



promoting sensible development with adequate infrastructure

Lower Paxton Township Board of Supervisors
425 Prince Street
Harrisburg, PA 17109

February 8, 2011

**Stray Winds Area Neighbors Testimony
Re: Triple Crown Corporation's Proposed Text Amendment**

Dear Board of Supervisors:

Triple Crown Corporation ("TCC") e-mailed Stray Winds Area Neighbors ("SWAN") about a proposed Ordinance change on Thursday, January 6, 2011. TCC planned to submit the proposal to the Township supervisors on Tuesday, January 11, 2011. SWAN acknowledged that the proposal was an improvement over a blanket R-2 designation, but objected to the timing and stated there were serious issues and potential problems with the proposal which requires a deliberative evaluation process.

SWAN rearranged its annual meeting on January 17, 2011 after receiving a notice on January 6, 2011 of TCC's intent to submit a text amendment on January 11, 2011. That was the first time SWAN had seen the document.

SWAN officers also met with TCC on Tuesday, January 11, 2011. SWAN's membership had a substantive discussion and dialogue after TCC's presentation on January 17, 2011. Please note that SWAN's February 7, 2011 meeting was also scheduled to accommodate TCC since the Company expressed a desire to submit the text amendment at the February 8, 2011, Board of Supervisors' workshop meeting.

While many of the conditions SWAN successfully obtained in the previous agreement are in place, the big change is the proposed absence of any Age-Restricted housing which perviously accounted for 53% of the housing stock. Additionally, the number of units was increased from 449 to 452 despite the sale of acreage on the Farm which should drive the density yield down.

We have identified other concerns with TCC's proposed text ordinance including but not limited to:

1) Without Age-Restricted housing there would not have been support from SWAN for a RC zoning designation. The significant percentage of Age-Restricted housing originally negotiated between the developer and SWAN was essential to securing support from SWAN for a RC designation. In other words, if Age-Restricted housing is eliminated, shouldn't the zoning protocol revert to the original format of a 10% density bonus?

TCC's data should be subject to peer review with the Tri County Planning Regional Planning Commission. SWAN has research that demonstrates Age-Restricted housing is not only viable but a value added proposition. However, if TCC's data which suggests a saturation and/or diminishing appeal of Age-Restricted housing is accurate, how would the company reconcile its recent efforts to purchase Colonial Village - a 164 age restricted community planned for Lower Paxton Township?

2) Age-Restricted housing drove down traffic, increased the tax base, and was a more desirable value proposition for contiguous neighborhoods.

Currently there are 152 bus runs in the CD School District, and the District is attempting make changes next school year that will compress and eliminate existing bus routes. The removal of Age-Restricted housing will introduce 86 potential new households that may require school bus service.

We suggest that the removal of all Age-Restricted housing will likely create congestion periods during rush hours for school children, and insofar as this change impacts 53% of the proposed development, a new traffic study should be undertaken to evaluate the increased impact of this substantive change to the plan.

3) With TCC's proposal to eliminate Age Restricted housing, it is paramount that any final project require an escrow account to ensure that future "economic conditions" do not erode or erase other commitments previously negotiated with this developer.

4) This text amendment would establish a precedent of changing the law to accommodate economic conditions. The process and the rule of law are paramount. The initial Zoning Variance TCC had obtained from the Township with SWAN's support was denied by the Commonwealth Court on January 28 2009, based on self-inflicted, economic hardship. "The hardship put forth by TCC is purely economic, and arises from its voluntary commitment to upgrade the Township's existing road network...Because TCC failed to establish that the property was subject to unnecessary hardship, the ZHB erred in examining TCC's variance request ...and ultimately granting it."

5) Should this proposal have been submitted as part of the SALDO process that began in 2007? Both SWAN and TCC offered comments, and SWAN successfully advocated for stronger controls on wetlands and steep slope “bonus construction.”

This Amendment appears to contravene more recent Township legislation initiatives that do not afford value to steep slopes and wetlands and may precipitate a legal challenge.

6) How did the sponsor of the proposal arrive at the threshold number of 240 acres? This amendment appears to be spot zoning designed to accommodate the hardship of Amendment’s sponsor and could be abused at a later date by another developer.

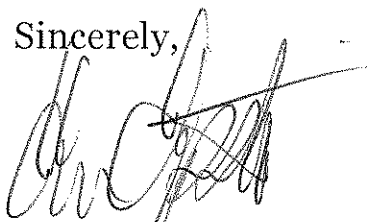
For example, this proposal establishes a precedent and would impact and rezone properties in the Township simply by changing the acreage eligibility requirement. By changing the number of acres as the threshold, many properties could use this precedent as a lever to access more generous zoning designations and gain credit for steep slopes and wetlands which runs counter to the revised SALDO.

Last week we suggested to Triple Crown Corporation that they table the text amendment and come back to SWAN with a counter offer or another process dealing with the issues we identified in my correspondence.

We are invested in seeing this collaboration work for all parties, but at this point in time we should recognize that others - including Lower Paxton Township - have made significant time, financial and in-kind investments to see this process through to its optimal outcome.

I urge you to take the time to give our comments due consideration and share with other relevant oversight bodies and agencies.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Epstein", written over the word "Sincerely,".

Eric Epstein, Chairman,
SWAN

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Enclosure

Age Restricted Housing

Q: Is there a national standard concerning the requirements for age-restricted housing developments; and, (2) What percentages are necessary to maintain the age restricted nature of the development?

A: Experts have predicted that by 2030 there will be almost 88 million people age 60 or older in the U.S. In response, builders are increasing the percentage of homes they build for the age-restricted market. Age restricted communities must meet the requirements of the Fair Housing Act of 1968 ("FHA"). The FHA prevents discrimination in the housing market based upon race, color, religion or national origin. In 1988 Congress amended the FHA and certain exemptions were added to allow for age-restricted communities under the Housing for Older Persons Act of 1995. There are two (2) types of age-restricted communities permitted by the FHA: (1) a community where at least 80% of the units must be occupied (not owned) by at least one person 55 years of age or older; and, (2) a community where 100% of the units are occupied by persons 62 years of age or older. RSA Section 354-A:15. Most of the age-restricted communities are in the 55 plus category.

To qualify for an exemption, a community must show that:

- * It is intended and operated for occupancy by persons 55 years of age or older; and,
- * At least 80 percent of the units are occupied by at least one person who is 55 years of age or older (for new construction, this applies after 25% of the units are occupied. Unoccupied units are not included in the total when calculating the 80%); and,
- * It provides for age verification by reliable surveys and affidavits (verification of the occupant ages must be completed every two (2) years to ensure that your community is within the acceptable 80/20 required ratio); and,
- * It has published and adheres to policies and procedures that demonstrate its intent to qualify for the exemption.

Local municipalities may impose additional requirements that may be more restrictive than the federal standards. Once an age-restricted community is turned over to the homeowners, it becomes the responsibility of the Community Manager/Homeowners Association to ensure continued compliance with the FHA relating to the exemption.