

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
AUGUST 2, 2021**

Mr. Franko called the Regular Meeting of the Planning Board to order at 7:33 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 2021, and January, 2022 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.

Answering present to the roll call were Mr. Franko, Mr. Nelson, Mrs. Abbott, Mr. Coviello, Mr. Choi, Mrs. Ewald, Mr. Hoffmann, and Mr. Kahn.

Mrs. Ozdemir was absent.

Also present were Township Planner Frank Banisch, Board Engineer John Ruschke and Board Attorney Steve Warner.

Hearings

PBA-21-004 (Received 6-16-2021) Chatham Family Apartments LLC. 522 Southern Boulevard. Block: 128 Lot: 2

Mr. Warner stated that the hearing was carried from the July 19th meeting to this meeting and the proceeding had not been closed. After the last meeting Mr. Choi became aware of new information that led Mr. Warner to opine that he needs to recuse himself from this hearing. Out of an abundance of caution, Mr. Warner also opined that the hearing should recommence as a new hearing. Any evidence previously presented will not be part of the record, and a new record will be created from the testimony provided at this meeting. Board members and the public are encouraged to ask any questions they may have, and the public can make comments under oath following the presentation of evidence by the applicant. Mr. Choi recused himself and left the meeting as a panelist.

Damien Del Duca, an attorney representing the applicant, provided an overview of the application. He stated that the applicant is Chatham Family Apartments LLC, which is a special purpose LLC created for this project and is affiliated with The Walters Group. Mr. Del Duca named the professionals present who will provide testimony for the application.

The application is for a municipally-sponsored apartment community consisting of 63 apartments. 62 of the apartments will be restricted to low and moderate income families and one would be for the on-site property manager. Mr. Del Duca provided a summary of the Township's Affordable Housing Settlement Agreement and the Redevelopment Plan for 522 Southern Boulevard. He also stated that the Township and the Walters Group entered into a Development Agreement for the site. The application is for preliminary site plan approval, and Mr. Del Duca stated that approval is necessary for the Township and the Developer to apply for 9% Tax Credits from the HMFA to finance the project. Several deviations are requested in the

application, and Mr. Del Duca stated that they are minor in nature. Mr. Del Duca also stated that review letters have been received from Mr. Ruschke and Mr. Banisch, and the applicant does not object to the substantive comments in the review letters.

Mr. Del Duca stated that the purpose of site plan review is to determine if an application satisfies all of the applicable requirements for site plan approval. He stated that the requirements for this application are mostly found in the Redevelopment Plan, and the requirements are met except for the requested deviations. Mr. Del Duca also stated that there are 9 pre-marked exhibits as follows:

- A-1 Color-Rendered Site Plan
- A-2 Full Site Plan Set
- A-3 Landscape Plan
- A-4 Floorplan
- A-5 Survey
- A-6 Aerial Photograph
- A-7 Revised Floorplans
- A-8 Revised Site Plan
- A-9 Color Landscape Plan

All of the witnesses and the Planning Board professionals were sworn in to give testimony.

Rod Ritchie, an engineer representing the applicant, provided his qualifications and was accepted as an expert.

Mr. Ritchie confirmed that Exhibit A-1 was prepared by him, and it is a color version of the site plan submitted with the application. The site plan was revised to eliminate the basketball court and relocate the tot lot. The traffic flow has been changed to be counterclockwise, and two parking spaces have been added. Mr. Ritchie also provided an overview of the site plan. Mr. Ritchie also addressed the wooded area that serves as a buffer between the development and the Sunset Lake neighborhood. Mr. Ritchie stated that tree clearing has been limited. He also stated that there are wetlands and a ditch that will need to be filled. The application for filling in the ditch will be submitted to the NJDEP. Mr. Ritchie further discussed the proposed landscaping.

Mr. Ritchie confirmed that a deviation is requested for the tot lot setback. He stated that 200 feet is required, and the proposed tot lot is only 158 feet from the property line. Mr. Ritchie stated that options were considered to meet the 200-foot setback, and the site plan would not work as well if the setback was met. He also stated that the lot width and the number of units required limited the placement of the tot lot.

Mr. Ritchie confirmed that the second deviation is for the setback of the trash enclosure. The required setback is 200 feet from the rear property line, and the plan shows the enclosure at 99.79 feet from the property line. The current plan shows the trash enclosure 8 feet closer to the rear property line than the original plan. Mr. Ritchie said that the location proposed is the most convenient and accessible location for loading and truck access. He also said that the constraints of the site, the width of the property and the ability to accommodate the buildings, the proposed location is the best spot for the trash enclosure. Mr. Ritchie further noted that there is 113 feet of

buffer area other than the area where the trash enclosure is located, and confirmed that the Redevelopment Plan requires a rear yard setback of 75 feet from the principal structure.

The third deviation is for maximum impervious coverage. Mr. Del Duca stated and Mr. Ritchie confirmed that the Redevelopment Plan requires a maximum of 50% impervious coverage. The proposed site plan proposes 51.9% impervious coverage, which is the same amount of impervious coverage as is presently found at the site. Mr. Ritchie explained that the maximum impervious coverage needs to be exceeded in order to fit the proposed program. He also stated that the Redevelopment Plan was created before the site plan was fully engineered. Mr. Ritchie further stated that all aspects of the Redevelopment Plan are complied with in Exhibit A-8 other than the deviations requested and the need for a minimum pipe velocity design waiver. Mr. Ritchie stated it was recommended by Mr. Ruschke that a provision be included in the operation and maintenance plan to provide more frequent inspection and maintenance of the stormwater pipe collection system if the design waiver is granted. Mr. Ritchie confirmed that the applicant will stipulate to the conditions in the review letters from Mr. Ruschke and Mr. Banisch.

Mr. Ritchie described the trash enclosure. He also stated that the compactor will be run twice a day on weekdays during business hours and once a day on weekends. The noise level is 80-90 decibels. Trash pickup is generally once a week. Mr. Ritchie stated that the height of the concrete wall will be greater than that of the recycling bin and the compactor. He also confirmed that Mr. Joseph Del Duca spoke with a neighbor about possibly adding evergreen trees in the buffer area behind the enclosure. Mr. Ritchie stated that it is his opinion that location of the tot lot, the location of the trash enclosure and the exceedance of the impervious coverage limit will not have a material adverse impact on the neighbors.

John McCormack, a traffic engineer representing the applicant, provided his qualifications and was accepted as an expert.

Mr. McCormack explained the proposed access to the site. He noted that Southern Boulevard is a County road, and the slight driveway redesign is under the County's jurisdiction. Mr. McCormack stated that the ITE publication *Trip Generation* to estimate the amount of traffic that will be generated by this project. The number of anticipated trips are about 30 in the morning peak hour and 38 in the evening peak hour. Mr. McCormack explained the analysis of the traffic generation and its impact on the intersection of Southern Boulevard and Shunpike Road. He stated that it will be a minimal impact. Regarding the site layout and traffic circulation, Mr. McCormack stated that the one-way circulation and angled parking works well, and the aisle widths are wide enough and meet the industry standard. Mr. McCormack confirmed that the Redevelopment Plan requires 95 parking spaces, while the RSIS Standards would require 127 spaces if applied. Mr. McCormack said that an evaluation was made to determine if 95 spaces would be adequate. He also stated that average demand for Affordable Housing developments is 1.35 spots per unit, which would equate to 85 spots for this development. Mr. McCormack stated that the parking exceeds the average ITE standards, the Redevelopment Plan, and the parking demands for similar sites around New Jersey.

Ferdinando Micale, an architect and planner representing the applicant, provided his qualifications and was accepted as an expert in both fields.

Mr. Micale presented a rendering of what the development will look like from Southern Boulevard. He said that the exhibit is a concept that has not been finalized. Mr. Micale described the materials used for the exterior of the building. He further presented a rendering of the architectural design of the rear of the property. Mr. Micale also presented conceptual floorplans for the buildings and commented on the lengths of the buildings.

Mr. Del Duca asked if the plans shown in Exhibit A-7 and Exhibit A-8 advances any of the purposes of zoning in the Municipal Land Use Law. Mr. Micale stated that the plans advance A, E, F, G, I and M. Mr. Micale elaborated on how the plans advance those purposes of zoning. Mr. Del Duca asked if the benefits of the plan outweigh any detriments from the three deviations. Mr. Micale stated his opinion that they do. Mr. Del Duca asked if the setback relief for the tot lot and trash enclosure would have any material adverse impact on the surrounding neighborhoods. Mr. Micale stated that it would not. Mr. Del Duca asked if the location of the trash enclosure proposed on Exhibit A-8 is a better planning alternative to having the enclosure somewhere toward the front of the site. Mr. Micale said that he does. Mr. Del Duca asked if the property is designated in the Housing Element and Fair Share Plan for a 100% affordable community consistent with the plan as presented. Mr. Micale stated that it is.

Mr. Franko asked what provisions will be made for pedestrian safety when crossing Southern Boulevard to visit the Hickory Square Mall. Mr. McCormack stated that the pedestrians should use the crosswalk at the intersection of Southern Boulevard and Shunpike Road where there is a traffic light.

Mrs. Ewald asked about noise from the trash compactor and if the 80-90 decibel range is at the location of the compactor. She also asked how the noise level would diminish in the distance to the property line. Mr. Ritchie stated that the decibel level is immediately adjacent to the compactor. He also stated that while the sound level will diminish, he does not have data to specify how much it will have diminished at the property line. Mr. Del Duca said that the applicant will comply with the State's noise standards. Mrs. Ewald said that the plan shows a block wall around the trash enclosure, and asked if there will be fencing as well. Mr. Ritchie stated that a post and rail with wire mesh fencing is proposed for the rear of the site between the parking area and the buffer area. He said it is to be determined if the fencing will be incorporated into the trash enclosure wall. Mrs. Ewald asked if the fencing will also run along the portion of the property adjacent to the gas station. Mr. Ritchie stated that the fencing will only be on the eastern area of the property to discourage pedestrian traffic through the wooded area, and a fence along the northern portion of the property is not contemplated at this time. Mrs. Ewald asked how many trees need to be removed and how many will be replaced. Mr. Ritchie stated that 20 trees are proposed for removal, which is down from 23. He stated that he does not have readily available how many will be replaced, however the applicant has offered to plant additional evergreen trees to surround the trash enclosure to provide an additional vegetative buffer. Mrs. Ewald stated that it sounds like there will be an increase of trees once the landscaping has been planted. She also asked about handicapped parking and if it is based on residential needs. Mr. Ritchie stated that the number of handicapped spots is based on ADA requirements, and the number proposed exceeds those standards. Mrs. Ewald asked if the parking standards are for suburban areas or if urban areas are included. Mr. McCormack stated that the comparisons used in the testimony were in suburban residential areas comparable to Chatham Township. Mrs. Ewald asked if the nature of the impervious coverage is being improved at the site. Mr. Ritchie stated that the proposal is to replace a significant amount of the

existing parking area with rooftop impervious area, which will lead to an improvement in the quality of the stormwater runoff. Mrs. Ewald asked if the rate of absorption of the water will be affected. Mr. Ritchie stated that will not be affected, only the water cleanliness.

Mr. Warner asked if the applicant stipulates to all the conditions in the review letters from Mr. Ruschke and Mr. Banisch. Mr. Del Duca stated that they do. Mr. Warner asked if the testimony given by Mr. McCormack is based on the Traffic Impact Study submitted to the Board dated May 27, 2021. Mr. McCormack stated that it was. Mr. Warner asked if the testimony given by Mr. Micale regarding the three deviations are justified under both the alternative C-1 and C-2 type hardship as well as the flexible C variance type standards that are provided for in the Redevelopment Plan. Mr. Micale said that is correct. Mr. Warner asked if the negative criteria is also satisfied. Mr. Micale stated that it is. Mr. Warner asked if the applicant has satisfied the criteria for entitlement to the design waiver for the flow velocity and the RSIS de minimis design exception. Mr. Micale stated that the criteria has been met. Mr. Warner asked if the criteria for preliminary major site plan approval inclusive of the ingress/egress and site circulation has been met. Mr. Micale stated that it has. Mr. Warner asked about the additional evergreen buffering and if it will be subject to the approval of the Board Planner. Mr. Del Duca said that it will. Mr. Warner asked if the applicant will stipulate to add outdoor seating areas subject to the review of the Board Planner. Mr. Del Duca stated that the applicant will so stipulate.

Mr. Franko opened the floor for the public to ask questions of the witnesses based on the testimony presented.

1. Rinna Reyes Lin, 19 Lake Road, asked if plans were drafted with the trash enclosure set back to 200 feet, or if they assumed to request a variance. Mr. Ritchie stated that alternative compliant locations were considered. He stated that the compliant alternatives were not ideal locations and presented other difficulties for access and site circulation.

Mrs. Lin asked if the evergreen trees will be mature trees or smaller trees. Mr. Ritchie stated that it is not practical to plant mature trees, however the trees planted will likely be about 6 feet tall.

Mrs. Lin asked who the neighbors can contact in the future if there are problems with the compactor. Mr. Warner said that if there is an approval, there will be conditions of approval and compliance obligations that the Township will monitor. Neighbors can also contact the on-site superintendent. Mr. Del Duca stated that the on-site superintendent will be able to address complaints.

Mrs. Lin asked where people would park if there are not sufficient spaces. Mr. McCormack stated that if there is insufficient parking, they will have to find somewhere else to park the same way any other Township resident would need to.

Mrs. Lin asked if an environmental impact study was conducted. Mr. Del Duca stated that the filed application includes an Environmental Impact Study dated June 14, 2021 prepared by DuBoyce & Associates LLC.

Mr. Franko closed the floor to public questions.

Mr. Franko opened the floor to the public to give comments and testimony.

1. Rinna Reyes Lin, 19 Lake Road, was sworn in to give testimony. Mrs. Lin stated that the Sunset Lake neighborhood is unique, and the residents want to protect the neighborhood. She also stated that the other affordable housing developments built by the Walters Group are not within 75 feet of an existing neighborhood. Mrs. Lin stated that the development will impact the Sunset Lake neighborhood.

Seeing no further comments, the floor was closed.

Mr. Del Duca provided a summation of the application and testimony. He said that preliminary site plan approval should be approved with the deviations. Mr. Del Duca also stated that after the tax credits are received to finance the project, the applicant will be able to return to the Planning Board for final site plan approval.

Mrs. Ewald noted that the application is for preliminary site plan approval, and she asked that the applicant try to find ways to improve the situation for the neighbors in the rear by increasing tree plantings or moving the trash enclosure. Mr. Del Duca stated that the applicant will try to do so.

Mrs. Abbott stated that she looks forward to seeing the native species chosen for the landscape plan.

Mr. Franko opined that the development will be a nice addition to the community.

Mr. Warner provided a recap of the relief being sought.

Mr. Hoffmann moved to grant preliminary major site plan approval and all requested deviations with all conditions stipulated to by or on behalf of the applicant. Mr. Warner reviewed the conditions stipulated to by the applicant. Mr. Nelson seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Absent; Mrs. Abbott, Aye; Mr. Choi, Recused; Mr. Coviello, Aye; Mrs. Ewald, Aye; Mr. Hoffmann, Aye; Mr. Kahn, Aye.

Nash Field Lighting Project – Capital Project Courtesy Review per N.J.S.A. 40:55D-31

Mr. Franko stated that the Planning Board has been asked to comment for the benefit of the Township on the proposed capital project for Nash Field lighting.

Mr. Warner cited that the Municipal Land Use Law requires that when the governing body or public agency having jurisdiction over the subject matter, before taking action necessitating the expenditure of any public funds, incidental to the location, character or extent of a capital project, the project is referred to the Planning Board for review. The Planning Board has a 45-day period to review the project for Master Plan consistency and to make recommendations.

Mr. Hoffmann stated that the Nash Field Lighting Project involves the replacement of recreational field lighting that was originally installed in 1991 and has served its useful life. The new lighting will be more energy efficient, and the poles will be able to withstand stronger wind gusts. The skating area and basketball court will also be lit. Lighting spillage into the Chatham

Hill Apartments and Melrose Condominiums will also be prevented. Mr. Hoffmann stated that a capital ordinance to fund the project has been adopted, and a \$100,000 grant for the project was received from the Chatham Athletic Foundation. Quotes for the project were solicited, and the project will cost approximately \$343,000.

Mr. Ruschke stated that the fields will be brighter, and the lighting will meet the minimum safety standards for Little League play. The lighting is also engineered to reduce skyglow and spillage. Mr. Ruschke stated that Nash Field is located immediately adjacent to the property line and the improvements do not meet the Township ordinance. He also noted that this is a replacement project, and efforts were made to reduce light spillage.

Mr. Banisch stated that the Master Plan proposes that recreational facilities will be able to serve the needs of residents without impacting adjoining neighbors to the whatever extent possible. He also stated that the Nash Field Lighting Project is making a better accommodation by preventing unnecessary glare and impacts on neighbors. Mr. Hoffmann noted that the project was developed over at least a 4-year period. Mr. Banisch advised that the Board can determine that the Master Plan objectives have been met and the project is not inconsistent with the Master Plan.

Mr. Warner asked that Mr. Hoffmann abstain from any motions on this matter as he presented the topic.

Mr. Nelson moved to send a letter to the Township Committee stating that the project is not inconsistent with the Master Plan and that the Planning Board has no further recommendations. Mr. Coviello seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Absent; Mrs. Abbott, Aye; Mr. Choi, Aye; Mr. Coviello, Aye; Mrs. Ewald, Aye; Mr. Hoffmann, Abstain; Mr. Kahn, Aye.

Approval of Minutes

Mrs. Abbott stated that she has two corrections to the minutes of the July 12th and July 19th minutes. Approval of the minutes was deferred to the next meeting so that the recording can be reviewed and corrections can be made.

Mr. Nelson moved to adjourn at 9:40 PM. Mr. Coviello seconded the motion, which carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary