



Department of Land Use

RECOMMENDATION

Ordinance 12-019
Application 2009-0201-S/Z

Columbia Place at Garden of Eden Road

April 17, 2012

DESCRIPTION

Location: South side Garden of Eden Road, west of Concord Pike (US 202) and east of Taunton Drive

Councilperson: Robert S. Weiner, District 2

Rezoning: Revise previously recorded UDC rezoning record major land development plan

Applicant: Reybold Venture Group LLC

ZONING PATTERN

The surrounding area has a diversity of zoning districts forming a line of CR (Commercial Regional) and CN (Commercial Neighborhood) along Concord Pike, and then transitioning westward to a band of institutional uses in S (Suburban) and ST (Suburban Transition) zoning districts, and then to medium density residential neighborhoods zoned NC10 and NC15 that back up to Brandywine Creek State Park.

DEVELOPMENT PATTERN

The development pattern mirrors the transitional nature of the zoning pattern with the most intensive uses along busy Concord Pike and then changing to institutional and medium density residential uses before reaching the parkland that protects the Brandywine River Valley. The subject parcel, now zoned ST, is located behind the band of shopping centers, gas stations, and restaurants along Concord Pike. Adjoining properties to the north and south include the institutional uses offered at the Jewish Community Center, the Brandywine Branch YMCA, and the Brandywine Valley Baptist Church. The western edge and part of the southern edge of the parcel adjoins the rear yards of properties in Tavistock, a community of single family homes on lots ranging from about one-third to one-half acre.

TECHNICAL ADVISORY AGENCY REVIEW

Because this revised plan only proposes very minor design changes, most of the agencies participating on the Technical Advisory Committee (TAC) did not offer comments. The only agency responding was the Delaware Division of Public Health, which offered general information regarding the water supply utility.

BACKGROUND & ANALYSIS

This revised plan proposes minor alterations to improve the overall design and open space layout and to reduce impervious cover without increasing the number of dwelling units or GFA.

The biggest change involves rotating the eastern group of townhomes and removing the street between those units and the condominium buildings. This alteration removes impervious cover and allows for a larger open space element with pedestrian walkways and enhanced landscaping. The clubhouse was moved to a corner location to provide greater visibility and access for that amenity while relocating a few townhomes to the former clubhouse site. In the areas where the single family homes are located many of the driveways now have shared entrances, reducing the number of curb cuts and the amount of paving.

Other elements of the plan remain unchanged. The private internal loop road has the same layout and the three unit types - apartments, townhomes, and single family detached - are still arranged to accommodate the adjoining parcels. The single family homes will back up to the rear yards of the neighboring homes in Tavistock; the condominium apartment buildings will be located on the side closest to Concord Pike, and the townhomes will be located in the middle of the site. The total number of these age-restricted units remains at 149 and the GFA is not increased.

April 3, 2012 Public Hearing –

At the hearing Jerry Heisler, as a managing member of the Reybold Group, made a brief presentation describing the plan revisions, which he said are proposed because they developed a better design. They are not attempting to increase the density or the GFA.

Three members of the public, all residents of Tavistock, spoke in opposition to the plan.

Anthony Paladinetti objected to the previous rezoning, the density of the project, the height of the apartment buildings, and the existing traffic volume on Garden of Eden Road.

Nancy Hannigan, as a property owner who would back up to the single family homes in the proposed development, said this revised plan ignores the residents' previous request to enlarge the backyards of the new homes to provide greater separation with the existing Tavistock homes. She did not object to the plan revisions, but would like larger backyards. When asked what depth backyard the residents would prefer, she said they had not come up with a number. On a

separate subject, Ms. Hannigan said residents are concerned after hearing there may be future changes to the design of the stormwater management system.

Frank Maderich said he felt that Mr. Heisler has taken full advantage of all the benefits the UDC can offer his project. He then asked the Board to hold the record open for thirty days so residents could submit written comments.

In rebuttal, Mr. Heisler said he had no objection to the record being held open. He explained the overriding theme of his project is to create a residential community that fits in with the transitional nature of the surrounding commercial, institutional, and single family residential properties. By arranging the different housing types in the project to respect the adjacent parcels he believes he has accomplished this goal.

Mr. Heisler noted that a TIS (Traffic Impact Study) was not required, but due to concerns from the public a full TIS was prepared and the resulting conclusion revealed that traffic counts for this age-restricted community would actually be lower than the traffic generated by the Pilot School.

To address the question about changes to the stormwater management design, Mr. Heisler noted there are existing problems with drainage in this corridor. He explained he is participating in talks with several agencies to explore revised stormwater designs that might help to improve conditions in the surrounding communities, not just in the Columbia Place project. If such a design is developed he will then share this information with the civic groups.

Chairman Killingsworth asked the Board to respond to the public's request to hold the record open. The Board deliberated over leaving the record open for 30 days or the end of the week. No motion was brought to a vote and therefore, the record was closed.

Standards for Zoning Map Amendment - Section 40.31.410 of the New Castle County Code

In determining whether a zoning map amendment should be recommended or approved, all of the following factors shall be considered:

A. Consistency with the Comprehensive Development Plan and the purposes of this Chapter.

The Comprehensive Plan classifies this ST-zoned property as high density residential (9+ du/acre). When this rezoning was approved in 2010 it was based partly on the planning goal to incorporate higher density housing and a broader range of unit types into northern New Castle County. Because this revised plan proposes only minor design changes without changing the design concept and without increasing the number of units or the GFA, the comprehensive Plan goals are still met.

B. Consistency with the character of the neighborhood.

In the previous zoning review, this project was seen as a transitional parcel located between medium density residential to the west, commercial to the east, and institutional uses to the north and south. The original project design addressed this mixed zoning context by transitioning the density and dwelling type so the neighboring residential communities will be adjacent to the dwellings similar to their own and placing the highest density and tallest buildings closest to the commercial districts. The revised plan does not alter that design concept, and so, remains consistent with the character of the neighborhood.

C. Consistency with zoning and use of nearby properties.

The property was rezoned from S to ST by Ord. 09-090 in February 2010. The proposed plan revision does not increase the density or change the proposed mix of dwelling types. Therefore, the revised plan is still consistent with the ST zoning category and the use of nearby properties.

D. Suitability of the property for the uses for which it has been proposed or restricted.

The previous rezoning review and the approval of Ord. 09-090 established that this plan complies with the zoning and subdivision standards for ST and the standards for redevelopment projects. The proposed revisions are minor and do not call the suitability of the residential use or the original zoning plan into question.

E. Effect on nearby properties.

The proposed design changes will result in less impervious cover and better open space and pedestrian circulation within Columbia Place. These changes will have no adverse effects on nearby properties.

DEPARTMENT OF LAND USE RECOMMENDATION

The Department has considered the *Standards for Zoning Map Amendment* in Section 40.31.410, A through E, the proposed plan, and comments received from agencies and the public. Based on this analysis the Department is of the opinion that the standards are met by this proposal.

This is a minor change to a plan that was presented with the application for rezoning to ST approved more than a year ago and the Department views the proposed changes in the revised plan to be enhancements that will result in a better plan without changing the original design concept or expanding the size of the project in any way.

The Department of Land Use recommends **APPROVAL** of Ordinance 12-019.

At the April 17, 2012 Planning Board Business Meeting, the Planning Board considered the analysis and recommendation offered by the Department of Land Use. On a motion by Ms. MacArtor and seconded by Mr. McDowell, the Board voted to recommend **APPROVAL** of Ordinance 12-019. The motion was adopted by a vote of **7-0-1-1** (YES: Killingsworth, MacArtor, McDowell, McGlinchey, Snowden, Visvardis, Wilson; NO: none; ABSENT: Anderson; VACANT: one vacancy).

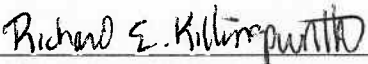
There was no additional discussion following the motion.

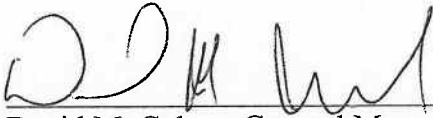
STATUTORY GUIDELINES

In the phraseology of 9 Delaware Code Section 2603 (a), the Department of Land Use finds that this rezoning **would** promote the convenience, order, and welfare of the present and future inhabitants of this state.

NOTE: The applicant is advised that pursuant to Section 40.31.113 F of Chapter 40 of the New Castle County Code (UDC), the preliminary plan associated with this rezoning cannot proceed to County Council until it addresses all the issues identified in the TAC Report and TAC report letter dated March 13, 2012, and the conditions noted in this recommendation report. The preliminary plan must be deemed "approvable" by the Department of Land Use prior to County Council action.

NOTE: It is the applicant's responsibility to coordinate with the Clerk of County Council and the sponsor of the ordinance as to the date and time of the County Council hearing on this application.


Richard E. Killingsworth, Chair
Planning Board


David M. Culver, General Manager
Department of Land Use