

MEMORANDUM

To: Town of Dover Town Board
From: Joel Russell, Planning Consultant
Date: January 31, 2005
Re: Dover Knolls Zoning Amendment Application

The purpose of this memorandum, prepared at the request of Town Supervisor Jill Way, is to provide an analysis of an application for two zoning amendments, dated November 19, 2004, submitted by The Knolls of Dover in connection with the redevelopment of the former Harlem Valley Psychiatric Center (HVPC) site. The primary focus of this analysis is to determine whether or not the applicant has submitted an application that is sufficiently complete to initiate Town Board review under Article X of the Zoning Law and to begin the SEQR process.

As part of my review, I have also considered the extent to which this application fulfills the purpose of the special overlay zoning district created to encourage redevelopment of the HVPC campus. Entertaining a proposed zoning amendment is at the discretion of the Town Board, which should consider whether or not such a proposed amendment is consistent with the purposes of the Zoning Law and the Town's Master Plan. This consideration is important in determining whether or not the applicant has provided sufficient information for the Town Board to proceed with its review.

The application submitted shows an excellent effort to satisfy the purpose of the Zoning Law with respect to the "Village Center" portion of the property. It also shows considerable sensitivity to the environmental constraints on the western side of the property (west of Route 22). However, it lacks some essential information (described below under "Application"). The conceptual plan for the area outside of the Village Center raises questions as to whether or not the plan as a whole advances the purposes of the Zoning Law and the goals of the Town as set forth in the Master Plan, primarily those related to economic development. The lack of a phasing plan, coupled with the emphasis of Phase 1 on the golf course residential development, also raises the same question.

Purpose of the MC District

The applicant has entitled its submission "Application for Overlay Master Development Plan Approval." The Overlay referred to is the Mixed-Use Institutional Conversion Overlay District (MC) which offers a highly flexible zoning scheme that applies to the HVPC property formerly owned by the State of New York. The purpose of this zoning district is to encourage the redevelopment of the campus of the former state mental hospital as a mixed-use community consisting of a combination of residential, commercial, office, light industrial, civic, recreational, and related uses, centered on a

traditional hamlet center at the core of the old HVPC campus and the Metro-North commuter railroad station.

§ 145-16A of the Zoning Law states the purpose of the MC district as follows: “The purpose of this Overlay District is to facilitate the redevelopment of the former Harlem Valley Psychiatric Center as a mixed-use community that fulfills the goals of the Town of Dover Master Plan and the purposes of this local law as expressed in Article I. The Town wishes to attract development to this site because it contains serviceable buildings and water and sewer infrastructure, as well as excellent highway and commuter rail transportation access. This Overlay District is the most appropriate area of the Town for intensive mixed-use development. The provisions of this Overlay District are intended to streamline permitting and allow greater use flexibility.”

§ 145-8 of the Zoning Law also recites the purpose of the district, as follows: “The purpose of this Overlay District is to provide use and design flexibility to encourage productive reuse of the Harlem Valley Psychiatric Center campus. This district provides greater use flexibility and a procedure for master planned development of this property in a manner that advances the Town's development goals.”

The main purpose of this zoning district is thus the reuse and redevelopment of the HVPC campus. In informal discussions with the applicant over the past year, representatives of the Town have continually stressed the economic development purpose of this overlay zone and the priority of redevelopment of the campus area and its existing buildings, where they are in a condition suitable for adaptive reuse. For ten years, the Town has worked with the State of New York, Dutchess County, the Harlem Valley Partnership, and numerous prospective developers to find a way to put this facility back into service, providing jobs, tax revenues, and other community amenities in an area that is served by existing transit, highway, and water and sewer facilities. The Town was also able to have the site included in the County's Empire Zone program, offering significant tax incentives for economic development.

The Conceptual Site Plan: Consistency with the MC Purpose

Any rezoning of the MC district pursuant to a comprehensive development plan must fulfill these economic development purposes. The conceptual plan, on paper, is a good start toward this. However, the lack of a phasing plan or firm commitment to any development beyond the golf course residential and the reuse of the two buildings next to the train station (with few specifics on this) is a cause for concern. The design of the village center has improved considerably through cooperative efforts between the applicant's consultants, the Town's consultants, and the Dutchess County Department of Planning and Development. We are awaiting the report of Michael Klemens, the Town's environmental consultant, regarding the application's treatment of wetlands and habitat values on the west side of the site, in order to determine the extent to which the Plan has responded to the environmental conditions on the site.

While the conceptual site plan shows a variety of uses and some redevelopment of the campus, the phasing emphasizes the development of a relatively low-density residential community on a golf course and gives little attention to the primary purpose of the district, which is the redevelopment of the HVPC campus. The plan shows schematic plans for a village center in that location, but there is no indication as to when it will be built, and the applicant has provided no phasing plan and no assurances with regard to the timing of this pivotal aspect of the project. This raises the question as to whether or not the application before the Town Board fulfills the basic purpose of the district.

A related point is that there is little emphasis on the economic development that will bring to fruition the 10-year effort to make this a site of major economic development for the Town and the region. The Town of Dover has made a conscious decision to create a new village center concentrating future development of retail and service commercial, high-density residential, office, research, and community uses at this location. This is *the* site for economic development of the Route 22 Corridor, designated to avoid commercial strip or suburban sprawl development in other locations. It is the only major new site with water and sewer utilities that is designated for these higher intensity business and residential uses in the Town. The underlying zoning contains much land zoned for commercial/office/and light industry, but the proposal does not reflect this emphasis. In fact, the proposed plan shows 340,000 square feet of retail (except that in one place it says 610,000 square feet), and only 35,000 square feet of office space. It shows little or no service commercial, institutional, or civic uses, and no significant recreation other than the golf course and some trails.

This overemphasis on residential development does not reflect the balance the Town calls for in the zoning. While it may be true that current market conditions are more favorable to residential than non-residential development, this is a long-term plan that should reflect the Town's goals and the likelihood of changing market conditions, especially as Dover and surrounding towns begin to build out residentially and demand increases for service and retail commercial, offices, and other supportive uses. In order to ensure a balance between residential and non-residential development, the MC district zoning rules require that no more than 50% of the square footage of the development can be residential, with age-restricted housing excluded from the calculation. It is doubtful that Phase 1 will comply with this percentage requirement. However, the application does not provide enough information to determine whether or not this requirement can be satisfied (see below under "Application").

The Town Board has refused to entertain rezoning proposals for commercial development in other locations along Route 22 because of its commitment to the "smart growth" principles of limiting commercial strips and concentrating development in mixed-use village centers, and HVPC is the primary site designated for such concentration. This is also the County's policy through its "Greenway Connections" program. Unless this development offers the prospect of mixed-use village center development in the near future, the Town and County will be frustrated in implementing their smart growth

policies for this part of the Route 22 corridor, and it could become more difficult to resist the requests for commercial rezoning elsewhere in the corridor.

In addition, the efficient use of the Metro-North commuter rail station requires that there be high-density housing located within an easy walk of that station. Such housing is in the plan, but there is not enough of it, and no indication of when it may be built. Therefore, unless the Village Center is made part of Phase 1 of the project, it is doubtful that this proposal can be considered consistent with the purposes of the District.

The applicant contends that the proposed phasing of the project is necessitated by the lack of a market for what would be built in the mixed-use village center and other parts of the campus. In the absence of any documentation of this, and in light of the demand for commercial rezoning elsewhere in the Route 22 corridor and the widespread success of well-designed transit-oriented developments elsewhere in the region, this contention is unsupported.

The conceptual plan shows considerable low-density development on steep hillsides on the eastern side of site (the “hillside village”), in areas that are currently undeveloped and should remain as open space. This part of the development is classic “sprawl.” It is not walking distance from the train station, especially for the elderly population which will live in it, and it is not consistent with the principles of smart growth or protection of fragile steep slopes that are also integral to the Dover Zoning Law and the purposes and requirements of the MC district.

§ 145-16F of the Dover Zoning Law deals with preservation of open space resources in the MC Overlay district, as follows: “All development in the MC District shall protect open space of conservation value by clustering development to the maximum extent practical. Particular open space resources designated for protection include the existing golf course, the Great Swamp wetlands, and the area on the east side of the District that includes steep slopes, the reservoir, and the Appalachian Trail.” To its credit, the Plan protects much of this land, especially the wetlands, reservoir, and Appalachian Trail. It also preserves the existing golf course. However, the “hillside village” represents a significant incursion into the steep slopes on east side of the District and contradicts the requirement to cluster development to the maximum extent practical.

The Application

This is actually an application for two related zoning amendments:

1. A map amendment on a parcel of 83 acres (the Dykeman property) currently in the Suburban Residential (SR) zoning district, adjoining the Mixed-Use Institutional Conversion Overlay District (MC) to the north, to add it to the MC Overlay district; and

2. An application to rezone the entire HVPC site pursuant to a comprehensive development plan, including the 83 acres referred to in (1) above.

These two zoning amendments are closely related and are appropriately submitted together, although the Town Board is not obligated to act on either one of them, and is free to entertain both, either one, or neither if it so chooses. The Board's review of this application is undertaken pursuant to the general requirements for zoning amendments prescribed in Article X of the Zoning Law, and the applications must comply with that Article as well.

The applicant has elected to take advantage of the provisions of § 145-16C(2), which enables the Town Board to rezone all or a portion of the MC district according to a "comprehensive development plan" which becomes the actual zoning for the area shown on the development plan. The rezoning application submitted by Dover Knolls covers the entire HVPC property as well as the 83-acre parcel not currently in the MC district. The applicant is to be commended for approaching this project in such a comprehensive fashion. The purpose of this provision is to encourage a collaborative design process between the Town and the applicant. The applicant's consultants, the Town's consultants, and professionals from the Dutchess County Department of Planning and Development have met on several occasions to review and discuss preliminary proposed plans, and considerable progress has been made as a result of these meetings.

Because of the Town Board's strong interest in redevelopment of the HVPC campus, it is clearly in the Town's interest to consider a comprehensive development plan for the whole property. The applicant has asked the Town Board to consider a conceptual site plan, as prescribed in the zoning, as the basis for rezoning the property. Under § 145-16C(2), the conceptual site plan is supposed to show street layouts, an open space system, and density and general use classifications, as well as dimensional regulations that will apply within the district. The application contains all of this information, with the exception of dimensional regulations. The conceptual plan submitted shows considerable detail on the west side of Route 22 and is strong, although highly schematic, in its treatment of the Village Center.

Additional Information Required

In order for the Town Board and its consultants to fully evaluate the compliance of the application with the Dover Zoning Law, additional information should be submitted, including the following:

1. Proposed dimensional standards for the entire development parcel, as required by §145-16C(2).
2. As required by Article X, § 145-69A, five complete sets of an application, including the correct application form, as well as a map showing all properties within a radius of 500 feet of the exterior boundaries of the land to be rezoned.

3. Clarification of the meaning of “age-targeted/age restricted.” The zoning law provides certain incentives for age-restricted housing that do not apply to age-targeted housing. By using those terms together in one category, it is impossible to determine whether or not these incentives apply.
4. Detailed density calculations broken down by underlying zoning districts and by phase. The application contains a table with total square footage of all development, residential with 3+ bedrooms, and other residential, excluding age-restricted. This information is insufficient. It should be broken down by underlying zone, which is how allowable density must be calculated, and by phasing, in order to determine whether or not the 50% and 30% limitations are being complied with in each phase. The density calculations must show some reasonable methodology that takes account of development constraints such as wetlands and steep slopes. The methodology for density calculation in flexible subdivisions contained in § 145-19A would be suitable for calculating density in the residential districts. For the CO district, residential use requires a special permit, so it is not clear that it should be considered at all as part of the underlying permitted residential density. Rather, the land zoned CO should be considered as applying toward the allowed non-residential development.
5. A separate density calculation for the Dykeman parcel, since it has not been rezoned MC. This calculation should be done both with and without the MC designation.
6. Demonstration of compliance with the 50% balance between residential and non-residential use in each phase. In making this calculation, the age-restricted square footage needs to be subtracted from the total development square footage (not just from the residential square footage), since it is supposed to be excluded from the entire percentage calculation. It is apparent from the application that the 30% limitation on larger units is not likely to be an issue, since very few of such units are proposed.
7. A phasing plan for the entire project, with a projected schedule of construction and demolition for each phase.
8. More detail on location of proposed uses, building heights, scale, and character of the Village Center, especially the civic, recreational, and “other” commercial uses besides retail.
9. More detail on which of the existing buildings will be preserved and reused, and the rationale and justification for demolition of those that will not be preserved.
10. Clarification as to whether the proposed supermarket and “adjacent residential area” (specifying what that means) are going to be in Phase 1, as indicated on page 6 of Part 2 of the application, or will be postponed to a later phase, as indicated everywhere else in the application.
11. Clarification as to whether the Village Center will have 340,000 square feet of commercial space as indicated in several places, or 610,000 square feet as indicated on page 6 of Part 2 of the application.
12. More information on proposed use of the former power plant and storehouse in Phase 1.

13. Market studies or other information that would support the applicant's contention that the Village Center is not economically feasible as part of Phase 1 (this is only necessary if the Village Center is not part of Phase 1).

Suggested Changes to the Content of the Plan

The application's chances of being considered consistent with the purposes of the MC district and enthusiastically embraced by the community would be considerably enhanced with the following changes:

1. Making a substantial portion of the Village Center part of Phase 1.
2. Concentrating much more of the project's residential density in and immediately adjacent to the Village Center.
3. Removing most of the residential development from the "hillside village" which is laid out in a sprawl pattern, on steep slopes, highly visible, and not walkable. This density should be moved closer to the Village Center.
4. Making sure that 50% of the square footage of each phase is non-residential, with age-restricted housing entirely excluded from the calculation, i.e. both from total development and from residential development.
5. More office, service commercial, light industrial, and other non-residential and non-retail use, even if some of this is postponed to later phases due to market conditions.
6. More civic and public recreational use.
7. Less golf-course residential development.

The Dykeman Parcel

It is significant that the Zoning Law specifically identifies the option of a zoning amendment for a comprehensive development plan, while it defines the overlay district as limited to the boundaries of the original HVPC site. At the time the Zoning Law was drafted, the HVPC site was thought to be sufficiently large that it would be unnecessary to ever add to it. The requested addition of the 83-acre Dykeman parcel to the rezoning application, as well as a part of the comprehensive development plan, is therefore problematic in several ways:

1. It is not part of the original MC district and there is no clear justification for adding it, since it is proposed for exclusively residential development far from the Village Center, which is not consistent with the purposes of the MC district.
2. Originally, the applicant suggested adding this parcel in order to expand the existing 9-hole golf course to 18 holes. This suggestion had a plausible rationale, since it would result in the preservation of more open space and increase the economic viability of the golf course, both of which are consistent with the purposes of the MC district.

3. The underlying zoning of the Dykeman parcel is SR, which has a base density of 1 acre per unit and qualifies for a 100% density bonus if it is in the MC overlay. (Other zoning districts only get a 50% density bonus.) This means that rezoning Dykeman would add considerably to the total allowable residential build-out of the property without any corresponding addition to the non-residential development component. This result could be mitigated if the underlying zone were also changed, either to RU or RC.

Therefore, it seems that rezoning the Dykeman parcel would only make sense if the Town received a substantial benefit in implementing the purpose of the MC district. This benefit would accrue if the application were modified so that:

1. The Dykeman parcel rezoning enables the golf course to expand to 18 holes; and
2. The Village Center becomes part of Phase 1.

I hope that this review has been helpful to the Town Board and that it will assist the applicant in completing the application and reshaping it in the best interests of the Town of Dover. I am happy to answer any questions about these comments from Town officials, citizens, and the applicant.