

# PLANNING BOARD REGULAR MEETING

Meeting Minutes

January 17, 2019

## MEMBERS PRESENT:

Douglas Joyce, Chair  
Douglas Maute  
Peter Miller  
Tom Neff, Township Manager  
Robert Musgnug  
Christopher Chesner  
John Logue  
Brian Donnelly  
Dave Zipin  
Ryan Vander Wielen

## STAFF PRESENT:

Judith Murphy, AICP, PP, Planning Board Secretary  
Peter Thorndike, ESQ, Board Attorney  
Mackenzi Kelly, Recording Secretary

**ABSENT:** Chris Locatell

Mr. Douglas Joyce called the meeting to order at 7:30 PM in the Council Chambers of Town Hall, 111 West Second Street by reading the Open Public Meeting Act statement. The Pledge of Allegiance followed a moment of silence. Roll call was listed as above with Chris Locatell being absent.

## Closed Session

**01-2019** – Authorizing Closed Session Appointment of Planning Board Professionals Review and Discussion of Proposals for Professional Services for Planning Board Professionals. Chris Chesner made a motion, seconded by Brian Donnelly to move to a closed meeting, the voice vote of the Board was unanimous in favor with Chris Locatell being absent. Chris Chesner made a motion, seconded by Peter Miller to move to an open meeting, the voice vote of the Board was unanimous in favor with Chris Locatell being absent.

## Appointments and Adoption of Resolutions for Professional Services

Resolution **02-2019** - Appointment of Planning Board Attorney  
Resolution **03-2019** - Appointment of Planning Board Engineer  
Resolution **04-2019** - Appointment of Planning Board Landscape Architect  
Resolution **05-2019** - Appointment of Planning Board Planner

Douglas Joyce made a motion, seconded by Brian Donnelly to adopt the **Resolution 02-2019-** Mr. Thorndike as Planning Board Attorney. The roll call vote of the Board was unanimous in favor, with Chris Locatell being absent.

Brian Donnelly made a motion seconded by Peter Miller, to adopt Resolution **03-2019** Mr. Chris Noll as Planning Board Engineer at the current rate. The roll call vote of the Board was unanimous in favor, with Chris Locatell being absent.

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Doug Joyce made a motion, seconded by Chris Chesner to adopt the **Resolution 04-2019**, Amy Czeilwicz as Landscape Architect. The roll call vote of the Board was unanimous in favor, with Chris Locatell being absent.

John Logue made a motion, seconded by Chris Chesner to adopt the **Resolution 05-2019**, Michelle Taylor as Planning Board Planner. The roll call vote of the Board was unanimous in favor, with Chris Locatell being absent.

## **Minutes:**

Chris Chesner made a motion, seconded by Peter Miller to approve the 11/1/2018 meeting minutes, as written, the voice vote of the Board was unanimous in favor with Chris Locatell being absent.

Chris Chesner made a motion, seconded by Peter Miller to approve the 11/15/2018 special meeting minutes, as written, the voice vote of the Board was unanimous in favor with Chris Locatell being absent.

Nominations were taken for Chairman, Vice Chairman and Planning Board Liaison to EDAC. Doug Joyce stepped down as Chairman, he thanked everyone and stated he does not have the time. The board nominated Doug Maute, there were no other nominations. Douglas Joyce made a motion to elect Douglas Maute as Chairman, seconded by John Logue, the voice vote of the Board was unanimous in favor with Chris Locatell being absent.

The board nominated Robert Musgnug for Vice Chairman, there were no other nominations. Chris Chesner made a motion to elect Robert Musgnung as Vice Chairman, seconded by Doug Maute, roll call vote of the Board was unanimous in favor with Chris Locatell being absent.

The board nominated Mr. Logue for Planning Board Liaison to EDAC, there were no other nominations. Doug Maute made a motion to elect John Louge as Planning Board Liaison to EDAC, seconded by Chris Chesner, roll call vote of the Board was unanimous in favor with Chris Locatell being absent.

## **Adoption of Resolutions**

**06-2019** – Annual Notice 2019

**07-2019** – Appointing Planning Board Secretary and Alternate Secretary

**08-2019** - Appointing Planning Board Recording Secretary and Alternate Secretary

**09-2019** – Electronic Guidelines Resolution

**10-2019** - A Resolution Granting a 90 Day Extension for Minor Subdivision Approval, Bulk Variance and Waiver Relief for Premises in the Commercial – Institutional Office District

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(CIO)

John Louge made a motion, seconded by Doug Maute to adopt the **Resolution 06-2019-Annual Notice 2019**. The voice vote of the Board was unanimous in favor, with Chris Locatell being absent.

Chris Chesner made a motion, seconded by Brian Donnelly to adopt the **Resolution 07-2019**- Appointing Planning Board Secretary and Alternate Secretary, Judith Murphy and Anthony Zappasodi as alternate. The voice vote of the Board was unanimous in favor, with Chris Locatell being absent.

Chris Chesner made a motion, seconded by Brian Donnelly to adopt the **Resolution 08-2019**- Appointing Planning Board Recording Secretary and Alternate Secretary, Mackenzi Kelly and Danielle Gsell as alternate. The voice vote of the Board was unanimous in favor, with Chris Locatell being absent.

Chris Chesner made a motion, seconded by Brian Donnelly to adopt the **Resolution 09-2019**- Electronic Guidelines Resolution. The voice vote of the Board was unanimous in favor, with Chris Locatell being absent.

Chris Chesner made a motion, seconded by John Logue to adopt the **Resolution 10-2019**- A Resolution granting a 90 Day Extension for Minor Subdivision Approval, Bulk Variance and Waiver Relief for Premises in the Commercial – Institutional Office District (CIO). The voice vote of the Board was unanimous in favor, with Chris Locatell being absent.

**Docket #PB-2017-20; Core Realty Inc.**

**Block 7000 Lot: 28; 751 Garwood Rd.**

Application for Preliminary and Final Major Subdivision with Variance and Submission Waivers to create six residential building lots in the R-1 Residence District. This application has been adjourned to 2/7/2019 meeting.

**Docket #PB-2014-25B; Idyll Acres, LLC.**

**Block 5400 Lots 8, 9.01, 9.02 & Block 5500 Lot 26; 330, 334 and 340 Tom Brown Road**

Request for extension of Final Major Subdivision Approval

Mitchell Grayson law firm of Gerstein, Grayson, Cohen and Melletz in Mt Laurel, NJ.

In January of 2016 the Planning Board granted an extension of final subdivision approval to the Idyll Acres project. The project consists of 15 Lots, 13 residential, one open space lot and one lot for a pump station. The board granted a 2 year extension in 2017 which will expire soon. They have all the permits except for the water permits. They are asking for an extension for the water permits. He stated they do have buyers however they cannot move

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forward without the water permits, so they are asking for an extension. Mr. Thorndike stated this is a classic request for an extension where the applicant has diligently pursued all the requirements and conditions. They cannot satisfy without the water and they are about a year away from that. Mr. Neff inquired if they have made applications for the permit, the lawyer said they are on the list. Mr. Anthony Zappazodi, Director of Community Development was sworn in. Mr. Zappazodi stated he did send the letter out advising that water is available. He said they can come in and apply. He is not opposed on giving them more time, but the water is available now. John Logue made a motion to grant approval for the extension and it was seconded by Doug Maute, the voice vote of the Board was unanimous in favor with Chris Locatell being absent.

## **No public comments**

### **New Business**

#### **Docket #PB-2018-08; PREIT Associates, L.P. (Moorestown Mall)**

#### **Block: 3000 Lots: 2, 3, 3.01, 3.02 and 5; 400 Route 38**

Application for Preliminary and Final Site Plan with bulk variances to construct two pad retail buildings and associated improvements in the Specially Restricted Commercial District. This application has been adjourned to 3/7/2019 meeting.

No further notice is required from the applicant because notice was given.

#### **Docket #PB-2018-07; Rizzieri Salon**

#### **Block 3000 Lot 3; 400 Route 38**

Application for Site Plan Waiver / Minor Site Plan to construct a temporary seasonal vestibule at the exterior door and the relocation of the ADA ramp in the Specially Restricted Commercial District.

George Matteo the attorney for the applicant stated they are looking for a site plan waiver for a seasonal weather vestibule located at the rear of the Moorestown mall. The purpose is to have it up during winter months from about November 1 to March 31. It would be taken down when weather is less harsh. They are looking to do this on an annual and temporary basis.

Mr. Ahmad Tamous is with Bohler Engineering and he is licensed in the state of NJ. He stated the applicant would comply with the comments from the 1/9/19 ERI report and the fire safety report dated 1/15/19. However, he would like to address some comments. The applicant Mr. Frank Rizzieri stated on this side of the mall the wind is wicked and blows through the salon. He said the staff and customers get upset. Mr. Thorndike inquired where it will go when not in use. The applicant stated it will go into storage. Mr. Matteo explained the vestibule is made of metal frames and canvas material, and is very lite, so it stores easy. These are big in lots of restaurants; mainly in cities and are used to break the wind. Mr. Logue inquired about how it is secured to the ground. Mr. Matteo stated it is

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bolted to the ground and to the exterior of the building. Mr. Logue asked if the planters will have to be removed. The applicant does not think they will, but will move the planters if he has to. They had the vestibule before but had to take it down, because they did not have a permit. There are two doors. The meter room and transformer room, their door is the back entrance door where deliveries come in. The Attorney stated they will reverse the swing of the door, as per the engineer's comments. It will open towards the ramp.

## **Exhibit A1**

Mr. Ahmad Tamous stated the sketch is in the submission materials and it shows how they will relocate the handicap ramp. The area is compliant with the regulations and they are in agreement with the comments in Mr. Noll's letter. The need to move the ramp is to align with the existing parking spaces.

## **Exhibit A2**

Shows existing striping of the handicap walkway coming out of the mall. Shows how it will line up with existing parking.

On **Exhibit A1** the orientation of the door is reversed which was a requirement of Mr. Noll so it aligns with the ADA spaces and swings towards the ramp, so it is not in the way. In Mr. Orsini fire report, there was a question regarding the double doors coming out of the salon to a single door coming out of the temporary vestibule. The question was; is that single door sufficient. In 2014 a safety plan was put into place, stating the salon is able to handle a maximum load of 130 people. Per the applicant's attorney the single door is able to and there are 3 other exits in the salon.

Mr. Tamous indicated they will comply with the ERI report. They will comply with conditions set forth in there. They will provide it to the engineer as a condition to any action the board may take.

The attorney stated again they are asking for a site plan waiver that complies with the ordinance and land use law. The only other thing is the purpose of this is a seasonal structure since we are in the middle of winter now, they would like to go to the building department to pull an at risk building permit. The idea is to install this as soon as possible. He knows the board does not handle permits. Per Mr. Thorndike the applicant is free to go ahead, but goes at their own risk. They may have to take it down if someone files a lawsuit. The attorney stated they understand that.

Mr. Noll had no comments, they applicant has agreed with the letter's comments.

## **No Public Comments**

Mr. Musgnung made a motion, subject to the fire official's letter and Mr. Noll's letter, Mr. Chesner seconded to approve plans submitted today subject to Mr. Orcini's Fire report and Mr. Noll's report. The roll call vote of the Board was unanimous in favor with Chris Locatell being absent.

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## Old Business

### **Docket #PB-2018-05 Amendment to the Land Use Plan Element and Revised Housing Element and Fair Share Plan of the Master Plan**

Brian M. Slaugh, PP, AICP of Clarke Caton Hintz

Mr. Slaugh stated during the last Planning Board meeting on 12/13/18, he heard all the public comments and the board closed public comment at that time. The intent of today's meeting is for the Planning Board to ask questions about the document. Mr. Thorndike stated Mr. Zipkin recused himself due to conflict of interest. He is employed with HMFA, and one of the sites in the Plan has tax credits involved. Mr. Slaugh went over a general overview of the housing plan. The Board may recall a court order issued in the end of August for the municipality to submit for consideration an adopted housing plan, which would require some ordinances. The Housing element is solely for the Planning Board. The Planning Board would recommend to the governing body and they would address any ordinances and/or resolutions related to those actions to the court. . The Court Master overseeing this project is known to have a high standard of documentation that has led to the size of the document here. We're in the 3<sup>rd</sup> round since 1999, we are somewhat behind the times, there is a long history, and the document has a brief discussion on how we got to this point.

#### **Board questions:**

Mr. Maute stated this document is dated 12/13/18 and it has a new Land Use Plan Element. Mr. Slaugh stated there is a brief explanation in the Land Use Plan element that supports the creation of the affordable housing sites, which are shown on the exhibit. The Land use plan element indicates locations for affordable housing sites. It is part of the recommendation that came out of the reexamination report that the Board adopted in December. It also is backed up with additional discussion that would be a part of the land use element and explains the affordable housing sites. These two pieces were sent to the Board.

Per Mr. Maute in the amendment of the Master Plan document dated 12/6/19, there is a change to show 16 units per acre as opposed to 14 units. Mr. Slaugh confirmed this. Mr. Maute stated in the last meeting he was concerned about a park on Pleasant Valley Ave; as part of the plan and that it was not included as part of the open space. Per Mr. Slaugh, this plan is just to address land use element related to affordable housing. Mr. Slaugh said that Willow Brook Country Club can be changed to a residential district, it is now being developed. Mr. Slaugh said the Land Use map corrects it for Willow Brook but not for Pleasant Valley. Mr. Slaugh stated this can be changed if the Board wants. Mr. Slaugh stated he also received comments from Mrs. Murphy that were typographic.

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Mr. Logue is concerned about the Sbar site in the upper left corner of the map and if it was an overlay or not. It was listed as a rezone. Mr. Slaugh stated that making it only an overlay district, means that we cannot count those credits. In order for it to count it will need to be rezoned. If you want in the plan to count as credits, it has to be rezoned. Mr. Logue inquired what was presented to the courts. Per Mr. Slaugh read paragraph 8 which was presented to the courts. It states if the township intends to provide a realistic opportunity of development of affordable housing through the adoption of inclusionary zoning including SBAR, MRD and Nagle. Mr. Slaugh stated the affordable housing is not a zone it is a Land Use Classification, a development policy of the township and not the zoning map.

The shopping center on Lenola is an unmet need site, like the mall. It is to try to capture some type of redevelopment. It may be an overlay district or a redevelopment plan. Or as he suggested a condition use for the Lenola Town Center district. It is an allowed permitted use or set of uses that is optional for a developer to use, usually they need to meet certain criteria. They are essentially the same thing. There was not anything he was aware of that the board was going to change the development parameters for the Lenola town center. It would serve as the design standards of the development of the shopping center. He stated typically you would want to have a zoning overlay district. Since you are choosing a certain development pattern. It was a lot simpler to be a conditional use to allow housing up to a certain number. Mr. Logue inquired if the plan should reflect what council adopted with Fair Share Housing. Per Mr. Slaugh it does, it is a semantic difference. Mr. Logue disagrees he feels the approaches are significantly different.

Mr. Louge inquired about the Mayberry site. Per Mr. Slaugh, it is dually designated for affordable housing and as open space. It is not needed for affordable housing. Mr. Slaugh said it was not rezoned. The land use plan sets policies. At the present time Mayberry tract is not being used or being proposed for affordable housing so it is open space. In 2001 the Nagel tract was dually designated as well. Per Mr. Slaugh you can have an affordable housing district with open space in it.

There was a discussion regarding the zoning of the Penrose site and affordable housing. Mr. Miller wanted clarification on the Rt 38 parcels. Mr. Slaugh there are two affordable housing parcels. The professional office there is a house, it is the stretch that is wooded, heading towards the interstate. It is also wet, so it would not be developed.

Mr. Slaugh stated the Penrose site was rezoned and readopted by council in December. The zoning is in place. Because of structural restrictions within the ordinance it will get moved within the ordinance itself so we can put all affordable housing in one section. The Land Use plan here to change that to affordable housing to make it consistent with the zoning. Mr. Louge stated it was in our 2008, our 1999 plan for affordable housing and now it is dropped out. Per Mr. Slaugh it was dropped out for purposes he is not aware of, it is what is was purchased for. Mr. Thorndike stated we are talking here about an amendment

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to the masterplan. Once council gets it they can compose an ordinance and refer it back to the Planning Board via resolution to see if it is consistent with the Master Plan. If it was decided it was not consistent; then the town council would have to adopt it by super majority and explain by resolution at that time why they were doing so. Per Mr. Donnelly the Planning Board has put the perimeter that that should be affordable housing. Per Mr. Thorndike the Council can implement the Master Plan as it exists as amended by adoption of the ordinance or not it is up to Council. However there are whole set of circumstances in regards to settlements agreed to and that is something Council would have to deal with. It is not what they are dealing with tonight they are talking about an amendment of the Master Plan in terms of what is put before them. It is his understanding that zoning is already done. Per Mr. Donnelly if the planning board accepts the Penrose site as affordable housing and council disagrees, are they then stuck with it. Mr. Thorndike stated Council can decide not to adopt a resolution implementing that aspect of the Master Plan. Mr. Slauch stated say there is a density in an ordinance that allows a number of units on the site, say council wanted a lower number they can amend that ordinance to lower the density. If you do not want affordable housing at all then you can change the zoning. Mr. Musgnung inquired if we do not adopt the sites that are a part of the FSH settlement, would it then void the settlement. The sites have been set and designated as affordable housing and if we do not adopt them then we put the settlement in jeopardy. Per Mr. Slauch yes. The Penrose site is dually designated as affordable housing and open space. Mr. Joyce inquired if the new council is going to change the ordinance. They have to deal with the facts as they are today. Per Mr. Joyce said the zoning was changed in respect to the Penrose site. Mr. Donnelly stated that is what the old Council passed. Mr. Maute stated we have to consider what we have today for what it is and go with the facts we have. Mr. Logue stated we are required to do this for Fair Share Housing. He asked if there a timetable. Per Mr. Thorndike there is a timetable and there is a new council representing us. There is some discussion of extending the timetable but does not know the specifics. Mr. Slauch the housing element was to be adopted by 12/26/2018. Surenian and Associates (COAH attorney) is in the process of requesting an extension. Mr. Neff stated we missed the deadline under the settlement agreement and several other deadlines, one of which were introducing several zoning changes as of 12/26/18. The Governing body has no objections in moving forward with Fair Share Housing and seeking extensions of up to 90 days. It hasn't been formally submitted to the courts yet, it is in discussions. He does not think FSH would object to postpone the vote until next meeting on 2/7/19. Mr. Donnelly agreed FSH will not object if it is postponed. It will allow more time for the new members to understand this report and make comments. Mr. Chesner asked for Mr. Thorndike's opinion. Per Mr. Thorndike stated he does not have a vote on this however procedurally if there is an understanding with FSH that a vote on the 7<sup>th</sup> will not raise any issues, then it does not seem it will affect anything. If the board feels there is enough to proceed and there is, then it is up to the board. Mr. Douglas Joyce stated he does not want to pass this and then next month be in a weaker position. He would like to be in sync with town council.

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Mr. Doug Joyce made a motion, seconded by Mr. Logue to adjourn the meeting until February 7<sup>th</sup>, 2019 the voice vote of the Board was unanimous in favor, with Chris Locatell being absent.

**ADJOURNMENT**

Mr. Douglas Maute stated the next meeting would be 2/7/2019. A motion to adjourn was made by Mr. Musgnung and seconded by Peter Miller. The meeting was adjourned at 9:20pm.

Next Meeting: 2/7/19 at 7:30 pm

**Approved 04/18/2019**