

**SUPERIOR CHARTER TOWNSHIP
PLANNING COMMISSION
OCTOBER 28, 2015
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10-1 CALL TO ORDER**

Chairman Guenther called the regular meeting to order at 7:30 p.m.

10-2 ROLL CALL

The following members were present: Brennan, Findley, Gardner, Guenther, McGill, Phillips and Steele. Also present were Don Pennington and Rodney Nanney, Township Planners, Jacob Rushlow, Township Engineer and Rick Mayernik, Building/Zoning Administrator.

10-3 DETERMINATION OF QUORUM

A quorum was present.

10-4 ADOPTION OF AGENDA

A motion was made by Findley and supported by Phillips to adopt the agenda as presented. The motion carried.

10-5 APPROVAL OF MINUTES

A. MINUTES OF THE SEPTEMBER 23, 2015 REGULAR MEETING

A motion was made by Phillips and supported by Brennan to approve the minutes as corrected. The motion carried.

10-6 CITIZEN PARTICIPATION

There was no Citizen Participation.

10-7 CORRESPONDENCE

There was no Correspondence.

10-8 PUBLIC HEARINGS, DELIBERATIONS AND ACTIONS

There were no Public Hearings.

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10-9 REPORTS**

A. Ordinance Officer

A motion was made by Findley and supported by Phillips to receive the report. The motion carried.

B. Building Inspector

A motion was made by Brennan and supported by Phillips to receive the report. The motion carried.

C. Zoning Administrator

A motion was made by Phillips and supported by Gardner to receive the report. The motion carried.

10-10 OLD BUSINESS

A. STPC#15-02 – Sutton Ridge Area Plan – Amendment to the Bromley Park Area Plan (Postponed at the August 26, 2015 meeting.)

Kelli McIvor, representing the applicant Redwood Acquisitions, addressed the Commission and thanked the Commission for considering the proposal. She referred to the signed *Letter Agreement* between Redwood Acquisition and the Bromley Park Condominium Association, dated 10-21-15 and promising a \$75,000 payment to the Association to be used to maintain roads and/or other items as the Condominium Association sees fit. She said the Planning Commission instructed Redwood to meet with the Bromley Park Condominium Association because the Association is a party in the original Development Agreement and in the maintenance of the roads.

Nanney presented the planner's report dated July 16, 2015 (*Area Plan Amendment Report*) noting the plan had not changed since the report was written. He said the area plan provides all of the information required by the zoning ordinance. He said the proposed Sutton Ridge apartment buildings are similar in design to the Bromley Park condominium buildings in the approved plan for Bromley Park Condominium – Phase 2.

Nanney referred to his report dated July 16, 2015, (*Area Plan – Regulatory Flexibility Report*.) He said the report addresses the eight deviations from the zoning ordinance requested by the applicant. He said he recommends approving only two. He said the Planning Commission's action includes

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making a recommendation to the Township Board on the proposed area plan petition and making recommendations on each of the eight requested deviations.

Chairman Guenther said that even though the meeting was not a public hearing he would invite additional public comment.

Ken Hubb, 1878 N. Kenwyck asked if the site was zoned for residential or commercial use because the use as apartments is as a business.

Rob Defay, 1999 Wexford and Treasurer of the Bromley Condominium Association, discussed the agreement reached between Redwood Acquisition and the Condominium Association Board. He said the Condominium Board contacted an attorney who advised them that they had very little legal standing that would affect the proposed development. Defay said that however, because the Association spends funds in maintaining Wexford Dr. and for snow removal, there should be some contribution from any new development. He said the Association Board saw the *Letter Agreement* as a way to gain some financial support and limit raising condominium fees. He said the Association Board agreed not to oppose the proposed Sutton Ridge area plan.

Nancy Wazienski, 10227 E. Avondale said she did not understand how the developer could reach an agreement with the Condominium Association because she thought the proposed development was under the Township's authority. She asked if the agreement was legal.

Tracy Pitt, 10175 E. Avondale, said there are other areas in the Township where the Sutton Ridge project could be built and fit in. She said the Bromley Park homeowners are not willing to count on the developer's promises. She said there is no independent street access to the apartments and there will be signs separating the apartments from the owner-occupied homes and this will affect the sale of homes. She read a letter from Barnett Building stating the desirability of single-family houses or condominiums at the proposed Sutton Ridge location.

Eric McGuigan, 9983 W. Avondale, said the Bromley Park Homeowner's Association made attempts to meet with the Sutton Ridge developers. He said there is a market for housing on that site other than apartments.

Ken Hubbs, 1878 N. Kenwyck, said he is concerned that the signs identifying the apartments will cause visitors to think the condominiums are part of the apartment development.

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Ryan Vaughan, 9983 W. Avondale said he did not approve of the apartments because a renter's mentality is different from an owner's mentality.

Brian Burak, 9566 Glenhill Dr. said that because the developer has trouble meeting the requirements and requests of the Planning Commission and has to come back meeting after meeting, how can the Township depend on the developer to provide a quality development?

Jonathan Roelofs, 9624 W. Avondale, said the signs and the driveway for the apartments will be directly behind his home. He said he did not want to raise his daughter across from an apartment development.

Vicki Evans, 10187 E. Avondale, said she is a realtor who owns both a house and a condominium in Bromley Park. She said it may be time to litigate to protect the site. She said the Township has a legal defense fund that was used to stop the rezoning off of Geddes.

Alyssabeth Gurkey, 9559 Glenhill, said the Bromley Park residents want to live in harmony in an owner-occupied community. She said that was more important than the risk of any litigation.

There were no additional public comments.

The Planning Commission discussed the proposal. Phillips noted that the plans have not been changed since they were last reviewed in July 2015. Steele asked if the proposed internal vehicular access was different from the access approved in the Bromley Park Area Plan. Nanney said the proposed vehicular access was the same as in the approved plan.

The Planning Commission discussed the existing Development Agreement. Phillips explained that generally development agreements begin as contracts between a developer and the Township. He said they are signed after a project has been approved. He said in the Bromley Park case, the Bromley Park Condominium Association is the successor to the original developer. Gardner asked if Redwood plans to seek an amendment to the Development Agreement. McIvor said yes.

Guenther said the existing Development Agreement calls for condominiums. He said he was not sure what the *Letter Agreement* means except that the Condominium Association agrees to not object to the Sutton Ridge apartment development. He said the Planning Commission is being asked to take action on a request for which there is still uncertainty about who are the legal parties in the development agreement.

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Kelli McIvor said Redwood Acquisitions has provided the Township with more information than is required by the Zoning Ordinance at this time in the review process. Guenther asked how the \$75,000 payment was decided. McIvor said it was based on a percentage of the Condominium Association's street maintenance budget.

Gardner asked if Redwood offered any financial equity to the Homeowner's Association. McIvor said she said she did not think the Homeowner's Association had the same issues as the Condominium Association and Redwood has not made a proposal to them.

Gardner said he used three criteria to evaluate the proposal: financial equity, legal issues affecting the Development Agreement, and compatibility issues. He said that when he originally identified these criteria at a previous meeting, it was with the intention that Redwood would work with both the Condominium Association and the Homeowner Association.

Guenther said he agreed with the three criteria and that the said the biggest issue is that of compatibility. He said there is a perceived incompatibility between renters and owners that is recognized by Federal agencies, noting that the Federal Housing Administration (FHA) and Fannie Mae will not lend money for a housing project if more than 50% of the dwelling units are to be rental. McIvor said the 50% threshold was in response to the 2008 financial crash as a way to create investor stability.

Guenther said it was still unclear who are the current parties in the development agreement. Phillips said the Planning Commission should not get stuck on the Development Agreement. He said the Planning Commission should proceed with a recommendation and let Redwood continue at their own risk.

The Planning Commission discussed the proposed plan in terms of the eleven zoning ordinance standards of Section 7.102.C.: (1. *Growth Management Plan policies*, 2. *Ordinance standards*, 3. *Public facilities*, 4. *Open space and recreation areas*, 5. *Common areas and improvements*, 6. *Location and layout*, 7. *Compatibility of land uses*, 8. *Minimize adverse impacts*, 9. *Preservation of natural features*, 10. *Streets*, 11. *Pedestrian facilities*.)

Guenther asked if the plan met the first standard *Growth Management Plan policies*. Nanney said it meets the goal of providing a mix of housing.

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Nanney said the second standard, *Conformance to the Ordinance Standards* is the requirement that the plan conforms to all zoning ordinance requirements. He said this is where the request for deviations is addressed. He referred to his report: *Area Plan – Regulatory Flexibility Report* dated 7-16-15. He said eight deviations are requested but only two of them are recommended for approval: reducing the side to side distance between buildings; and, reducing the minimum rear to rear yard separation. He said the other six requested deviations should be denied.

Guenther said based on Nanney's report (*Regulatory Flexibility*), he was not willing to agree that the second standard (*Conformance to the Ordinance Standards*) has been met given the number of deviations requested. Steele suggested the standard could be considered conditionally met, depending on the action on the requested deviations. He noted that the Planning Commission did not request that the plans be changed to show the rejection of the deviations before the Planning Commission's action.

Guenther asked if any of the Commissioners disagreed with the planner's recommendations on the requested deviations. Phillips asked for an explanation on the request for a deviation from the requirement that all streets be built to public street standards. Jacob Rushlow, the Township Engineer, said private roads must meet public road standards and consequently, the drives in Sutton Ridge will be required to be built to private roads standards and be required to be crowned down the center. Nanney said there will also need to be sidewalks on both sides of the "street" not just on one side. Phillips said roads and sidewalks are the biggest issues in the requested deviations.

Guenther noted that there is no recreation system shown on the area plan. He said therefore he cannot conclude that the standard for *Open space and recreation areas* has been met. Nanney said the plans will be required to show some recreation area and or common areas.

Guenther asked about the standard of *Compatibility of land uses*. He noted that the development is proposed to be wedged next to the Bromley Park condominium development. Gardner said this does not meet the intent of the original intent of the Special District. Steele said the Planning Consultant's report said the development is compatible and that the standard is met. Guenther questioned the appropriateness of the Planning Consultant making a determination of compatibility.

Nanney suggested the Planning Commission take action on the requested deviations as required by Section 7.003(1): *Proposed deviations shall be*

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identified on the Area Plan, and shall be subject to review and recommendation by the Planning Commission and approval by the Township Board.

A motion was made by Phillips and supported by Steele to concur with the planner's report dated 7-16-15 and recommend to the Township Board approval of deviations #1 and #2; approval of #5 on the condition that changes are made as provided in the report; and to reject #3,#4,#6,#7 and #8.

The motion carried with the following vote:

Yes: Brennan, Findley, Gardner, Guenther, McGill, Phillips and Steele.
No: None
Absent: None
Abstain: None

A motion was made by Phillips and supported by Brennan that the Superior Township Planning Commission, having reviewed STPC#15-02 Sutton Ridge Area Plan dated 7-7-15 and the related reports, recommends to the Superior Township Board **DENIAL** of the Area Plan based on the following analysis of the standards of Section 7.102.C (Special District Approval-Standards of Petition Review) of the Superior Township Zoning Ordinance:

- C.1 **Growth Management Plan polices** - As indicated in Section 2.01 of the Township Planner's report (*Area Plan Amendment Report*) dated July 16, 2015 the petition is compatible with the Superior Township Master Plan. **The standard is met.**
- C.2 **Ordinance standards** - As indicated in the Township Planner's report (*Area Plan – Regulatory Flexibility Report*) dated July 16, 2015 the petition requires eight deviations from the Zoning Ordinance standards and the Planning Consultant recommends approval of only two of the deviations. **The standard is not met.**
- C.3 **Public facilities** - The petition is adequately served by public facilities and services, using the water and sewer services that were installed for the original Area Plan, and conceptually, the same street layout.
The standard is met.
- C.4 **Open space and recreation areas** – The petition identifies open space but the recreation areas in the original Area Plan were removed; however, an open space and recreation improvement

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plan could be provided at the preliminary and final site plan stages. **The standard is not met.**

- C.5 **Common areas and improvements** –The petitioner will be required to make satisfactory provisions in the Development Agreement to provide for the financing and maintenance of improvements shown on the plan for open space and common use areas included in the development. **The standard should be met in the Development Agreement.**
- C.6 **Location and layout** – As indicated in Section 3.01 of the Township Planner’s report (*Area Plan-Amendment Report*) dated July16, 2015 the petition is similar in dwelling unit design, development intensity, pedestrian access and the amount of traffic associated with it so the location and layout is compatible with the existing neighborhood. **The standard is met.**
- C.7 **Compatibility of land uses** - The following findings of fact were determined:
1. The petition is incompatible with the original Area Plan because it is an apartment use wedged into an established condominium and single-family community.
 2. The petition will create issues of financial fairness because the parties creating financial conditions on the existing neighborhood may not necessarily be the bearers of the cost.
 3. The petition does not comply with the intent of the original area plan to provide condominium and single family owner-occupied residences.
- The standard is not met.**
- C.8 **Minimize adverse impacts.** The noise, odor, light, or other external effects connected with the proposed petition is expected to be the same as would be in the original Area Plan. **The standard is met.**
- C.9 **Preservation of natural features.** The petition will not create any disturbance to natural features any more than the original Area Plan. **The standard is met.**

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C.10 **Streets.** As indicated in the Township Planner's report (Area Plan – Regulatory Flexibility) the petitioner proposed a network of internal drives rather than private streets as approved in the original Area Plan and requested a deviation from the requirement to provide streets. The deviation is recommended to be rejected. **The standard is met if the deviation is rejected and the streets are constructed to Township standards.**

C.11 **Pedestrian facilities.** As indicated in the Township Planner's report (*Area Plan – Regulatory Flexibility*) dated July 16, 2015, the petitioners requested a deviation from the requirement to provide sidewalks along both sides of internal streets. The deviation is recommended to be rejected. **The standard is met if the deviation is rejected and the requirement for sidewalks on both side of the streets remain.**

The motion carried with the following vote:

Yes: Brennan, Findley, Gardner, Guenther, McGill and Phillips.
No: Steele
Absent: None
Abstain: None

A motion was made by Brennan and supported by Findley to continue the meeting after 11:00 p.m. The motion carried.

10-11 NEW BUSINESS

A. STPC#15-05 Superior Farm and Garden Final Site Plan – 2121 Prospect Rd.

Uldis Vitins, representing the applicant, said he was available to answer questions from the Planning Commission.

Nanney presented the planner's report dated 10-20-15. He said the planners are satisfied with plan. He said landscaping screening will be provided by the applicant and given to the adjacent property owner for planting on the property. He said the only issue remaining is the receipt of the outside agency permits and approvals.

Rushlow presented his report dated 10-16-15. He said the applicant did a great job in addressing his earlier comments and he took no exception to the plan as proposed.

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Guenther reminded the Planning Commission that because of the consent judgment covering the site, the Planning Commission was only reviewing the plan for compliance with the ordinance and standards and referring it to the Township Board for final action.

It was moved by Phillips and supported by Findley that the Superior Township Planning Commission has reviewed and discussed STPC#15-05 Superior Farm and Garden Final Site Plan, which includes the plan dated 10-12-15; the Township Planner's report dated 10-20-15; the Township Engineer's report dated 10-16-15; and other related materials, and finds that STPC#15-05 as submitted is in compliance with the Township's ordinances and standards, including but not limited to: Section 10.07 (Required Site Plan Information); Section 14.09.C (Non-residential Building Standards); Section 14.100.5 (Evergreen Screen); and Section 14.11 (Exterior Lighting) with the following exception: As required by Section 10.10, documentation of the necessary outside agency approval has not been provided. Furthermore, the Planning Commission indicates this is a useful addition to the Township that provides an unmet need.

The motion carried with the following vote:

Yes: Brennan, Findley, Gardner, Guenther, McGill, Phillips and Steele.
No: None
Absent: None
Abstain: None

10-12 POLICY DISCUSSION

There was no Policy Discussion.

10 -13 ADJOURNMENT

Chairman Guenther adjourned the meeting at 11:10 p.m.

Respectfully submitted,
David Phillips
Planning Commission Secretary

Deborah L. Kuehn
Recording Secretary
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