

# Mount Laurel Planning Board

## Regular Meeting Minutes

### October 12, 2023

Chairman Bathke called the Regular Meeting of October 12, 2023 to order at 7:00 pm.

Open Public Meeting Notice was read by Chairman Bathke noting that all the postings, filings & emailing have taken place on January 19, 2023.

Chairman Bathke led pledge of Allegiance/Moment of Silence.

Roll Call taken by Board Administrator Ms. Hochreiter – Members in attendance: Chairman Bathke, Vice-Chair Lewis, Mr. Giegerich (Designee for Mayor), Township Manager Riculfy, Mr. Coffey & Mr. Sorrentino - Alt #1, Absent: Councilman Moustakas, Mr. Pfeiffer, Mr. Lieberman, Mr. Dewey & Ms. Kharoudh - Alt #2.

#### **Professionals in Attendance**

Mr. Ashton Jones – PB Planner; Mr. William Long – PB Engineer, Mr. Michael Angelastro – PB Traffic Engineer, Mr. Brian McVey – Fire Marshal, Mr. Ron Cucchiaro – PB Solicitor; & Trish Hochreiter – PB Administrator.

#### **Adoption of Minutes:**

Chairman Bathke called for a motion to approve the meeting minutes from the regular meeting of September 14, 2023. Township Manager made the motion and Vice-Chair Lewis seconded it. All present were in favor except Township Manager Riculfy who abstained and the motion was carried.

#### **Discussion Items:**

Township Ordinance 2023-14, this is “An Ordinance Amending the Route 38, Ark Road and Fostertown Road Redevelopment Area Plan Standards to modify and expand permitted uses and evaluate the building standards. This was an amendment made to the plan by the Township Planner Chris Dochney and with these changes agrees that this is consistent with the Township Master Plan. The Township Solicitor noted this was a minor change with no change of use, and that the Planning Board will vote on this being substantially consistent with the Master Plan. Chairman Bathke asked for a motion to approve this ordinance and that it is substantially consistent with the Master Plan. Mr. Giegerich made the motion to approve, Township Manager Riculfy seconded all present were in favor, and the motion was carried.

#### **Memorialization of Resolutions:**

Chairman Bathke asked for a motion to approve Resolution R-2023-17 for Preliminary and Major Site plan approval with Ancillary Variance approval of a 214,665 sq. ft. refrigerated warehouse located at 907 Pleasant Valley Avenue. Township Manager Riculfy made the motion to approve and was seconded by Vice-Chair Lewis. All present were in favor and the motion carried.

Chairman Bathke asked for a motion to approve Resolution R-2023-18 for renewal of temporary use permit for construction trailer for Fair Share Housing Development located at Ark Road & Hov Tech Blvd. Township Manager Riculfy made the motion to approved and was seconded by Mr. Giegerich. All present were in favor and the motion carried.

Chairman Bathke asked for a motion to approve Resolution R-2023-19 for Minor Site plan approval of a new front canopy and two additional loading docks located at 13000 Midlantic Drive. Mr. Giegerich made the motion to approve and was seconded by Vice-Chair Lewis. All present were in favor and the motion carried.

Chairman Bathke asked for a motion to approve Resolution R-2023-20 for an amendment to the Code of Chapter 121 Registration of Rental Property, Chapter 124 Site Plan Review, Chapter 138 Subdivision of Land and Chapter 154 Zoning to modernize the code and streamline review procedures. Township Manager made the motion to approve and was seconded by Mr. Giegerich. All present were in favor except for Township Manager Riculfy who abstained.

Chairman Bathke asked for a motion to approve Resolution R-2023-21 for Ordinance 2023-11 adopting a Rancocas Woods Redevelopment Plan that is consistent with the Master Plan. Vice Chair Lewis made the motion to approve and was seconded by Mr. Giegerich. All present were in favor and the motion carried.

### **Swearing in of the Professionals:**

Planning Board Solicitor Mr. Cucchiaro swore in the Planning Board Professionals.

### **Public Hearing:**

Chairman Bathke introduced the first application as K & L Better Properties, LLC located at 4129 Church Road, Block 1301, Lot 4 as a minor site plan for the use of the building for a 2-unit lodge this is file PB 2211. Township Manager asked the Board Solicitor and the Planning Board Planner before the testimony of this application if this applicant is before the correct board.

Mr. Cucchiaro stated this will be the primary jurisdictional issue and was going to raise that as something that needs to be resolved prior to getting into the testimony of this application there has been several conversations with the applicants attorney and I think it's proper if the applicants attorney enters his appearance before we begin.

Mr. Alan Ettenson appeared and introduced his client the principal member Kathy Le. He indicated this matter has gone back and forth with Mr. Cucchiaro and have discussed previous resolutions and I will have my client testify as to exactly what she intends and what is her intent of the space. He continued with the ordinance permits a lodging place this is in section 154-25 A as a lodging place, which includes hotel, motel or motor inn. Mr. Ettenson thinks it is very clear that Mount Laurel especially Church Road, Fellowship Road area has hotel, motels and motor inns.

Ms. Le is calling this a lodge and I asked that my client is sworn in and provide testimony on her intent. She Le was asked several questions about the location of the building and the area around it. She stated that there are a few businesses in but not residences. The building has 2 units, 3 different entrances and one unit upstairs has 3 bedrooms one full bath and a small kitchen. The downstairs unit has 2 half baths, a family room with a fireplace. , and the second unit on the lower level has 3 bedrooms and will eventually have a full bath.

Mr. Ettenson asked Ms. Le what is her intent of this, she bought this to use as a nail salon initially, but there is too much competition so they ultimately it will be used as a 2 unit lodge. Ms. Le explained that someone would log into their website and register for one night, 2 night or up to week; they will have a code to enter the building and only looking for short-term rental where you make more money than with a long-term rental. Mr. Ettenson asked Ms. Le if her intent was the same as what the red roof inn does around the corner and Ms. Le testified yes. A hotel, motel, motor inn is no different as stated by Mr. Ettenson.

Ms. Le indicated there would be no employees on the premises and they will only have 2 employees working off site and not on the property. They would allow access to the building for cleaning crew.

Township Manager Riculfy asked them to clarify the bathrooms in this unit; there is currently one full bath upstairs? Downstairs there is only half a bath? Once the permits are issued, there will be another full bath downstairs so each unit will have a full bath. Township Manager Riculfy indicates again this is at the wrong board.

Mr. Le explained the procedures for booking a room, they would pay online, and the day of their arrival, a code to enter would be given to them, if the room is not available for another day they would need to see if the other unit is available to extend their stay. She also explained that the front has two entrances, one for the first unit, and the second is for the second unit so the customers will not cross paths from one unit to the other unit.

The Planning Board Planner Ashton Jones, indicated that looking at this and what the definitions of a hotel, motel or motor inn. This to him operates as an apartment and not a hotel. In closing, Mr. Jones stated in just terms of looking at the layout and the way it will operate with 3 separate bedrooms and thinks like that. I have not really encountered a hotel, even a suite, like an extended stay like a Marriott you usually is just a room with a kitchen facility and that is what it is. This is bedroom-separated bedrooms more like an apartment. There has not been a change in the layout of the design that makes it a hotel. There is no entrance area an entrance facility, you open the door and you are inside an apartment.

Mr. Ettenson went on to explain the ordinances and definitions and that Ms. Le intends to run this as a traditional hotel would be run with transient guests the only difference it is a single building and 2 floors in it.

Mr. Cucchiaro stated that the Board has heard the argument that the applicant has and as to why this board has jurisdiction and heard expert testimony from the Board's Planner. There has been rebuttal back and forth and in depth review of the ordinances. I think it would be appropriate at this time to take a vote as to whether the Board believes that this is a permitted use or not. If the Board does not believe it is a permitted use, then my recommendation would be a vote to deny the application without prejudice. This would afford the applicant an opportunity to apply to the zoning board for approval, or even an interpretation, which this Board would have to yield. If you believe the Board does have jurisdiction, then it would be a motion that the board does have jurisdiction, and then, after the vote we will proceed with the remainder of the application.

The Chairman Mr. Bathke ask for clarification from Mr. Jones the Board's planner if he recommends this based on the application to the Planning Board. Mr. Jones said no I do not think that this board has jurisdiction and he felt this would be more appropriate at the Zoning Board as a use variance.

Township Manager Riculfy agreed with the board professionals and made a motion to deny the application without prejudice and Mr. Giegerich seconded. All present were in favor of the denial without prejudice except for Mr. Coffey & Mr. Sorrentino who votes no on the motion to deny. The vote was 4 yes and 2 no and the motion carried that this application would go to the Zoning Board for a use variance or interpretation.

Mr. Cucchiaro stated that just so the board understands and it is clear, you are not denying the application on its merits. You are saying that the proper board to hear this application on its merits is the zoning board. The applicant's attorney asked that he knows the vote but wants to be clear that the board is saying that this is not a lodging facility, a lodging place. Mr. Cucchiaro stated the vote is saying that the proposed use does not fit within the definition of the permitted uses so you can go to the Zoning Board for an interpretation and if they do that, then that interpretation would bind this planning board. Therefore, it is without prejudice to you getting another try at the Zoning Board.

No public portion was asked for this application, as a vote to deny this application for being at the wrong board and have moved on to the next application.

Mr. Bathke introduced the next application as Nuvo Development located at 35 Beaver Avenue, Block 1305.02, Lots 4, 5, 14 & 15 Preliminary and Final Major Site Plan Approval in the Fellowship Redevelopment Zone for a multi-story self-storage facility that will contain approximately 100,000 sq. ft. gross floor area within 3 stories and is file # PB 2310.

Mr. Cucchiaro stated before an application is heard it is customary on applications like this that I try to establish the boards, jurisdiction in certain regards, in terms of what it can evaluate and cannot evaluate and specifically about traffic. The municipal land use law and the New Jersey courts are very clear that when a use is permitted and is merely generating additional traffic by virtue of the use. The courts are very clear, that this is an unlawful reason to deny an application. What they can look at is the safety of ingress and egress. Therefore, this is the focus that the board should have in reviewing the application and is the focus of our traffic analysis. There are overall traffic counts that are done and there may be some discussion of off track improvements that may be a contribution to but merely generating additional traffic by virtue of this use. The courts are very clear that it is unlawful to deny an application. Therefore, I say that not only for the Board, but I say that for the public, who would have no reason to know that is what the law says, or that is what the courts say. Mr. Cucchiaro stated that he will help guide the public in terms of the questions and testimony they may offer and help the Board in focusing on what elements of traffic can be evaluated and he will answer any questions as this application moves along.

The Chairman asked the applicants attorneys to unmute themselves and proceed with introducing those that will be providing testimony and a brief explanation of the project.

The attorney for the applicant introduced herself as Sara Werner from the firm Prime & Tuvel LLC. Ms. Werner explain the location as was stated at the beginning; she explained that in 2010 the Township made a determination that the property among a number of other nearby parcels was an area in need of redevelopment pursuant to local redevelopment and housing laws and ultimately designated the property as part of the Fellowship Road redevelopment area.

A redevelopment plan for the property was then adopted, and this plan has been amended over the years pursuant to the redevelopment plan. The property is specifically located within the redevelopment area, today more than a decade after the redevelopment plans initial adoption, the property remains vacant, and it is still in need of redevelopment. The developer who was previously appointed by the Township is before the board tonight seeking preliminary & final major site plan approval with variance and design waiver to redevelop this property with a 3 story approximately 97,614 sq. ft. self-storage facility with related site improvement, including but not limited to parking spaces, lighting, landscaping, signage and storm water management facilities.

Ms. Werner further stated in her opening statement that this is a permitted use in this zone and this application does not require any bulk variance, design waiver relief nor does it require relief as it relates to the building size, height or setbacks all of which are fully compliant with the standards established by the redevelopment plan.

Ms. Werner introduced 5 witnesses for this evening and indicated each one would be brief in their testimony this evening. The first witness was John Canin and Rich Cardamone who are the applicants and representatives for Nuvo Development they were sworn in by the board solicitor and answered questions asked by Ms. Werner that were related to their experience as developers of self-storage facilities as well as the specific operations of the site.

The next witness was Brian Perry of VanNote Harvey the civil engineer for the applicant, Nathan Mosley of Shropshire Associates, LLC the applicant's traffic engineer and last is Beth McManus of Kyle, McManus Associates the Applicants professional planner. Ms. Werner before receiving testimony from these witnesses noted the applicant received various review letters received from the Boards

professionals and the applicant agrees to comply with the comments contained in their review letters and a point by point response to the comments are submitted to the Board Secretary and was dated October 10, 2023. Also, indicated that some of the comments would be addressed through plan revisions or testimony before the board this evening. Ms. Werner felt it was very important to point out that the plan that is being presented this evening is by no means the first plan submitted. There have been several meeting with the Board's professionals & Township's professionals and in fact, several versions have been submitted previously with changes that was asked and discussed in these meetings.

The witnesses were sworn in one at a time by the board's solicitor and after stating their credentials by Chairman Bathke, they proceeded with their testimony.

Mr. Canin prides himself in making his facilities fit the neighborhood and they are very receptive to input that is given by the municipality and from the residents to really make it work within the community.

Mr. Cardamone provided his credentials as the Vice President of Operations for Nuvo Development Partners he explained the operation of the storage facility and the number of these spaces throughout the United States. He indicated that this is a very low impact facility with 7 to 8 trips a day with an average of one new move in a day with roughly 30 to 31 move in is a month. Staffing will consist of 2 full time managers on staff. Office hours of the site will be Monday – Friday 9:30 am to 6:00 pm, Saturday, 9:00 am to 5:30 pm and closed on Sundays. The access hours for the facility are Monday – Friday 6:00 am to 10:00 pm, Saturday 6:00 am to 10:00 pm and the same hours for Sunday.

The facility will be secured with cameras covering all 4 sides of the exterior building, along with cameras in the retail office, elevator lobby areas loading and unloading sliders and lobby area there will be 17-25 depending on the property and its location. The cameras are motion sensitive, they record immediately when activated, and the data is stored in the cloud by extra space for several years. They will also have glass brakes installed on exterior, all exterior glass motion sensors in the retail office and all exterior main doors with alarms installed in the office, entry, store and all exterior doors. The elevator will have limited access by floor for all tenants via a keypad installed in both cars. The main loading and unloading area is accessible only by keypad and for active tenants only.

The tenant lease will state that customer agrees that the space and the facility shall be used solely for the storage of personal property and no customer can loiter at the facility as well as no hazardous materials being stored at the location. This completely the testimony provided by Mr. Cardamone.

The board's solicitor swore in Mr. Brian Perry the applicants Engineer and his credentials were accepted as a professional witness. Mr. Perry was asked about the exhibits he submitted to the board and asked if he could proceed with guiding everyone through these exhibits. The screen was shared with the first exhibit dated 7/7/23 the vicinity plan with an overview of the site location and existing conditions, discussed the site plan and proposed elevations and briefly discussed signage. He proceeded to explain that a phone one environmental site assessment performed at the site, revealed nothing substantial discovered and recommended follow up action disposal of debris or remediation of on-site soils and this will be addressed prior to construction. There are no wetlands. Mr. Perry discussed the impervious coverage that is permitted is 65% and they have 68.13% so a variance is being requested, this is due largely to the emergency access drive out to Oregon which is a necessary component of the site for safe movement of a fire truck passing through the site. It was discussed that the buffer requirements will be 3 feet wide located along the south, westerly and northwesterly side of the building adjacent to the residential uses this will be 30 feet of double-staggered row of evergreens as well as American elms along the northwest side.

He proceeded to stated that anybody exiting the site will not be driving down the road towards the residents the restriction is to a right turn only they will not be permitted to head in that direction. If the applicant receives the approval from this board, they will then submit an application to the MUA for their approval of the Utilities. A brief discussion on signage was explained with façade and freestanding directional signage.

Based on the comments from the professionals Mr. Perry acknowledges and agrees to comply with the remaining open comments contained in the review letters as a condition of site plan approval.

Chairman Bathke asked if any board member had a question for Mr. Perry before proceeding with the next witness. Mr. Coffey asked about the Phase 1 that was mentioned and that there is contaminated soil on the site. Mr. Perry noted again that there is no contaminated soil, there is debris on the site noted as paint cans, bottles, tires, wood remnants over areas of the site and those materials will be removed and properly disposed of off-site and the documentation will be provided to the Township.

A note will be added to the plans or the site demolition plan of these issues relating to the phase 1 and will be addressed prior to or at the time of construction. Mr. Coffey continued with a question on the concrete barrier he was informed that the concrete island was part of the Walmart application and not part of this application, there will be a slight change only to allow the left turn out of this site.

Mr. Perry discussed the curb cut and explained this is potential future use that is for another application before this board for this evening. This is a shared access drive for the 2 uses and even potential future uses if warranted.

Mr. Coffey asked about the American Elms that were being proposed that they are susceptible to disease and they do not last long. The applicant has agreed to work with the Planners office on an appropriate species for this area.

Chairman Bathke asked if the storage sizes vary and the answer was yes and described that 72% of the units are 100 sq. ft. or smaller. His next question was about the spaces being utilized by commercial businesses for their goods and then making deliveries there and back as external storage or is it too small for that kind of use? These spaces would most likely be impractical because they are too small.

Ms. Werner called the next witness Mr. Nathan Mosely, who was sworn in and his credentials were accepted. He explained that the site located along Beaver Avenue just south of Route 73 and Beaver Avenue is a Township road, which has an existing concrete median within its cart way that does extend back to where the driveway for this site is proposed. The median would be modified to allow inbound and outbound movements from the driveway. The access point is going to be designed to permit inbound right turn movements which would be vehicles coming from route 73 and inbound left turn movements which would be vehicles coming from along Beaver Avenue from Church Road. Then outbound left turn movement only meaning all outbound traffic from this access will be going back towards route 73 directly. Also provided to the Board was the data found during the peak hours of the day and actually included the car wash that will be an application next to hear him.

In closing, it was acknowledged and agreed that they will comply with the comments that were contained in the planning board's traffic engineer's review letter. The board had no questions related to the testimony provided by Mr. Mosley.

The last of the witnesses for this application was Beth Mcmanus the applicant's professional planner. The solicitor swore her in and her credentials were accepted. Ms. Mcmanus went through the variances relief, landscaping the property and they will comply with storm water management regulations and does not see any additional environmental concern from this, she ended her testimony on the sign variances being requested. This was the last of their witnesses.

Chairman Bathke asked for Mr. Jones the Board Planner to review his letter dated August 1, 2023 and indicated a response was received on October 10, 2023 and they have agreed to comply with his comments. Mr. Long the Board's Engineer reviewed his letter dated September 26, 2023 and also received a response to his letter on October 10, 2023 and they have agreed to comply and provided testimony to that. Mr. Angelastro the Board's Traffic Engineer review his report and received a response on October 10, 2023 and the applicant has agreed to comply with this response and their testimony tonight. Mr. McVey the Board's Fire Marshal reviewed his letter dated September 20<sup>th</sup> and also received a response to his comments on October 10, 2023 and with this response they have agreed to all his comments along with their testimony this evening.

The Board Administrator, Ms. Hochreiter, asked to poll the board members to continue with the application, they have reached the 1 ½ hour. The board agreed to continue with the application at 9:20 pm.

The Public Portion of the meeting was opened at 9:25 pm, the board solicitor reminded the public about the jurisdiction of this board with regard to traffic and now the public can ask questions to any of the professionals that have offered testimony and you can give your own personal opinion of the application. When you begin, you will be sworn in and you need to provide your name and spelling of your name for the record and your address.

You can raise your hand and you will be called on, we ask that only one person speaks at one time. Spencer Taylor was called first his address is 24 Oregon Avenue, him and his wife Anne Rosenberg were both sworn in, Ms. Rosenberg asked her questions and received a response by the professionals on both the planning board and applicants as well as the applicants attorney.

Proceeding with the public portion up next is Patricia Spies who lives at 7 Oregon Avenue, her questions and statements were made and addressed. Up next was Chuck Simon who lives at 5 Oregon Avenue asked his questions and they were addressed his concerns are with no enforcement out there, and when he calls he is the problem. Next, to speak was Courtney Mahon & Christopher Murray or 16 Oregon Avenue, another resident with traffic concerns. Her comments were heard and addressed.

The public portion went on with a few more residents asking the same questions about traffic, and the concrete median, they were David Jimenez and he lives at 34 Oregon Avenue.

The Board Administrator, Ms. Hochreiter again polled the board members to continue with the public portion of this application at 10:05 to be continued and the board voted yes to proceed. The next to ask questions was Leonard Peza, of 39 Oregon Avenue asked his questions and received a response to his questions. Pat Murray of 23 Oregon Avenue was sworn in as the other residents were and asked her questions and received responses from the professionals. Katherine Just was the last resident to speak and she lives at 31 Beaver Avenue. She is the property right next door to this site, asked her questions, and received responses from all in regards to traffic, lighting, landscaping, etc.

Public portion was closed at 10:55 PM, at that time the conditions were read by Mr. Cucchiaro and were agreed upon by the applicant's attorney.

Chairman Bathke asked for a motion and that motion was made by Mr. Giegerich to approve this application with the conditions as read and seconded by Township Manager Riculfy. All present were in favor of the application, except for Mr. Coffey & Vice Chair Lewis who voted nay and the motion carried.

Planning Board Solicitor made the announcement that due to the length of the last application and not being able to begin a new application after 10:00 pm the car wash application PB 2313 will be moved to the next planning board meeting of November 9, 2023. With this being carried to that meeting, they are not required to re notice so if you are here this evening for the car wash application you will not receive another notice this is your notice tonight that it will be carried to the November 9, 2023 planning board regular meeting.

A motion to adjourn the meeting was asked by Chairman Bathke, and Mr. Giegerich made the motion to adjourn and Township Manager Riculfy seconded it and the motion carried. The meeting ended at 11:05 pm.

Respectfully Submitted,

*Trish Hochreiter*

Planning Board Administrator

Adopted On: November 9, 2023