

**MINUTES OF A REGULAR MEETING OF THE PLANNING BOARD
OF THE BOROUGH OF MOUNTAIN LAKES**

March 28, 2019

Chair Martin Kane read the Open Public Meeting Advertisement Notice adopted at the annual meeting on January 24, 2019: Adequate notice of this meeting was given to the Citizen and the Daily Record, posted with the Borough Clerk and on the Bulletin Board and made available to all those requesting individual notice and paying the required fee.

Start: 7:02PM

ROLL CALL:

Members Present: Kane, Barnett, Russo, Nachshen, Coppola, Berei, Holliday, Stern, Menard and Mirsky

Absent: Horan

Also Present: Attorney, Peter Henry; Engineer, Bill Ryden; Planner, Greer Patras; Environmental Engineer, Jack Szczepanski

MASTER PLAN: *Element IV “Housing Element and Fair Share Plan”*

Borough Planner Paul Phillips presented the draft amendment to the Borough’s Master Plan *Housing Element and Fair Share Plan*. The draft includes the results of the settlement between the Borough of Mountain Lakes and the Fair Share Housing Center (FSHC). Mr. Phillips gave the Board a quick history of the Council on Affordable Housing (COAH) as well as the Borough’s own standing after our first and second round obligations. In March of 2016 the Borough adopted an updated Master Plan: *Housing Element and Fair Share Plan* to address our third round obligation. In July of 2016 the Borough filed a Declaratory Judgement. In January of 2019, at the end of negotiations, we entered into a settlement agreement with FSHC. On February 22, 2019 a fairness hearing was held. The hearing set forth a June 30th deadline for the Borough to adopt an updated *Housing Element and Fair Share Plan* as well as the required Ordinances to support the Master Plan element.

The draft Mr. Phillips prepared reflects the changes needed per the settlement agreement. He said there are not a lot of changes to the prior element until you get to section V; *Housing Stock and Demographic Analysis*, which now includes 2017 data and section VI, *Mountain Lakes Affordable Housing Plan*, which lays out the Borough’s obligation. Our rehabilitation obligation is a single unit through the county’s redevelopment program. In the 2015 Supreme Court decision our prior round obligation was set at 80 units. A vacant land adjustment of 18 units was done resulting in a 62 unit unmet need. The 6 affordable units at Legacy, the 12-unit Regional Contribution Agreement with Orange, NJ and a Borough wide overlay zone, established in 1997, satisfied our prior round obligation. The Borough received a substantive certification for rounds 1 & 2. The third round established a need of 271 units by using the method developed by Judge Jacobson. Again Mountain Lakes was able to take a vacant land adjustment which resulted in a Realistic Development Potential (RDP) of 17 units. Our third round unmet need dropped to 254 units. When you add that to the second round 62 units we now have a total unmet need of 316 units.

For the third round the Borough was able to apply 2 additional units from the Fusee site, 6 units from the King of Kings development project and 4 Medicaid beds from the Sunrise project to our unmet need. We will implement an accessory apartment program for 5 additional units. This results in 17 affordable housing units. A committee has been formed to create the program to encourage residents to participate in the affordable apartment program.

To provide for the balance of the unmet need 6 sites on Route 46W have been identified for multi-family affordable units. All the properties on Route 46E are too small and narrow to accommodate this type of development. The housing can be either rental or sales units. These properties remain commercial lots but this zone change does allow someone to come in at a later time and help us fill our affordable housing need. Any new housing development of 5 residential units or more would require a 15% set aside for rentals or a 20% set aside for sales projects. The developer is not obligated to build affordable housing if they are using the site for a commercial purpose; it is just an option.

The Board had no questions or comments for Mr. Phillips. He said the next step for the Planning Board was to adopt their housing element. The Council has to adopt the supporting Ordinances, the overlay zone, the apartment program and a spending plan. The Board will need to review the Ordinances for consistency. The Planning Board will have a public hearing in April to adopt the element. The Council will discuss the Ordinances on April 22nd and introduce them on May 13th. On May 23rd the Planning Board will review the Ordinances for consistency. All the Ordinances will go back to Council for adoption at the May 2nd meeting. If we meet all the requirements by the June deadline the Borough will be protected until 2025.

PUBLIC COMMENT: Lynda Hyson, of 2 Littlewood Ct., said the Borough was not getting enough credit for the affordable beds proposed at Sunrise.

REVIEW OF MINUTES: Bethany Russo made a motion to adopt the minutes of the January 31, 2019 meeting. Lauren Barnett provided the second; the minutes were approved by voice vote of all eligible members.

Mitchell Stern made a motion to adopt the minutes of the February 28, 2019 meeting. Arlene Mirsky provided the second; the minutes were approved by voice vote of all eligible members.

RESOLUTIONS: none

PUBLIC HEARING:

Carried Application:

SUNRISE DEVELOPMENT, INC.
1 Old Bloomfield Ave.
Major Site Plan

Bl. 118.04, Lots 2.01
Appl. #18-268
OL-2/R-AH3

Mark Policastro, attorney for the Sunrise development, said since the last meeting the applicant had been working with the Borough's professionals. Jeremy Lang added they made a lot of the needed corrections and updates to the plans. Besides the new plans the Board had been provided an updated response letter to all the original committees, commissions and professionals reports.

The Board had no additional comments or questions for the engineer. Bill Ryden was satisfied with all the responses to his letter. Jack Szczepanski said he was mostly satisfied with the environmental assessment. There is nothing extraordinary about the site but the EIS was still a bit abbreviated. He did not like the level of detail in the report; ultimately accepting the report was up to the Board. Greer Patras responded the majority of the planning items had been addressed. She had two minor notes pertaining to fencing and retaining walls. The plan had 3 types of fencing on it; a guide rail, an 8ft privacy fence and a 4ft fence on the wall. The plans lacked the details. In particular she was concerned with the footings for the 4ft fence since they could compromise the wall. Mr. Lang answered we do not install the footings in the wall but rather set them back 1ft. into the grid as per the manufacturer's directions. The geo-grid will not be the whole length of the wall. This fence is a safety fence, 42" to 48" tall, to meet OSHA requirements. It is a split rail fence with black mesh since they prefer something that is see through. Kelly Holliday liked the split rail. Bill Ryden said it was used at the Enclave and it looked good. Greer Patras requested a detail of the fencing be added to the plans including the depth of footing and its location on the geo-grid. She continued what was the color of the 8ft fence. The fencing will be brown as shown in exhibit A-2. Jeff Berei said the color of the fence should coordinate with the building finishes.

Mr. Kane opened the meeting to the public. Jim Hyson, of 2 Littlewood Court, asked questions about the landscape plan and was told it would be reviewed later. Mimi Kaplan, of 89 Lake Drive, asked about using a well for the sprinkler system. Jeremy Lang answered when you use a municipal water system you are using clean filtered water. It is customary to drill a shallower well and use ground water rather than take clean water. Bill Ryden said he would do research to see if the Borough had any restrictions on drilling a well. Sandy Batty, of 15 Lockley Court, asked if there was water available and the depth the well would be. Jeremy Lang said there was a high water table so the well depth would be about 50 to 100ft and they would hire a local well driller. She asked how many gallons they would be using. The usage was not known. She was concerned about the Troy Brook and water usage in the summer. Mr. Lang said they would not be at the brook feeding level. They are using low maintenance plantings and feel they have a really green design. Mr. Kane confirmed they were using a drip system for the shrubs and suggested they should be able to calculate the usage for the lawn. Mr. Lang said about 5% of the site was lawn. Bethany Russo did not have any problem with a well if allowed.

Peter Henry asked about the light levels on the site. All our professionals thought they were fine. He then asked about soil moving. They will be exporting soil from the site at the time of excavation. Next he asked about the trash schedule. Mr. Lang answered it would be 3 to 4 times a week and the Board could set the 8am to 8pm time frame as a condition. Mr. Henry asked if they wanted Title 39 enforcement on their roads. David Jung said they did.

David Jung presented exhibit A-4, dated 3/28/19, an exterior materials board. The Board saw samples of the synthetic stone, asphalt shingles, metal material for the roof and fiber cement siding. Exhibit A-5 consisted of 2 photos depicting what the gazebo and pergola would look like. The rectangular Gazebo would be located in the front and the 12' x 25' pergola in back. Jerry Jung showed their locations on sheet 4. Bethany Russo asked what the building materials would be for these structures. Jerry Jung said they will not match the building. Jeff Berei said the color should blend with the building. Tom Menard added the metal roof should match too. Mrs. Russo

asked about the height of the structures. Nick Coppola asked if they would be lit. No, both structures would only be for daytime use. Mr. Kane asked for professional & Board questions on the proposed materials. Jeff Berei asked if the Board could see the material finishes on the retaining walls. Jerry Jung said there would be heavy ivy screening on the walls. The applicant presented exhibit A-6, while not the actual supplier, the brochure was from Rosetta a retaining wall company they may use. Greer Patras asked if the applicant was willing to make it a condition that the retaining walls match the building. Jack Szczepanski was worried about what “ivy” they may select; we don’t want invasive species or plants that are aggressive.

No one from the public wished to ask questions of these witnesses.

Mr. Policastro brought the landscape architect, Jeff Allen, back up to testify. Mr. Allen said they revised the landscape plan. He presented exhibit A-7, dated 3/28/19, an updated rendering of the new site plan superimposed on an aerial photo. They doubled the landscaping along the northerly property line. The number of plants and species are set but their locations are approximate.

Filling in the existing landscape gaps will be a field decision. M. Kane thanked them for the enhanced buffer. Sunrise was fine with the arborist suggested by the STC. They agree to have the Arborist walk the site 4 times as listed on sheet 7 of the plans. G. Patras said the vines on the walls are shown on sheet 7. J. Allen said the vines on the plan are an error.

Chairman Kane opened the meeting to the public. Linda Hyson, of 2 Littlewood Ct, asked what type of trees will replace the trees they are removing and where will they be located. They will plant behind the fence on top of the wall. The distance from the top of the wall to rear of property will be 10 to 35ft. All the plants will be on the northerly side so they can have room to grow and they will keep the roots away from the wall. Jim Hyson, asked about the trees 10ft from the road. Mr. Allen said they will not take down those trees and they will not add any new trees closer than 10ft. Mr. Hyson said you need to maintain the rear buffer in perpetuity. J. Lang said they would post a maintenance bond. Peter Henry explained Mr. Hyson was not concerned with the bonding but rather the continued maintenance of the buffer area. Jeremy Lang said Sunrise would maintain everything that was on the approved site plan. Mr. Hyson asked Sunrise to add the distance to the buffer line on the site plan. Mr. Allen said they would add the dimensions. Sandy Batty said the small evergreens on the right-of-way road were distressed.

How many are they planning to remove? It will be determined when they walk with the arborist and they will replace what they take out. Ms. Batty asked where they have double walls will they add plants on the landings between the walls. Sunrise will do that. Jules Stanisci, of 4 Littlewood Ct, asked how the trucks would come into the development. J. Lang said they will come from Rt. 46 and follow the entrance road to the back of the building between 8am and 8pm. They will not use the access road to the office building.

Mr. Policastro introduced Christine Nazzaro Cofone, a licensed professional planner, to address the planning concerns of the development. Ms. Cofone said this was a substantially compliant application. The use, dimensions, building and coverage are complying. The blue corporate Mt. Lakes sign is staying; it is a lawful pre-existing structure under the C-1 criteria and will have no impact. They need a variance for the fence in the front setback. They shifted the building to the front of the property to increase the buffer for the neighbors to the north. Both the building and the parking still comply with the required setbacks. They want the fence to enclose the facility creating a barrier between the residents and Bloomfield Ave. The walkways and cross walks link

and enclose the amenities. The closest neighbor is the plumbing supply house across Bloomfield Ave. We feel this is a C-2 variance; it is a better zoning alternative, promoting the beneficial welfare, and is an inherently beneficial use. This supports intent "I", *to promote a desirable visual environment...* and there is no detriment. Peter Henry asked her about the free standing sign at the opposite side of the property. Ms. Cofone said the Sunrise entrance sign was appropriate. This supports intent "H", *to encourage the location and design of transportation routes which promote the free flow of traffic....* Tom Menard was concerned allowing fencing so close to the property line on the side and in the front would set a precedent. P. Henry did not feel it did.

The Chairman opened the hearing to the public. Jim Hyson asked why they needed the corporate center sign. Ms. Cofone said the property owner would like to keep the sign. It is the way finding sign to the office building that uses the access road. G. Patras confirmed the existing sign would keep people from driving the wrong way into Sunrise. John Parker, of 6 Littlewood Court, asked about traffic control on Bloomfield Ave. The Board was going to look into signage on the street. P. Henry said at the last hearing our traffic expert responded the road was under DOT jurisdiction. M. Kane added this is outside of the board's purview and Mr. Parker was welcome to go to the Council meeting to express his concerns.

Martin Kane asked if there were any questions from the Board. Bethany Russo asked about lighting. When she looks at the lighting plan she does not see where the up lighting is located. J. Lang answered the up lighting was for both sides of the directional sign. Mrs. Russo said the key lists light top 3 and 4 but she only saw one light on the detail sheet. J. Allen answered the lights were visually the same but the lights will be defused differently. Nick Coppola reviewed the water usage. Sunrise will explore the well options with Bill Ryden. Plan A is to drill a well, plan B is to use the Borough water supply and pay the prescribed rates. He asked if the amount of the water used for irrigation would be as much as they would use to run the facilities. J. Lang responded the water bills they analyzed from other Sunrise facilities never got close to the domestic usage. G. Patras asked if the roof plan exhibit submitted was the same as before and did it change any of the testimony already give. Will the residents to the north see what is on the roof? J. Jung said the placement of the mechanicals has not changed and they were not visible to the neighbors.

The chair asked for questions from the public. Mimi Kaplan thanked Sunrise for the usage calculations to date. She asked if they could provide the numbers for water usage for irrigation. She didn't want to put any additional conditions on the development. She want the information to help the Environmental Commission understand the total usage in the community. William Ryden said the DEP doesn't add irrigation into their limitations. If Sunrise had a separate meter the water department could provide the data to the EC. Mr. Parker asked if they would be blasting for the well. Mr. Ryden answered a well is drilled. Lynda Hyson asked if the lights would dim in the evening. J. Jung said they will dim at night and have motion sensors. Mr. Parker asked about the bears and other wildlife. Jim Hyson commented he did not think the buffering was adequate it was needed by the Pine Edge residents to keep the lights from Sunrise out of their homes. He thought the buffer area needed cleaning and did not have enough evergreens. There needed to be less deciduous trees.

Peter Henry read the list of proposed conditions to the Board. He pointed out the vote was for a

preliminary and final site plan approval. Besides the conditions he listed now there would be other conditions added based on matters discussed at tonight's hearing and those included in the response letters from Maser. The applicant was requesting 3 variances; one for an existing sign, one for a 2nd free standing sign and a fence in the front yard. The conditions included obtaining all the required permits and agency approvals. All taxes and escrow fees be paid before the signing of the plans. All the plans be revised per all the comment letters from our commissions and professionals. The sign lighting shall be approved by the Borough Engineer, an affordable housing 30 year deed restriction be established and a developers agreement be created. A post construction generator noise level test be done, will serve letters be provided from all the utilities and a connection be made to the Mt. Lakes water supply. The 12 Medicaid beds be confirmed annually, a fire lane be maintained, a trash and recycling schedule be set and they obtain an arborist on the site the 4 times outlined in our discussions. A maintenance bond be set up of the landscaping, tree protection done in accordance with the Borough Ordinances, a soil moving schedule with truck routes be established, parking access be ADA compliant, a fire flow calculation be done, and a maintenance bond be established for the buffer boarder. Lauren Barnett made a motion to approve the application with all the conditions outlined by Mr. Henry and Kelly Holliday provided the second. The Board voted 9 to 0 to approve the application with members Kane, Nachshen, Barnett, Menard, Coppola, Berei, Russo, Mirsky and Holliday voting in favor.

COMMITTEE REPORTS: none

Other Matters

Chairmen Kane reported on the projects being discussed at the Economic Development Committee. The indoor tennis courts and office building at the corner of Rt46 and the Boulevard has been sold. The new owner would like to update the office building and add a U-Storage facility on the site along with a Starbucks or Panera.

The Zeris banquet hall is currently under contract. It appears the new owner will be proposing a WAWA & a 120 unit hotel at that location.

The Economic Redevelopment Committee has been looking to make changes to zones A, B, OL-1 and OL-2. It is thought the permitted uses in the zones are outdated and the committee would like to hear our thoughts on the subject.

Martin Kane adjourned the meeting at 10:24PM.

Respectfully submitted,

Cynthia Shaw, Secretary