

October 25, 2011

Stoltz gets OK on Barley Mill

By Adam Taylor

New Castle County Council voted 7-6 late Tuesday night to approve a plan to redevelop the Barley Mill Plaza office complex into a new office-commercial center that will include a 450,000-square-foot shopping center.

The approval caps a three-year effort by Pennsylvania-based Stoltz RealEstate Partners to move forward with its plans for the former DuPont Co. property at Del. 141 and Del. 48 in Greenville. Even though Stoltz scaled back its plans by 1.2 million square feet to gain the community's support, it has left residents of the Brandywine Valley divided.

"The developer has put these folks against each other," said Councilman Bill Bell, who voted against the plan. "This is just not right."

Longtime county officials said the vote was the most significant land-use decision in recent history.

The vote to approve the 1.6-million-square-foot plan -- which included rezoning 40 percent of the property from office to commercial use -- shows that the majority of council believed Keith Stoltz when he said he would build a 2.8-million-square-foot mixed-use plan if the smaller plan was rejected.

Councilwoman Janet Kilpatrick, who voted for the smaller plan, said no one in council chambers liked either plan.

"We're going to get something or something -- there's not a 'nothing' in this equation," Kilpatrick said.

Stoltz spokesman Tom Gailey declined to comment after the vote.

The Council was set to vote on the plan Oct. 11, but it was tabled around midnight when Kilpatrick proposed adding nine deed restrictions to the plan. The council voted 9-4 to add those restrictions Tuesday. Stoltz attorney John Tracey said Tuesday his client has agreed to a 10th restriction -- to build a four-acre stormwater retention pond at the start of the project's construction, not in the end, as originally planned. The council voted 12-1 for that 10th deed restriction.

Councilman Jea Street, who voted against it, said the project could increase flooding in apartments and African-American cemeteries in Wilmington, downstream from Barley Mill.

"Apparently, my people don't get any respect, dead or alive," said Street, who is

black.

The Council then voted on the development-rezoning plan as amended at 11:35 p.m.

Council members Bob Weiner, Tom Kovach, George Smiley, Kilpatrick, Joe Reda, William Powers and Dave Tackett voted for the proposal. Bell, Penrose Hollins, Street, Lisa Diller, John Cartier and Tim Sheldon voted against it.

More than 100 people were in the crowd.

John Danzeisen, president of Citizens for Responsible Growth, a community group that supports the smaller plan, presented council with renderings the group commissioned to show how the deed restrictions make the plan better.

"The community is protected," Danzeisen said. "With no deed restrictions, building heights could be even higher, close to the height of the Rollins tower on Concord Pike."

Resident Dori Jacobson, an opponent of the plan, said the deed restrictions will have a negligible effect.

"Much more importantly, they don't address the fact that the Stoltz proposal still fails to meet the criteria for commercial rezoning, which is the question on the table tonight," Jacobson said. "The desire to repackage the proposed ordinance with deed restrictions is simply, honestly, a device to make an inconsistent proposal more palatable."

Stoltz bought the 92-acre property for \$94 million in 2006. Then, the real estate market tanked, and DuPont began vacating some of the buildings it was renting back from Stoltz. In 2008, Stoltz announced plans to demolish the office park and triple its density with shops and condominium and office towers, all allowable under zoning.

Residents were horrified by the plan and the traffic congestion they said it would create. Citizens for Responsible Growth was formed to fight the plan. CRG raised money for a legal fund but eventually realized it could not stop Stoltz from building the larger plan.

Stoltz paid little mind to the objections of CRG until The News Journal published a series of stories on the proposed developments in 2010. Then-County Executive Chris Coons negotiated with Keith Stoltz in private without CRG, which was announced in September 2010, when Coons was running his senatorial campaign against Republican Christine O'Donnell.

CRG fine-tuned the Coons-Stoltz compromise and negotiated a series of deed restrictions for Barley Mill Plaza, Greenville Center and two other nearby Stoltz development plans. The agreements cap building heights at four stories at Barley Mill, limit density and provide other protections.

Despite its original objection to the larger plan, CRG has lobbied council to pass the smaller compromise plan because it fears Stoltz would build the larger plan, as it is permissible under the property's current office-regional zoning status.

Save Our County doesn't think the larger plan is feasible or a real threat. They wanted council to reject the plan and force Stoltz to come up with a new option.

The compromise plan calls for 450,000 square feet of commercial space and 1.2 million square feet of office space. The original plan called for 700,000 square feet of commercial space, 700,000 square feet of residential and 1.4 million square feet of office space.

Stoltz sought the rezoning because the commercial space that can be built under the current zoning has to be accompanied by residential and office construction at the same level. In exchange for building a smaller plan, Stoltz wanted the commercial zoning for 37 acres, which will let him build the commercial component of his plan all at once.

Weiner thinks Stoltz could have beat the county in court by challenging the policy that prohibits the developer from building all of the commercial space in the bigger plan first.

"He could have cherry-picked out the commercial and not built the residential or the office, so the Council was choosing between 700,000 or 450,000 square feet of commercial space at Barley Mill Plaza," Weiner said.

The county Land Use Department recommended Council approve the plan, saying it was in character with the neighborhood and consistent with nearby zoning. The county Planning Board said neither was true and urged the Council to reject the plan.

The project got redevelopment status from the county Land Use Department, so no traffic-impact study was required. A less-comprehensive traffic-operational analysis was required by the Delaware Department of Transportation, but it is not completed.

Sheldon said he had to consider traffic impact when he cast his vote.

"I don't see how this project can be done without the [nearby] Tyler-McConnell Bridge being widened," Sheldon said.

Another controversial part of the project is that Stoltz's attorney was Pam Scott, County Executive Paul Clark's wife. Scott stopped representing Stoltz in March after the county Ethics Commission ruled that Scott would have to stop representing clients before the county or Clark would have to resign to avoid a conflict.

Danzeisen, although victorious Tuesday, said he was saddened by the process that pitted neighbors who share a love for their community against each other.

Street said centuries of history will be ruined when the office-commercial center is built.

"I stopped being mad," he said. "I'm saddened now."