

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
DECEMBER 5, 2022**

Mr. Sullivan called the Regular Meeting of the Planning Board to order at 7:35 P.M.

Adequate notice of the meetings of the Planning Board of the Township of Chatham was given as required by the Open Public Meetings Act as follows: Notice in the form of a Resolution setting forth the schedule of meetings for the year 2022, and January, 2023 was published in the *Chatham Courier* and the *Morris County Daily Record*, a copy was filed with the Municipal Clerk and a copy was placed on the bulletin board in the main hallway of the Municipal Building.

Roll Call

Answering present to the roll call were Mr. Sullivan, Mr. Duemling, Mrs. Felice, Mr. Miller and Mr. Neibert. Mr. Hamilton arrived late.

Mr. Choi, Mr. Nikolopoulos, Mr. Kahn and Mr. Shehady were absent.

Also present were Attorney Matt Flynn in place of Board Attorney Steve Warner and Board Engineer John Ruschke.

Minutes

Mr. Miller moved to approve the minutes of the November 14, 2022 meeting. Mrs. Felice seconded the motion which carried unanimously with abstentions from those who were absent from that meeting.

Request for Adjournment

PBA-22-004 Vesta Projects, LLC, 552 River Road, Block 62, Lot 60, Requesting Minor Subdivision

Mr. Sullivan said that the Vesta Projects application has been carried to the January 30th meeting. He noted that the December 19th meeting will have the CES application hearing. Mr. Flynn asked about further notice for the Vesta Projects hearing. The consensus of the Board was to require further notice.

Discussion

2023 Meeting Dates

The Board reviewed the proposed meeting dates for 2023. Mrs. Felice noted that January 16, 2023 is MLK Jr. Day. Mr. Sullivan said that can probably be cancelled. He also said that

perhaps the January meeting could be held on the 23rd. Mr. LaConte asked about the November meeting schedule. Mr. Ruschke also explained the purpose of the TCC Meetings.

The meeting schedule will be formally adopted at the reorganization meeting.

Hearings

PBA-22-008 Southern Boulevard Urban Renewal, LLC. 411 Southern Boulevard. Block 48.16 Lot 117.28 Amended Preliminary and Final Major Site Plan Approval

Mr. Flynn stated that this application is technically for an amended preliminary and final major site plan approval, and a waiver has been requested for a formal site plan because there was a prior approved site plan. Mr. Flynn said that there are some technical deviations that are greater than Mr. Ruschke could approve as part of a field change, so the applicant has returned for an amended approval.

Danielle Kinback, an attorney representing the applicant, provided an overview of the background of this hearing.

Adolf Montana, an engineer representing the applicant, was sworn in to give testimony. Mr. Montana provided his qualification and was accepted as an expert.

Mr. Montana presented the grading plan that was submitted for the application. He said that the plan includes the existing contours for the site. Mr. Montana said that there are planting beds that were built 2-8 inches lower than expected, and inlets are proposed to handle water that is being trapped. Pictures of the planting beds were presented. The elevations of the berms were addressed. Mr. Montana addressed grading near a tree by the Police Department, and the developer will replace the tree if it dies. He further stated that the plan addresses the Utility Plan. Mr. Montana also addressed the landscaping plan. He said that the correct number of plants were installed, however some were moved and some were smaller than what was approved. There was also a deviation in the lighting for the sign.

Mr. Montana also addressed the comments in the review letter from Mr. Ruschke's office dated November 2, 2022.

Ms. Kinback presented Exhibit A-1 and addressed the dryer vents deviation. She said that the applicant is not aware of any architectural deviations, and the vents are not usually shown on the architectural plans.

Mr. Miller spoke on behalf of himself and the Green Village Fire Department. He said that there is a concern about the planting bed drainage and the trapping of water, and said that there may be flooding or electrical issues caused by the drainage as the AC units are so low. Mr. Montana addressed the drainage.

Mr. Miller addressed the handicap ramp. The Fire Department is concerned about water flow from the inlets. Mr. Montana addressed the inlets. Mr. Miller noted that there is not a sidewalk

to the utility closet, and there will need to be access in the event of a fire. As such, there will need to be snow removal granting said access.

Mr. Miller asked if electric scooters and bicycles will be stored in hallways, and if not, how would such a prohibition be enforced.

Steven Katz, a principal of the developer, was sworn in to give testimony. Mr. Katz said that there will not be any storage allowed in hallways.

Mr. Miller addressed the dryer vents. He expressed concern about the potential fire hazard if they are not regularly cleaned out, and suggested a regular maintenance schedule. Mr. Katz said they were part of the approved building plan. Mr. Ruschke noted that he is not aware of any building codes or statutes regarding dryer vent maintenance. Mr. Flynn suggested a stipulation for an annual inspection of all dryer vents by the property manager, and that the condition would not supplant any applicable building codes or NJ laws. He also noted that the Home Owner's Association handles such cleaning where he lives.

Mr. Sullivan asked about the additional 8 inches in depth. Mr. Ruschke said it is likely from the foundation not having been properly stepped to accommodate the grade.

Mr. Ruschke was sworn in to give testimony. He noted efforts to save a tree by the Police Department. He suggested creating a tree well.

Mr. Ruschke said that the sign lighting is a minor deviation however it now requires a variance. Mr. Flynn read the section of code that requires that the lighting be shielded from the right-of-way. Mr. Ruschke said he does not have the authority to administratively approve variances resulting from field changes. Mr. Flynn said it is not uncommon for a variance to be needed when a site plan needs to come back before the Board for amended approval.

Mr. Miller commented that he did not intend to imply that lesser materials were used in the construction. He said that he does not want to see the Board set a precedent that developers can come back to the Planning Board and expect approval for field changes that were made to save money during construction. Mr. Katz said that the landscaping changes were due to availability of materials and noted there were supply chain issues. He said the cap on the dumpster was changed also due to availability of materials.

Mr. Ruschke said he would prefer that the dryer vents were lower for maintenance purposes. He recommended that the resolution contain language that the property owner is to keep the front of the property clean.

Mr. Sullivan asked if there is a certain amount of maintenance built into the rental fees. Mr. Katz said that the developer owns and maintains many rental properties around NJ, and there is a team of managers.

Mr. Ruschke noted the field change regarding the dumpster, and the change was made by the developer without consulting the Township. He also addressed the landscaping. Mr. Ruschke further commented on the grading around the building and drainage concerns.

Mr. Sullivan expressed desire to have issues resolved before tenants move in. Mr. Katz said that there is a TCO for the building subject to the developer coming back before the Board. He said that there are ten leases signed for new residents looking to move in soon. Mr. Katz asked about the status of the TCO. Mr. Ruschke described the conditions under which the TCO can be extended.

Mr. Sullivan opened the floor for the public to ask questions. Seeing no members of the public present, Mr. Sullivan closed the floor to questions.

Mr. Flynn reviewed the proposed approval for an amended preliminary and final major site plan approval and made note of the requested waiver. He noted that the applicant has opted to pursue the variance for shielding of the lighting for the monument sign under the C-2 criteria. The applicant has stipulated that there will be proper access to the utility room, including snow removal. The leases will have a provision prohibiting private storage in common hallways. There will be annual inspections and maintenance of the dryer vents without supplanting applicable codes or statutes. Mr. Flynn noted the regrading that needs to be done to the satisfaction of the Board Engineer. The Board also is signing off on field changes that the Board Engineer did not feel it was appropriate for him to approve. Any temporary certificate of occupancy will be extended as necessary, and the conditions of the resolution will need to be met before issuance of a final certificate of occupancy.

Mr. Miller asked if there can be language that if the tree by the Police Department dies, that the developer needs to replace it with a tree of at least 4-inch caliper.

Mr. Katz noted that Arbor Green is linked to the Enclave, and asked for confirmation that issuance of a TCO satisfies any obligations Toll Brothers has for Affordable Housing. Mr. Ruschke said that the condition is not satisfied until a final CO has been issued. Ms. Kinback said that she will work out compliance with the Affordable Housing compliance aspects with the Township's Affordable Housing Attorney.

Mr. Ruschke clarified that the approval this evening will authorize him to sign off on various punch list items.

Mr. Miller asked if it is in the Board's purview to take into consideration a TCO versus a CO, or if the focus should be on making sure the plans meet their approval. Mr. Flynn noted that the development would likely be resolved before the Township's Declaratory Judgment would be called into question. Mr. Katz asked if the TCO continues if this application is approved. Mr. Flynn said that the Board Engineer has already addressed that.

Mr. Ruschke said the action to be taken at this meeting addresses the deviations, following which the development will proceed under the normal administrative process.

Mr. Duemling moved to approve the application subject to the conditions and stipulations discussed. Mr. Hamilton seconded the motion.

Roll Call: Mr. Sullivan, Aye; Mr. Choi, Absent; Mr. Duemling, Aye; Mrs. Felice, Aye; Mr. Kahn, Absent; Mr. Hamilton, Aye; Mr. Miller, Aye; Mr. Nikolopoulos, Absent; Mr. Shehady, Absent; Mr. Neibert, Aye.

Mrs. Felice moved to adjourn at 9:18 PM. Mr. Miller seconded the motion, which carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary