

RESOLUTION

OLD TAPPAN PLANNING BOARD

WHEREAS, the Old Tappan Planning Board states the following by way of preface:

1. Colonial Realty Development Corp., as applicant, has applied to the Old Tappan Planning Board for preliminary site plan approval and PRD conditional use approval for a development project known as Woods Edge at Old Tappan (hereinafter, WOODS EDGE)

2. The application consists of:

A. Site plan maps entitled "Woods Edge at Old Tappan," consisting of 27 maps prepared by Harper & Palmieri, Consulting Engineers and Land Surveyors, P.A., sealed by Rocco Palmieri, P.E. & L.S., dated September 29, 1992 and amended to October 27, 1993;

B. A landscape plan prepared by Land Concepts, Inc., William Glaner, Landscape Architect, N.J.C.L.A. 531, dated September 29, 1992 consisting three sheets;

C. Architectural drawings of Elevations and Floor Plans prepared by The Martin Organization, Architects and Land Planners, dated September 29, 1992 consisting of seven sheets;

D. Environmental Impact Report prepared by J.H. Crow Company, Inc., dated August 1992, consisting of 63 pages;

E. Traffic Evaluation, Woods Edge, prepared by Travers Associates, dated February 26, 1993, and Supplemental Evaluation

Traffic Report dated June 2, 1993;

F. Application form prepared by Colonial Realty Development Corp., signed by Robert Bradley Kennedy, President, dated October 11, 1992, consisting of 26 pages, unnumbered;

G. In addition, the applicant has submitted various reports, charts, exhibits and maps prepared by its expert witnesses and professionals, all of which have been received in evidence by the Planning Board;

3. By said application, the applicant proposes to develop a parcel of land comprised of approximately 26.70 acres situated on the west side of Orangeburgh Road North in the Borough and commonly known as Block 602, Lot 9, Block 603, Lots 1 and 2, and Block 303, Lot 8, on the current tax assessment map of the Borough of Old Tappan.

4. The applicant proposes to develop such property with a total of 140 housing units, including 7 single family residences, 105 "marketplace" townhouse units and 28 low and moderate income housing units. The projects will have a density of 5.24 units per acre.

5. In compliance with Section 14-9.3B (1)(a) of the Old Tappan Land Use Ordinances, the applicant proposes that 7 the single family residences will be part of condominium regime for the project and will not be situated on separate lots. Therefore, and since none of the proposed dwellings can or will be conveyed in fee ownership, the applicant does not propose a subdivision for this property.

6. The application does not seek ancillary variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(c) in connection with this development. The proposal meets or exceeds all of the requirements of the Old Tappan Zoning Ordinance as to dimensional or bulk requirements for planned residential developments.

7. Section 14-9.1(h) of the Old Tappan Zoning Ordinance requires that the applicant shall provide and maintain a buffer area for a planned residential development which shall be no less than 50 feet in width from all external property lines of the site, which buffer area shall be kept in its natural state where wooded. Further, although no uses or structures shall be permitted within this required buffer area, the Planning Board may "...upon specific findings or reasons therefore, permit a portion of a buffer area to be used for utility easements or streets to ensure access to or from a principal roadway."

In connection with its plans to remove existing electric transmission towers and to relocate overhead power lines to an underground location, the applicant proposes, with the permission and approval of Rockland Electric Company, to build underground vaults or chambers for the installation of said power lines within certain portions of the 50 foot buffer area, and to grant easements to Rockland Electric Company so that said underground power lines may be serviced and maintained by the utility company in the future. The Planning Board finds and determines that, while same may technically constitute an "intrusion" into the required buffer area, same would be permitted under the exemption for utility

easements under Subsection (h)(3). This is because the purpose and objective of the buffer area is to make certain that the buildings and other improvements of an approved planned residential development are a minimum distance from adjoining properties and to preserve light, air and open space. These purposes and objectives will not be defeated by permitting the relocation of existing, unsightly overhead transmission lines to an underground location within the buffer area.

8. The Board has conducted a public hearing on the application on various dates on notice as required by law.

9. The Board has received and reviewed studies and reports from various professionals engaged by the applicant. The Board has also requested and received reports from: a) its professional planning consultant, Kasler Associates, dated November 24, 1992, August 21, 1993 and October 4, 1993, which reports extensively reviewed the application and commented thereon; b) from Thomas W. Skrabble, P.E. of Boswell McClave, the Borough Engineer, which reports of various dates also extensively reviewed the application and commented thereon; and c) written and verbal legal opinions from Michael I. Lubin, Esq., the Board Attorney, on various legal questions which have arisen in connection with the application. In addition, the Board has received reports and analyses on environmental matters from Michael Hakim, who was engaged by the Old Tappan Environmental Commission to review and report on the environmental aspects of this application.

10. During the several public hearings conducted by the Board

on this matter, it has received extensive questions, comments and objections by members of the public.

11. The Board has reviewed and considered the plans and plats submitted by the applicant, the evidence presented by the applicant, both testimonial and documentary, the reports by the Board's consultants, the evidence, questions, arguments and objections presented at the public hearings by members of the public, all in light of the pertinent ordinances of the Borough.

12. The Board finds and concludes that, other than as may be specifically referred to herein, the site plan and conditional use applications conform in all respects with the land development review ordinances of the Borough. However, the Board has granted a waiver with respect to the provision of said ordinance which requires 1 foot contours, so as to permit said contours to be shown at two foot intervals. This waiver was justified in view of the relative flat topography of the site.

NOW THEREFORE, BE IT RESOLVED by the Old Tappan Planning that, based upon the evidence and information presented at the public hearings, it hereby makes the following findings of fact:

As a planned residential development is a conditional use under the Old Tappan Zoning Ordinance, a proposal must comply with all of the enumerated conditions of the ordinance in order for an approval to be granted for such development. The Board has reviewed the application presented as against these enumerated conditions and, in this regard, specifically finds as follows:

1. Section 14-9.1 (a) requires five percent (5%) of the

total housing units in a PRD to be one-family dwellings. Since the applicant proposes to construct a total of 140 dwelling units in the development, at least 7 units must be one-family dwellings. The plan as submitted calls for a total of 7 single family dwellings which meets this requirement.

2. Section 14-9.1(b) requires that a PRD shall also include two other building types in addition to one-family dwellings, among such types as townhouses and patio houses, townhouse-duplex combinations only, triplexes and quadruplexes. Since the architectural plans submitted with this application indicate that one quadruplex and 22 townhouse duplexes are to be constructed, the application meets this condition.

3. Section 14-9.1(c) requires that a PRD site have minimum of ten or more acres of adjoining and contiguous land, with sufficient access to an approved and improved street. This application complies with this condition in that it is to be developed on a total site area of 26.70 acres, with access to be provided from Orangeburgh Road North, an approved and improved street.

4. Section 14-9.1(d) indicates that a PRD shall be required to be joined to a centralized sanitary sewer system as defined in the ordinance and that such connection is to be approved by various governmental agencies and authorities having jurisdiction thereof. At the present time, the subject site is not connected to a public sewer. The applicant has proposed a sewer connection through the approved but undeveloped PRD project known as Dorotockey's Run.

The applicant has further indicated that said proposed sewer line will extend through wetlands and wetlands buffers and will be subject to a permit application to the N.J.D.E.P.E. Further in this connection, the application seeks permission from the Board to commence with certain site improvements, such as clearing, grading, relocating the above-ground power lines to underground emplacements as well as to construct sales model units while construction of the sewer line is taking place, but before the actual connection of same to this development. It is proposed by the applicant that, to assure the Borough that the subject site will be connected to a fully approved and installed sewer line, it will provide a letter of credit in favor of the Borough in sufficient amount to guaranty that all necessary sewer improvements will be actually constructed and operational. Under these circumstances and subject to the conditions hereinafter set forth, the Board finds and determines that this condition has been satisfied.

5. Section 14-9.1(e) states that a planned residential development may not be built on property constituting environmentally sensitive lands, as more specifically defined in said subsection. As part of its application, the applicant presented an Environmental Impact Report, prepared by J.H. Crow Company, Inc., dated August 1992, consisting of 63 pages. None of the ordinance criteria pertaining to environmentally sensitive lands apply to the subject property. As well, detailed testimony on environmental matters was presented to the Board by John H. Crow, Ph.D., the applicant's environmentalist. In addition, the

Board received reports and testimony from Michael Hakim, an environmentalist engaged by the Borough's Environmental Commission/Committee, specifically with respect to this application. All of this data and information has been reviewed by the Borough Planner and Borough Engineer who have, in turn, reported to the Board on these issues. Since it has been reported to the Board by its professionals that the subject property does not constitute environmentally sensitive lands, the proposed development meets this condition.

6. Section 14-9.1(f) requires that a planned residential development be located on a principal roadway in the Borough, as defined therein, and have at least 50 feet of road frontage, measured at the street right of way line. The subject development fronts on Orangeburgh Road, a specifically enumerated principal roadway of the Borough, and therefore satisfies this requirement.

7. Section 14-9 (g) requires a PRD to be provided with an adequate supply of water from the requisite serving utility, with proof of availability and sufficient pressure to be provided to the Planning Board. The applicant has presented such proofs from the Hackensack Water Company and therefore complies with this condition. There are existing water mains in Orangeburgh Road to which the applicant will provide connections.

8. Section 14 -9 (h) requires that the applicant provide and maintain a buffer zone for a PRD which shall be no less than 50 feet in width from all external lines of the site, except for that portion which fronts upon an existing external street or roadway.

The plans for the subject development show a fifty (50) foot wide area extending around the entire perimeter of the development except for Orangeburgh Road. The subject of the installation of underground, electric transmission lines within the 50 foot buffer area has previously been addressed herein and it has specifically been found that same will not constitute a violation of this condition. Therefore, the application complies with respect to this condition.

BE IT FURTHER RESOLVED BY THE OLD TAPPAN PLANNING BOARD that based upon the findings, conclusions and determinations contained herein, it hereby grants approval to the planned residential development as a conditional use and site plan applications filed by the applicant as previously referred to herein, subject, however to the following conditions.

1. Approval by the Bergen County Planning Board of the site plan aspects of the application in all areas in which the Bergen County Planning Board has jurisdiction, including but not limited to the width and alignment of Orangeburgh Road as it relates to the proposed development. This Board herein expressly reserves the right to modify this approval following action by the Bergen County Planning Board in order to achieve consistency between its actions and those of the County.

2. No construction of any type and no clearing of the site may take place unless and until: (a) the on site and off site sanitary sewer plans for the proposed development have been approved by all governmental agencies and authorities having

jurisdiction thereof, including but not limited to the State of New Jersey Department of Environmental Protection and Energy, the Bergen County Utilities Authority, the Borough Engineer and the Mayor and Council of the Borough of Old Tappan; and (b) any and all improvements necessary to connect the subject property to a fully approved and operational sewer system, including on site and off site improvements, have been adequately secured by developer's agreement and appropriate performance bonds or letters of credit, meeting the approval of the Board Attorney and Borough Attorney as to form and the Borough Engineer as to amount. In addition, the developer must obtain grants of rights of way and easements in form satisfactory to the Board Attorney and Borough Attorney to permit the installation of all requisite sewer system improvements on or across the adjacent property owned by Dorotockey's Run Development Corporation.

3. Compliance by the developer with the provisions of law requiring the approval of soil conservation and sediment control authorities.

4. Approval by the New Jersey Department of Environmental Protection, Division of Water Resources, of any and all matters within its jurisdiction, including but not limited to any applicable stream encroachment permits and permits or exemptions for development in delineated and/or recognized wetlands as well as transition areas which may be applicable thereto.

5. The applicant shall post performance and cash bonds and/or irrevocable letters of credit to be approved as to amount by the

Borough Engineer and as to form by the Board Attorney and Borough Attorney.

6. The applicant shall also post requisite deposits for planning, engineering and legal expenses of the Borough.

7. Prior to the commencement of any operations and prior to the installation of any improvements, the developer shall enter into and execute a Developer's Agreement among the developer, the Borough and the Planning Board, which shall be in a form recommended by the Board Attorney and approved by the Planning Board. Said Developer's Agreement shall provide, among other things: (a) the private roads within this development shall have a paved width of 30 feet, and shall in all other respects conform to all Borough street specifications; (b) that 14 townhouse units are to be reserved for moderate income persons and 14 townhouse units are to be reserved for low income persons as those terms are defined by law; (c) that the distribution of bedroom units for low and moderate income dwellings shall meet the requirements of the PRD ordinance; (d) that building heights and coverage shall conform with the requirements of the PRD ordinance; (e) that a phasing schedule be included indicating the order in which the specific clusters and units, including low and moderate income units, are to be constructed; (f) that the timing and development of low and moderate income units within the development will be in direct proportion to the market place units as each cluster is developed, all in accordance with the staging provisions of the PRD ordinance; and (g) a schedule by which the applicant shall be required to

construct low and moderate income housing units proposed for the development, regardless of the sale or ownership of any or all of the marketplace units.

8. Approval by the Board Attorney and Borough Attorney of any and all documents pertaining to the condominium association to be formed in connection with the dwelling units within the development, including by-laws, rules and regulations and master deed and provisions relating to garbage disposal and recycling.

9. The recordation of deed restrictions and other instruments in form acceptable to the Board Attorney and Borough Attorney to guarantee that the Mount Laurel units to be developed shall remain available for low and moderate income persons for a period of time in accordance with the provisions of the Borough Code, the Fair Housing Act and with the guidelines of the Council on Affordable Housing.

10. The recordation of a restrictive covenant or other deed restriction in form satisfactory to the Board Attorney providing that no further development or construction shall be permitted with respect to the proposed single family dwellings to be constructed as part of the PRD.

11. Compliance by the developer with all of the requirements of the Borough Engineer's letter report to the Planning Board dated November 3, 1993;

12. Compliance by the developer with all of the items set forth in the letter report to the Planning Board of Kasler Associates, P.A., dated November 3, 1993, excepting paragraph 9 on

page 6 thereof;

13. The applicant shall provide a revised plat incorporating all requirements of the reports referred to in paragraphs 11 and 12 hereof, all to be done on or before December 15, 1993; and

14. Approval, if required, by the New Jersey Department of Environmental Protection and Energy and the Old Tappan Board of Health as to the developer's plan for the abandonment/removal of the existing pool, filtration system and any related chemicals on site.

15. The applicant shall provide individual site grading and utility plans for the single family dwellings to be constructed, which shall be reviewed and approved prior to the issuance of building permits for these units.

BE IT FURTHER RESOLVED that the Board Secretary shall publish notice of this action in the manner provided by law, and that copies hereof shall be forwarded to the Borough Council, the Bergen County Planning Board, the Borough Building Inspector, the Borough Engineer and the applicant's attorneys, Pitman, Senesky, Nicola & Selitto, Esqs.

ADOPTED: December 1, 1993 on a roll call vote as follows:

AYES: 7

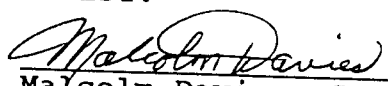
NAYS: 1

APPROVED:

PLANNING BOARD OF THE
BOROUGH OF OLD TAPPAN

By: Walter Frueh
Walter Frueh, Chairman

ATTEST:



Malcolm Davies, Secretary

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