

The Regular Meeting of the Planning Board of the Township of Upper Deerfield was held on Monday, January 9, 2012 at 7:08 P.M. in the Municipal Building, Seabrook, N.J.

Chairman Bruno Basile called the meeting to order and read the following notice:

This is a regularly scheduled meeting of the Planning Board of the Township of Upper Deerfield. In compliance with the "Open Public Meeting Act" a schedule of regular meetings containing the location and time and date of each meeting was approved at the Annual Organization Meeting of the Board, and within seven days following such Organization meeting, a copy of such schedule of regular meetings was posted in the Municipal Building at Seabrook, New Jersey, which Notice has remained so posted throughout the year, and copies of the schedule of regular meetings have been mailed to The News of Cumberland County and filed with the Township Clerk in compliance with said Act.

The regular meeting beginning at 7:08pm of the Planning Board followed the closing of the reorganization meeting.

Present:

Chairman: Bruno Basile

Members: Ernest Holt, Edward Fleetwood, Russ Vanella, Pauline Smith, Terry O'Neill, Scott Smith, Jack Waselik alt # 1, Louis J. Bramante, Jr. Alt # 2, Anthony Buono, Sr Alt # 3, Robert Comer, Alt # 4

Staff: Engineer Robert C. DuBois, P.E., Planner Randy Scheule, PP, AIC, Solicitor Theodore H. Ritter, Esq. and Matthew Ritter, Esq., Secretary Vicki Vagnarelli.

Absent: Vice Chairman: Ed Overdevest, Gene Stoms,

On motion of Ed Fleetwood, seconded by Anthony Buono Minutes of December 12, 2011 meeting was unanimously approved.

On motion of Ernest Holt, seconded by Ed Fleetwood the following Resolution was adopted & memorialized at the meeting of December 12, 2011.

RESOLUTION # 25-2011

Township of Upper Deerfield Planning Board

Applicant's Name: Sunset Lake 100, LLC

Property: Lots 1, 2, & 5, Block 1601, Lot 12, Block 1701

Application: Conversion from Age Restriction

Public Hearing Dates: November 21, and December 12, 2011

Findings of Fact:

1. Applicant was represented by Richard J. Hoff, Jr., Esquire, who appeared and presented the application on its behalf.
2. The Board accepts as factual the plans and documents submitted by and on behalf of applicant:

- a. Upper Deerfield Township Development Application Form.
- b. Correspondence (5 pages) from Richard Hoff, Jr., dated May 12, 2011.
- c. Traffic impact study by Maser Consulting, dated March 25, 2011.
- d. Addendum letter to traffic impact study (4 pages), by Maser Consulting, dated June 30, 2011.
- e. Conversion Application Plan (2 sheets), by Maser Consulting, bearing a last revision date of November 21, 2011.
- f. Correspondence (2 pages) from Richard Hoff, Jr., dated July 13, 2011.
- g. Application supplement on planning issues (4 pages), by Creigh Rahenkamp dated July 11, 2011.
- h. Recreation Center exhibit (1 sheet) by Maser Consulting, dated June 10, 2011.
- i. NJDEP letter to David Meiskin, dated August 2, 2011.

3. The Planning Board notes that this matter comes before the Board having the following background:

- 2001, Sunset Lake 100, LLC filed a Mt. Laurel suit against Upper Deerfield Township.
- December, 2002, Upper Deerfield Planning Board denies Sunset Lake's Application – a second lawsuit filed.
- November 18, 2003, Settlement Agreement signed.
- December 18, 2003, Fairness Hearing Judgment, with respect to Settlement Agreement.
- February 2, 2005, Planning Board denies major subdivision approval.
- June, 2005, New Jersey Superior Court Judgment entered granting preliminary and final major subdivision approval.
- June 18, 2007, Order entered Extending Vested Rights in 2005 Court Order Subdivision Approval.
- May 12, 2011, present Conversion Application filed.
- June 13, 2011, Planning Board deems Conversion Application conditionally complete.
- July 25, 2011, Planning Board deems Conversion Application complete, but determines that the Board lacks subject matter jurisdiction.
- October 6, 2011, New Jersey Superior Court orders the Planning Board to hear and rule upon the Conversion Application.

4. The Board has received and considered reports of Planning Board Planner Randall Scheule, PP/AIC, dated June 9, 2011, and November 1, 2011, respectively.

5. The Board also received and considered reports from Board Engineer, Robert C. DuBois, PE, dated July 20, 2011, and November 3, 2011, respectively.

6. The property affected by this application comprises 117 acres and is zoned

R-3.
7. Applicant presently has court-ordered major subdivision approval for an age restricted development of 339 dwelling units, of which thirty-four (34) are designated as affordable housing.

8. Applicant proposes conversion of the court-approved age restricted development to non-age restricted housing pursuant to the Conversion Act, N.J.S.A. 45:22A46-3 *et seq.*

9. The conversion plan proposes 339 units on the 121-acre site using essentially the same street and lot layout as that approved by the Superior Court in 2005.

10. Changes in conjunction with the Conversion Application call for 68 (instead of 34) affordable units.

11. Applicant's proofs indicated that 325 units will be two-bedroom, and 14 units (all affordable housing) will be three-bedroom.

12. The breakdown of the 68 affordable units will be 14 three-bedroom units and 54 two-bedroom affordable units.

13. The low and moderate income duplex units will be spread out throughout the development as indicated on applicant's Exhibit A-2 – a Conversion Plan Application Plan of Maser Consulting, dated March 14, 2011, last revised November 21, 2011.

14. Applicant's Exhibit A-1 was the original street and lot layout approved by the Superior Court in 2005, for 339 age restricted dwelling units, including the affordable units.

15. Public hearings on the Conversion Application commenced on November 21, 2011, which was a special meeting date scheduled expressly for commencement of the hearings on the Sunset Lake 100, LLC application; the meeting date was agreed upon by counsel for applicant.

16. Prior to commencement of testimony, Planning Board Solicitors Theodore H. Ritter, and Matthew W. Ritter, explained to the Board, and to the public, the solicitors' opinion of issues which the Board could, and could not consider in light of the conversion statute, and recent interpretative case decisions. The affect of the Permit Extension Act was also described. The Public was asked, by the Solicitors, to confine their remarks to the issues which the Board was permitted to consider under the Conversion Act and to withhold comments on other issues on which the Board was not empowered to rule.

17. The Board Solicitors, and Counsel for the applicant, also discussed the impact of the 2003 Settlement Agreement which states, in part, "in no event, however, shall the number of individual (low and moderate income) units exceed 38." Applicant takes the position that the 2003 Settlement Agreement is irrelevant; it gave rise to the 2005 Court Ordered subdivision approval, but the various provisions of the 2003 Settlement Agreement, do not, in applicant's opinion, survive at this time.

18. The Board Solicitors then recommended to the Board that it address the 339 unit (with 68 affordable housing units) subdivision on the merits, and leave, for another day, any future action by the Township respecting the 38 affordable housing unit limit contained in the 2003 Settlement Agreement.

19. The Board then proceeded to hear the conversion application on the merits.

20. Applicant first called Engineer, Daniel Busch, who was qualified as an expert witness.

21. Mr. Busch explained the relatively minor differences between Exhibit APP-1, the original court-approved subdivision from 2005, and APP-2, and the Conversion Plan last revised November 21, 2011.

22. Engineer Busch testified that all market rate housing units would be two-bedroom, with a two-car garage, and two off street parking places in front of the garage doors.

23. Engineer Busch testified that the 68 affordable units would be 20% (i.e. #14), three-bedroom units, and 54 two-bedroom units (80%). According to the testimony, the duplex units would each have two off-street parking spaces; one in the garage and one on the driveway. The front setbacks for these units would provide sufficient space for vehicular parking without encroachment into the public right-of-way.

24. Mr. Busch testified that there was essentially no change in the road layout, except that driveways were located farther from intersections as required by the Township ordinances. Revisions to the plan eliminated 14 lots, which resulted in the addition of 14 duplex units to make up for the lost lots.

25. Mr. Busch testified about the proposed changes in amenities in the size of the clubhouse, and a planned bocce court.

26. Mr. Busch testified that duplexes are permitted under the Conversion statute.

27. Mr. Busch testified regarding the Residential Site Improvement Standards (RSIS) parking requirements. He stated that 516 off street parking places were required, but that approximately 1,000 off street parking places were actually being provided, not counting on street parking.

28. Mr. Busch testified that the roads in the development were planned pursuant to RSIS with a cartway 28 feet wide, and a 7-foot wide parking lane on one side of the street only.

29. In conjunction with the applicant's receipt and review of the November 1, 2011, report of Planner Scheule, and the November 3, 2011, report of Engineer DuBois, applicant indicated a willingness to revise the recreation amenities as follows:

- a. Expand the one-half basketball court to a full-court.
- b. Widen the seating area around the pool.

- c. Add a tot lot play area.
- d. Add a wading pool for children.

30. Engineer Busch testified that the original clubhouse for the age-restricted development was to be 4,860 square feet in size. The clubhouse for the converted development was now planned for 1,500 square feet.

31. Engineer Busch testified regarding availability of water and sewer service, as did David Meiskin, of Manalapan, New Jersey, who is a member of the applicant LLC.

32. Mr. Busch testified that the aggregated impervious surface of the converted development was slightly reduced (from 24% down to 23.2%) from the impervious surface of the age restricted development.

33. Mr. Busch testified that the number of dwelling units remains the same, the acreage remains the same, the maximum height of the units remains the same, the floor area square footage of the individual dwellings remains the same, as do the building footprints.

34. Mr. Busch testified that the total bedroom count would be 692 comprised of 325 two-bedroom units, and 14 three-bedroom units.

35. Mr. Busch testified that there were no changes to the wetlands buffers, and that the subdivision application had received wetlands permits from the New Jersey DEP in 2005. He further testified that those permits were still valid under the Permit Extension Act.

36. Mr. Busch testified that the home construction and site improvements would take place in three phases, and there would be minimal site disturbance of the phases not actively under development at any given time. The Planning Board requested that all soil stockpiling be retained in the respective phase from which it originates.

37. Applicant agreed to post a restoration bond, the amount of which would be worked out between the applicant's professionals, and the Board's planner and engineer, respectively.

38. In response to a question from Board Chair, Bruno Basile, Mr. Meiskin, and applicant's attorney explained that the delay intervening after applicant received subdivision approval in 2005 was due to the lack of water service, and also due to prevailing economic conditions.

39. Applicant suggested that approval of the Conversion Application could be made contingent upon applicant securing all outside agency approvals including:

- a. Proof of availability of sewer service.
- b. Proof of availability of adequate water service.
- c. DEP Wetlands and Stream Encroachment Permits for the setbacks shown on APP-2.
- d. The Cumberland County Planning Board.
- e. Salem-Cumberland Soil Conservation District

40. Mr. Busch testified that on street parking would be controlled by local ordinances, as these would be public roads. Enforcement would be up to the municipality. The applicant would install signage to address the one side only parking restrictions.

41. Applicant's next witness was Traffic Engineer, S. Maurice Rached. Engineer Rached testified from his report, dated March 25, 2011, as supplemented on June 30, 2011.

42. Engineer Rached testified that existing traffic conditions were calculated as of March, 2011. He and his staff then calculated a capacity analysis of the neighboring roadways, and determined that the traffic impact caused by the conversion from age restricted to non-age restricted housing would be minimal. He testified that the trip generation increase would be "non-significant".

43. Engineer Rached testified that the planned off street parking was double that required under the Residential Site Improvement Standards, not counting the on street parking availability on one side of all streets.

44. Engineer Rached then answered questions from Board members, and members of the public regarding parking and traffic.

45. Applicant introduced testimony that there would be a Homeowner's Association to maintain the drainage basins and the recreation facilities. Applicant offered to look at the structure of the Homeowner's

Association, and neighborhood restrictions to deal with such issues as accessory buildings, fences, and similar individual lot improvements.

46. Mr. Meiskin then returned to the stand and testified from Exhibit APP-3 which is an aerial Google Earth Map marked with locations of approved Upper Deerfield residential development, those being Integrity Development on Laurel Heights Drive, Matzel Group Development along Cornwell and Laurel Heights Drive, west of ShopRite, and the very recently approved Westrum Upper Deerfield, LLC, 160 lot cluster development on Old Deerfield Pike.

47. Applicant next called Creigh Rahenkamp, a planner who testified regarding the background of the Conversion Act. Mr. Rahenkamp referred to his report of July 11, 2011.

48. Mr. Rahenkamp's testimony covered the history of age restricted developments beginning in the early 1980's, and continuing through the 1990's. He characterized these as "amenity rich communities" which he testified have gone out of fashion due in part to economics, and also due in part to changed demographic habits.

49. In Mr. Rahenkamp's opinion the conversion would not involve substantial detriment to the public good, and would not substantially impair the intent or purpose of the zone plan since this parcel has been designated for residential development and residential growth.

50. Mr. Rahenkamp also testified regarding the upgrading of recreational amenities as recommended by Board Engineer, Robert C. DuBois in his November 3, 2011, report.

51. In answer to questions from Board Members, Mr. Rahenkamp testified that any and all DEP issues could be addressed at the time of review by all outside agencies whose approvals could be made contingencies of Upper Deerfield Planning Board Conversion Approval.

52. Mr. Rahenkamp next testified regarding the manner in which the affordable units would be administered. Applicant and the Township would collaborate in selecting an individual or entity qualified to develop a procedural manual, maintain unit affordability and to screen prospective purchasers of the affordable units. This individual or entity would be responsible for ongoing compliance monitoring under the state's statutory affordable housing criteria including the qualifications for occupancy of the affordable units.

53. Planner Rahenkamp then answered questions posed by Planning Board Planner, Randall Scheule regarding the adequacy of recreation facilities for the converted development's residents. Mr. Rahenkamp reiterated that the applicant was willing to fully comply with the recommendations contained in Planning Board Engineer Robert C. DuBois' November 3, 2011, report.

54. Member of the public Cosmo A. Terrigno, of North Park Drive, raised questions regarding the spacing between stop signs, and driveways. Mr. Busch testified that the driveways had been moved in the conversion plan to comply with the Township's separation requirement. .

55. Member of the public Dean Hawk, raised questions regarding parking, access by emergency vehicles, storm water management, storm water basins, and the routing of any outflow from the basins.

56. Although a March 2011 county map and February 2011 state map indicate the subject parcel is not appropriate for inclusion in a sewer service area, it appears, from an August 2, 2011, letter sent from the New Jersey Department of Environmental Protection to Mr. David Meiskin that the parcel in question would be included in the planned sewer service area.

57. The Board and applicant, and applicant's witnesses, agree that the DEP would have to make a decision regarding the Permit Extension Act of 2008, and any environmentally sensitive areas to which a 300 foot wetland buffer might apply respecting the converted development. Applicant asserted that the Permit Extension Act governed and that the revised DEP requirements should not affect the street and lot layout of the converted development.

58. At the conclusion of applicant's testimony, Planning Board Planner, Randall Scheule, agreed that applicant had addressed all of the issues contained in Planner Scheule's November 1, 2011, report. Planner Scheule also conceded that applicant had addressed all of the issues enumerated in the Conversion Act.

59. At that point, the hour having grown late, the Board adjourned the public hearing to be continued on December 12, 2011.

60. The public hearing resumed on December 12, 2011, at which time the Board took testimony from members of the public Shawn Rasmussen, Kevin Kleinboard, Nancy Ridgeway, Bill Waterman, Ingrid Hawk, Wayne Sabota, Stephanie Modri, Rebecca McCubbin and Sandra Morrissey.

61. All of the testifying members of the public opposed the conversion application for reasons including drainage, traffic, the small lot sizes, absence of adequate space for children to play within the development, impact on township infrastructure including schools, loss of old growth forest, the poor current market for real estate sales in Upper Deerfield, potential overcrowding and potential flooding caused by the development of this parcel.

62. After the public portion was closed, applicant called witnesses Creigh Rahenkamp, Dan Busch and James Biegen to answer questions and address issues raised by the Board, Board staff and members of the public.

63. Mr. Rahenkamp's testimony touched upon the Mount Laurel affordable housing obligation and the regional benefits that the development would generate to new citizens coming into Upper Deerfield Township to occupy the newly created homes, particularly the 68 units set aside for low and moderate income families.

64. In answer to a point raised by Board Planner Randall Scheule, Mr. Rahenkamp and counsel for the applicant pointed out that the Township cannot require a developer to supply any recreational improvements. The reason the recreational improvements is a topic of discussion with this conversion application is that there is a statutory requirement to modify recreational improvements originally planned for age restricted residents to accommodate non-age restricted housing.

65. Applicant's engineer testified that applicant reviewed but declined to change the width of the streets in the development, and reiterated that the street design proposed complies with RSIS requirements

66. Applicant introduced Exhibit A-4, a letter dated December 6, 2011 from Township Solicitor Theodore E. Baker respecting water supply availability for the development.

67. Applicant's witnesses testified regarding the phasing of the development, the rationale for delineation of the three phases, and the need to install all infrastructure prior to commencing construction of the homes in Phase I.

68. In answer to questions raised by members of the public, Board Engineer Robert DuBois expressed the opinion that the conversion was not going to impact stormwater runoff from this development. Mr. DuBois also discussed the performance guaranty for site improvements and the reforestation bond that was a requirement of the earlier approval.

69. Applicant's Engineer, Dan Busch, testified regarding the wetlands delineation of the Cornwell Run stream on the site.

70. Mr. Busch also testified that, in conjunction with Phase I, approximately 40 acres of the 121-acre site would be clear cut.

71. Applicant's traffic expert, James Biegen, Professional Engineer, of Maser Consultants, testified regarding the Maser traffic study and the supplement thereto. Board Engineer Robert C. DuBois indicated that he accepted the methodology of the applicant's traffic study.

72. The Planning Board has carefully considered the matter and finds that applicant has satisfied the statutory criteria for approval of the conversion of the court approved age restricted development to non-age restricted housing. The Board further finds that the proofs presented by applicant support the conclusion that such approval can be granted without substantial detriment to the public good and that the granting of such conversion will not substantially impair the intent and purpose of the zone plan or that of the zoning ordinance of the Township of Upper Deerfield.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Upper Deerfield that the application of Sunset Lake 100, L.L.C. for conversion of the age restricted development under N.J.S. 45:22A-46.3 to remove the age restriction on residents of the development and to include 68 low or moderate income Deed restricted units, as required by the Conversion Law, on Block 1601, Lots 1, 2 and 5 and Block 1701, Lot 12 is hereby granted subject to the following conditions:

- A. Applicant's compliance with the Township's current lighting ordinance;
- B. Applicant must post a bond for site improvements in an amount to be determined by Planning Board Engineer Robert C. DuBois;
- C. Applicant must post a reforestation bond in an amount to be jointly determined by Mr. DuBois and Mr. Scheule;
- D. Applicant must secure the following outside agency approvals:
 - i. Upper Deerfield Utilities Committee for water and sewer;
 - ii. Cumberland County Planning Board;
 - iii. Cumberland/Salem Soil Conservation District; and
 - iv. New Jersey Department of Environmental Protection.
- E. Applicant must submit for approval by Board Engineer DuBois revised plans for the recreation areas with:
 - i. enlargement of the seating area around the pool;
 - ii. inclusion of a wading pool for small children;
 - iii. include a tot lot;
 - iv. increasing the size of the basketball court to a full court.
- F. Applicant must comply with all conditions of the earlier preliminary and final subdivision approvals except as modified by this resolution.
- G. Applicant must enter into an agreement with Upper Deerfield Township regarding the entity to be responsible for the administration of the affordable housing units in this development.
- H. Applicant must obtain written confirmation from the tax assessor for all new lot designations.
- I. Applicant shall, prior to recording the plan, assure that the proposed street names do not duplicate or closely mimic the names of streets which already exist in the Township.
- J. Applicant shall post such maintenance bond(s) as may be required under the Township's Ordinances in an amount to be established by Mr. DuBois;
- K. Applicant must comply with all other applicable requirements of the Upper Deerfield Township Zoning Ordinance and Building Code.

IT IS FURTHER RESOLVED that the approval of the conversion application is granted subject to Upper Deerfield Township having the right to raise, in the appropriate forum, any and all issues relating to the November 18, 2003 Settlement Agreement between the Township and applicant.

BE IT FURTHER RESOLVED that a Certified copy of this Resolution be furnished to applicant and Notice of this action be advertised as required by Law.

Upper Deerfield Planning Board

BRUNO A. BASILE, Chairman

ATTEST: _____
VICKI VAGNARELLI, Secretary

Memorialized: January 9, 2012

Roll Call

- | | |
|-----------------------------|-----------------------|
| Bruno Basile – Aye | Ed Overdeest – Absent |
| Russell Vanella – Aye | Ed Fleetwood – Aye |
| Pauline Smith –no vote | Ernest Holt – Aye |
| Terry O'Neill – Aye | Scott Smith – Aye |
| Gene Stoms – no vote/Absent | |

Jack Waselik, Alt #1 – Aye
Anthony Buono, Sr., Alt #3 - No Vote

Louis J. Bramante, Jr., Alt #2 – Aye
Robert Comer, Alt #4 - No Vote

APPLICANT/DEVELOPMENT

Z14-11 Rajmeen LLC , Bk 1808/31 54 Old Deerfield Pike – Interpretation/Certificate of non-conforming use, Existing use is convenience store and single family dwelling. Proposed use is the same and to allow the dwelling to be a non-owner occupied rental. Applicant was represented by Howard Melnicove and after discussion with board on motion of Ed Fleetwood, seconded by Jack Waselik the public hearing was opened. With no one coming for or against the applicant on motion of Ed Fleetwood, all in favored by the Board the public portion was closed.

On motion of Jack Waselik, seconded by Pauline Smith the application was Approved.

Roll Call

Bruno Basile – Aye
Russell Vanella – Aye
Pauline Smith – Aye
Terry O’Neill – Aye
Gene Stoms – Absent
Jack Waselik, Alt #1 – Aye
Anthony Buono, Sr., Alt #3 – Aye

Ed Overdevest – Absent
Ed Fleetwood – no vote
Ernest Holt – Aye
Scott Smith – Aye

Louis J. Bramante, Jr., Alt #2 – Aye
Robert Comer, Alt #4 - No Vote

PROFESSIONALS/COMMITTEE/COMMISSION

Chairman Basile - Work Program handout – requested Board members review for further discussion at 1/18/12 meeting

BOARD MEMBER ADDITIONAL INFORMATION

Planning Board Members Contact Information
Township Committee Members Contact Information
The New Jersey Planner December 2011

Planner Randall Scheule requested update from Environmental Commission regarding memo dated September 8, 2008 Updating Ordinances that was handed out with the Work program information

Chairman Basile requests a subcommittee to review Open Space with 1 Environmental member

Being no further business on motion of Ed Fleetwood, seconded by Ernest Holt the meeting was adjourned at approximately 8:06pm.

Respectfully Submitted,

Vicki Vagnarelli
Secretary