a developer funded transportation plan to supplement the off-site road improvements required by DelDOT; that the plan will educate, encourage and subsidize the use of the DART system which will have stops servicing the project; that the plan will incorporate a stop for the River and Bay Authority Shuttle; that the developers will escrow \$200 per settlement to traffic issues; that they propose to initiate, through a bank, an attractive first time home buyer program that will expand the opportunity of home ownership; that they propose to limit the number of dwelling units to be permitted to 100 per year; and that they hope that the Westcoat's Corner intersection will be studied and modified to a T-intersection.

The Commission found that Gerald L. Esposito of Tidewater Utilities, Inc. was present and stated that the project is a natural extension of the company's franchised service area; that the company has been interconnecting all of the existing systems; that approximately 700,000 gallons of water is pumped daily; that a well permit is required; that they plan to connect this project with a 12 inch waterline south of Five Points near Lowe's; that they may create an additional 2 wells on the site for future use; and that the company can serve the project without any interference to existing wells nearby. Mr. Esposito submitted written comments for the record.

The Commission found that Jeff Clark of Land Tech, Inc. was present and stated that wetlands have been delineated on the site; that three small pockets of wetlands were found, which included a 0.275 acre site, a 0.426 acre site, and a 0.144 acre site; that no endangered species or threatened species were found on the site; that the proposed



reforestation area will enhance wildlife; that the County Engineering Department has completed its study and found that capacity is available for the project; that connection to the sewer district will be from two stubs at Road 269A; that sewer treatment will be at the County Wolfe Neck Treatment Facility; that the stormwater management facilities will include a combination of wet and dry ponds, and sand filter systems; that all streets will be paved and curbed with catch basins and piping; and that the 8-acre reforestation area will improve the quality of run-off.

The Commission found that Robert M. Rodgers of Orth-Rodgers Associates, Inc. was present and summarized the results of the traffic impact study prepared for the project, the intersections reviewed, the peak hour counts, trip distributions, and levels of service; and that the developers plan to comply with all requirements recommended by DelDOT. Mr. Rodgers submitted a booklet with all of the aerials, maps and charts presented.

The Commission found that Mr. Fuqua read and submitted proposed conditions for the project: 1) The maximum number of residential units shall not exceed 586 comprised as follows: 260 single family lots, 144 apartments, 110 townhouses, and 72 condominiums; 2) Residential building permits shall be limited to 100 permits (cumulative) per year; 3) The RPC shall be served as part of the Sussex County Sewer System, Phase II of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; 4) The RPC shall be served by a central water system providing water for consumption and fire protection per applicable regulations and approvals of DNREC, the State Fire Marshal and the Public Service Commission; 5) All entrance, intersection and roadway improvements required by DelDOT as set forth in DelDOT's letter dated November 2, 1999, shall be completed by the applicant in accordance with any further modification required by DelDOT; 6) Site plan review for each phase of the development shall be reviewed and approved by the Sussex County Planning and Zoning Commission; 7) Applicant will reconfigure town home section (units 17 through 30) to increase community common area and green space between townhouses as represented by applicant in public hearing record; 8) Applicant will reconfigure soccer field by the following changes: A) Remove 8 unit condominium building (reducing density from 594 units to 586 units); B) Reorient existing field to true north/south; C) Introduce a soccer pavilion with bathrooms, storage and weather shelter (see Revision Plan); Note: Soccer field and pavilion will be opened to public use and enjoyment; 9) Garden parks as shown on Revision Board will be constructed as shown; 10) Applicant will provide the following recreational facilities: A) 8 tennis courts (one court every 75 units), B) 2 outdoor swimming pool facilities (first pool facility @ 80 units, second pool after 40 units of East Village), C) Multi-use field and soccer pavilion (completed within 3 years of first residential building permit issued for West Village. This area will be open to public. (See revision drawing for deletion of 8 condo units) D) Pedestrian/bike park - build tot lot and play ground area located along pedestrian/bike path East Village



(completed within 2 years of first residential building permit issued for East Village) E) Community building - minimum 5,000 square feet building which will first serve as marketing center. Building can be expanded to meet community needs. (Completed within one year of first building permit issued for the project); 11) Western segment of DelDOT pedestrian/bike path which is shown terminating at Dutch Acres will be extended to Savannah Road; 12) Applicant will establish a 60' highway corridor overlay zone setback along the property fronting Savannah Road; 13) Applicant will install a 6' wide asphalt bike path along the property frontage at Savannah Road. Bike path will be installed within the 60' highway corridor overlay zone. 14) Applicant will install a 6' bike lane parallel to Route 269-A on the western section of the property. (Completed within four years of first building permit issued for the project). 15) Applicant will establish a Reforestation program for a minimum of 8 acres located in the northwest corner of East Village area along Route 269-A (Reforestation will be in coordination with the storm water requirements for this area of the project and will be done over a 2 year period. 16) Applicant will establish minimum 40' non-disturbance buffers along eastern and western property lines. 17) To the extent possible, Applicant will relieve through its storm water management program, the drainage problem at northwest corner of Covey Creek. (Subject to approval of Covey Creek HOA). 18) Applicant will construct pedestrian walk lanes into parking scheme for the village shopping center as shown on site plan. 19) Applicant will construct a pedestrian and bike access between lots 13 and 14 of the East Village to connect to the B-1 area. 20) Applicant will introduce and initiate through bank tenant, an attractive first time home buyer program for this project that will expand the opportunity for home ownership. 21) Applicant will limit through deed restrictions the type of future use of 4.5 acres to community service (i.e. fire, police, EMS services, library, and museum. Note: Developer will maintain architectural and signage control of any facility). 22) Applicant will not make or propose to make any vehicular connections to either Covey Creek community to the East nor to Dutch Acres community to the West. 23) Applicant will design, and if approved, install a curb cut entrance to Bayside Health Associates medical building along DelDOT Grid road through East Village. 24) Applicant will study, design and seek approval from DelDOT, and construct a T-intersection improvement to the intersection of Westcoat's Corner and Savannah Road. (Criteria for proffer is to maintain existing tree growth to largest extent possible). 25) Applicant will initiate a Developer Funded Transportation Plan in coordination with DelDOT which purpose is to supplement the off-site road improvements required by DelDOT. Plan will establish the following: A) Plan will educate, encourage and subsidize a portion of the cost of fares for the use of the DART system, which will have stops servicing this project. Developer subsidy will remain in effect through the issuance of the building permits and build out. B) Plan will incorporate a stop for the existing River and Bay Authority Shuttle service and participate with Authority in the future to expand service as demand increases. C) Plan will make available to off site projects, which have special interest or positive impact on surrounding community funds from each existing settlement. Developer will escrow



\$200.00 from each settlement to be dispersed as is deemed appropriate by Developer to appropriate community efforts involved in traffic and/or transportation improvement studies, traffic and/or transportation mitigation measures, or traffic calming efforts.

The Commission found that Wayne Letnum, owner of Creative Concepts, was present in support of the project and the reputation of the developers.

The Commission found that there were no parties present in opposition to the application.

The Commission found that Dr. Sobel, a resident of Covey Creek, expressed concerns in reference to storm water run-off and drainage; that the drainage ditch along the railroad is ineffective; and that the 40' buffer along Covey Creek should be wider.

The Commission found that Mable Granke, speaking on behalf of Neal Boyle, expressed concerns about traffic.

The Commission found that Mable Granke, present on behalf of the Citizens Coalition, submitted and read written comments referencing that the Coalition has met with the developers; that this is the closest thing to a real Residential Planned Community and that effort has been made to give something back to the community; that positive aspects are: 1) Establishment of a community playfield with accompanying structure to provide shelter and restrooms; 2) Planned re-forestation of site east of Old Orchard Road; 3) Well-planned internal pedestrian and bicycle circulation including provision for transit; 4) The proposed plan represents the full spectrum of housing from rental to different types of ownership; 5) The formation of a Developer Funded Transportation Program; that the project, at full build-out, will represent an impact on the infrastructure of Lewes and the surrounding areas inclusive of Five Points; that DelDOT has done little to help solve the problem; that Westcoat's Corner must be re-configured if traffic, including emergency vehicles, is to be able to operate with any degree of safety; that the applicants are willing to address the issue; that signalization is not the answer; that Old Orchard Road needs major thought in a design approach; that there should be bus stops internal to the community, not on Savannah Road; that three accesses proposed into the West Village from Old Orchard Road make sense for the circulation pattern proposed; that DelDOT indicates concern for the West Village access from Savannah Road, but does nothing to offer a solution; that Savannah Road is the primary evacuation route for the City of Lewes; that the adopted Transportation CIP for FY2001-2006 does not address New Road from the standpoint of bridge repair or flooding, thereby severely compromising New Road's capacity for use as an alternative evacuation route; that a letter has been addressed to Secretary Canby requesting that an immediate conference be held before this application comes before the County Council so that discussions can take place with all parties; that as the DelDOT letter of November 2, 1999 is written, this application, the

developers, and the existing community are at the mercy of decisions regarding access to this site and impact to Five Points being made after County decisions; that until and unless all decisions that must be made with regard to access to the site are part of the public record, the Citizens Coalition invites the applicants to join with them in pursuit of a traffic resolution that will be mutually beneficial to all concerned parties and in so doing respectfully request that the submission and procedures associated with this application be temporarily suspended; that the opportunity for open discussion has been most encouraging; and that it has been a pleasure to have the opportunity to be pro-active.

The Commission found that Don Roessler, a member of the Citizens Coalition, read the referenced letter written to Ann Canby.

The Commission found that Robert Wotring, Chairman of the Covey Creek Building Committee, expressed concerns about drainage; flooding of a portion of the street in Covey Creek due to the lack of stormwater improvements; traffic; the need for improvements to Westcoat's Corner intersection; and suggested that the improvements should be made now, not in ten years.

The Commission found that Ziggy Mielnikiewitz expressed concerns relating to traffic into Lewes and that a traffic signal needs consideration at Westcoat's Corner.

The Commission found that Frank Kappes stated that he supports the project, but expressed concerns about the cement trucks turning at Old Orchard Road; traffic accidents at the intersection of Old Orchard Road and Savannah Road; traffic; the difficulty of getting out of his driveway onto Savannah Road due to traffic; and that all entrances to the project should be from Old Orchard Road, not Savannah Road.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to defer action.

Meeting adjourned at 10:46 P.M.