MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
DECEMBER 21, 2020
DRAFT

Mr. Franko called the Regular Meeting of the Planning Board to order at 7:30 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 2020, and January, 2021 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. Franko, Mr. Nelson, Mrs. Ozdemir, Mrs. Ewald, Ms. Hagner, Mr. Hoffmann, Mr. Kelly, Mr. Sheth, Mrs. Abbott and Mr. Choi. Mr. Coviello and Mr. Choi arrived a few minutes late.

Also present were Township Planner Frank Banisch, Board Engineer John Ruschke, and Attorney Amanda Wolfe in place of Board Attorney Steve Warner.

Approval of Minutes

Mr. Nelson moved to approve the minutes of the November 16, 2020 meeting. Mrs. Ozdemir seconded the motion, which carried unanimously. Ms. Hagner abstained.

Memorialization Resolution: PBA-20-002 (February 28, 2020) **Oak Knoll School of the Holy Child , 300 Green Village Road, Block 144 Lot 33** Request for modification of condition of prior approval.**(Complete 9/24/2020) Escrow # 72744**

Ms. Wolfe noted an edit to the draft resolution that both current and prospective students can participate in summer programs at Oak Knoll Field. The resolution was also clarified that programs cannot begin prior to noon on Sundays. The use of the field by outside organizations was discussed as to whether such use would be limited to the Joint Recreation Program. Mrs. Abbott opined that use should not be expanded beyond the Joint Recreation Program.

Attorney Brooke Kaplan was present to represent Oak Knoll School. She stated that Oak Knoll School is in agreement with limiting use to Oak Knoll programs and the Joint Recreation Program. Mrs. Kaplan also commented on use by non-students, and she said that current and prospective students are welcome to participate in summer programs. Mr. Franko said he wanted to be sure the language was clear that current students would not be disincluded. Ms. Wolfe read aloud the language in the resolution, and noted that the discussion at the last meeting was to clarify if non-students would be allowed to participate.

Mr. Nelson moved to adopt the memorialization resolution approving the Oak Knoll School application as amended. Mrs. Ewald seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mr. Coviello, Absent; Mrs. Ewald, Aye; Ms. Hagner, Abstain; Mr. Hoffmann, Aye; Mr. Kelly, Aye; Mr. Sheth, Aye; Mrs. Abbott, Aye; Mr. Choi, Abstain.

HEARING

PBA-20-004 Sterling/Sun at Chatham, LLC, 344 Hillside Ave, Block 67, Lots 17 & 17.01

Peter Flannery, an attorney representing Sterling/Sun at Chatham, LLC, was present to address the application. Mr. Flannery said that proper legal notice was given and asked that the Planning Board take jurisdiction of the application. Ms. Wolfe confirmed that proper legal notice was given, and the Board does have jurisdiction.

Mr. Flannery described the site and the application for a major subdivision with bulk variance approvals for a five lot subdivision. The lots would include four market rate dwelling lots and one affordable housing group home lot. The application includes a variance for a retaining wall, as well as variances for steep slope disturbance.

Mr. Ruschke and Mr. Banisch were sworn in to give testimony.

Patricia Ruskan, a civil engineer for the applicant, was sworn in to give testimony. Mrs. Ruskan provided her qualifications and was accepted as an expert.

Exhibit A-1 was entered into the record, which is an aerial view of the property. Mrs. Ruskan described the two lots that currently make up the site. Mrs. Ruskan also presented a proposed site plan. Mrs. Ruskan noted that the low point of the side is along Hillside Avenue, and she described the steep slopes at the site. Mrs. Ruskan noted that the steep slopes are at the rear of the site.

Mrs. Ruskan presented a grading plan, noting that it includes the proposed development. The plan includes boxes for a conceptual layout of the houses and Group Home. Mrs. Ruskan also addressed the proposed retaining wall and the need for a variance. She said that the retaining wall is needed to limit the disturbance of the site and to reduce tree removal. Mrs. Ruskan described the limits of the disturbance, and said that variances are requested for some of the site disturbance. Mrs. Ruskan said that the proposed disturbance is less than what was originally anticipated. Disturbance of steep slopes was avoided as much as possible.

Mrs. Ruskan described the proposed stormwater management for the site, and said that the development will comply with both the Township and the RSIS requirements. She also described how the site will hook into the sewer line to be extended for the Dixiedale site. Water service from NJ American Water will be similarly extended. Mrs. Ruskan named the companies that will provide additional utilities.

Mrs. Ruskan said that 1.2 acres of trees will be removed. Ten new trees will be planted on each new lot, with the species and location to be determined.

Mr. Flannery asked if the application conforms to the lot size and bulk requirements of the zone, and Mrs. Ruskan confirmed that it does. Mr. Flannery asked about the conveyance of the Group Home lot, and Mrs. Ruskan confirmed compliance with the requirement for the lot to be leveled and that utility access will be included. Mr. Flannery asked about the inclusion of a conservation easement. Mrs. Ruskan said that any slopes greater than 20% will be in a conservation easement with the exception of the driveway easement. Mrs. Ruskan said that the easement will be submitted to the Planning Board for review.

Mrs. Ruskan reviewed the comments in Mr. Ruschke's memorandum dated December 2, 2020. She said that there is a waiver requested to allow for ten new trees per lot rather than having to conduct a tree survey.

Ms. Hagner asked why one retaining wall is proposed rather than individual walls which would taper off. She also said that one contiguous wall would present maintenance issues. Mrs. Ruskan said that the individual walls would reduce the usable area of the lots due to the grading that would be required. Mrs. Abbott opined that the contiguous wall would create an urban look. The wall height was also discussed. Mrs. Ruskan said that it would not be possible to not have a retaining wall unless the rear of the homes were tucked into the hill with the rear exit being on the second floor. Mr. Nelson said that there is too much of a hill to avoid a retaining wall. Ms. Hagner asked if there is anything else that could be done to avoid lot disturbance. Mrs. Ruskan said that there could be the tiered wall system, and a front-facing garage would still result in side disturbance. Mr. Coviello noted that the single retaining wall would be less costly, and he said that the lots will be difficult to build upon. He also said that he would like to see additional design details.

Mr. Sheth asked about the front yard setback and grade height. Mrs. Ruskan said that the houses would be 35 feet from the right-of-way, and the grade varies between three and five feet.

Mr. Coviello asked about the easement on the property. Mrs. Ruskan said that it is a private driveway easement, and they are unable to vacate the easement.

Mr. Flannery said that the applicant can proceed with the individual walls, which would conform with the zoning ordinance and the memorandum from Mr. Ruschke. Mr. Coviello said he does not like the singular wall, and he would like to see a grading plan. Mrs. Ruskan described what the individual walls would look like, and how it would affect stormwater management.

Mr. Ruschke asked if a design waiver will be sought for the slopes. He also said that the Board is concerned about forcing individual lot owners to seek variances because lot grading was not considered as part of this application. Mr. Ruschke also said that landscaping can mitigate the retaining walls.

Mr. Ruschke presented Exhibit B-1, which was an image of another house in the Township as a potential style and configuration for consideration.

Mr. Franko suggested a straw poll be taken of the Board to get a sense if the members prefer retaining walls or the landscaping option suggested by Mr. Ruschke. The consensus of the Board was for there not to be any walls.

Ms. Hagner asked for more clarity what can be developed at the site. Mr. Flannery said that due to the site constraints, it will not be possible to not disturb the steep slopes. He noted that the steepest slope will not be disturbed.

Mrs. Ruskan presented Sheet C-3 of the application to address the steep slopes. She also presented Exhibit A-2 to address the slopes. Mrs. Ruskan discussed the steep slope categories on the site. She said that she does not think that the slopes can be entirely removed from the application. Mrs. Abbott asked if a new plan could be submitted that minimizes the amount of retaining walls. She also asked how the driveway easement could be vacated. Mr. Flannery said that it is a private driveway easement, and the owner would have to move to vacate the easement. Mr. Coviello requested that more information be provided regarding the easement.

Mr. Franko suggested that the hearing be continued at the next meeting. Mr. LaConte said that the next meeting should be on January 11th.

Mr. Ruschke asked if there are additional comments in his memorandum with which Mrs. Ruskan disagrees. Mrs. Ruskan said that she disagreed with comment number 28 regarding minimizing disturbance of steep slopes to 1000 square feet at a time. She said that it is more practical to deal with all the grading at the same time. Mr. Ruschke said that the intent of the comment should be considered due to the potential for problems to occur. Mr. Franko asked that the matter be discussed by Mr. Ruschke and Mrs. Ruskan offline. Mr. Ruschke noted that the plan includes a sidewalk, and he commented on stormwater management.

Mr. LaConte said that the Annual Notice set January 4, 2021 and January 18, 2021 as meeting dates, which will need to be amended because January 4th is before new Board members will be appointed and January 18th is the Martin Luther King Jr. Holiday.

Mr. Coviello asked if the parcel in Chatham Borough is planned for development. Mr. Ruschke said he has heard rumors that it will be used for Affordable Housing, but he does not know anything certain. Mr. Flannery said that he does not know what is planned for that site. Ms. Wolfe noted that the Township Planning Board does not have jurisdiction over properties in Chatham Borough.

Mr. Franko opened the floor to the public.

1. Dan DeGolyer, Fairmount Avenue, was sworn in to give comments. Mr. DeGolyer thanked Mrs. Abbott, Ms. Hagner and Mr. Coviello for their concerns about protecting the steep slopes, specimen trees and driveway easement. Mr. DeGolyer said he is concerned that the application is inconsistent with what had been discussed for this site in the past. He said that it had been presented that smaller lots would result in less intrusion into the steep slopes. Mr. DeGolyer also commented on tree protection, and said he thought Sterling/Sun had offered in writing to work with the Township to protect trees. He also asked if the ornamental fence will be on top of or behind the retaining wall. Mrs. Ruskan said it would be several feet back. Mr. DeGolyer asked about the retaining walls crossing the lot lines. Mrs. Ruskan said that the lot lines are proposed, and have not yet been approved. Mr. DeGolyer encouraged the Board to gather all the facts regarding the easement, and stated it is his understanding that he and his immediate neighbors own the easement. He asked that what can and cannot be done with the easement be carefully

reviewed. Mr. DeGolyer also expressed concern about the removal of specimen trees in the rear of the property. He said that the proposal seeks to minimize the disturbance, but the disturbance of two acres appears inconsistent with the spirit of what had been previously discussed. Mr. DeGolyer also said he would like to be assured that Lot 1 would not be developed. Mrs. Ruskan said that the majority of that lot would be in a conservation easement. Mr. DeGolyer also addressed the flat part of the lot and expressed further concern about steep slope disturbance.

2. James Anderson, Fairmount Avenue, was sworn in to give comments. Mr. Anderson said that his property overlooks the subject property of the application. He stated that the slope is very steep. Mr. Anderson said he is amazed how far the application extends into the steep slope. He further addressed the wildlife that will be affected by the application, and stated that a rural area will be destroyed. Mr. Anderson opined that the houses should be built closer to the road.

Seeing no further comment, Mr. Franko closed the floor to the public.

Mr. Franko stated that the hearing will continue on January 11th.

Mr. Coviello moved to adjourn at 9:35 PM. Mr. Hoffmann seconded the motion, which carried unanimously.

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Gregory J. LaConte
Planning Board Recording Secretary