



TOWN OF CLINTON

INCORPORATED APRIL 5, 1865

43 Leigh St., P.O. Box 5194

Clinton, N.J. 08809-5194

(908) 735-8616 FAX (908) 735-8082

Land Use Board Minutes

Minutes of the Town of Clinton Land Use Board meeting held on December 5, 2017 at 7:00pm in the Municipal Building at 43 Leigh Street Clinton, New Jersey 08809

Chairman Sailer called the meeting to order at 7:00pm and read the "Statement of Adequate Notice" and the "Administrative Statement".

Adequate notice of this meeting has been provided indicating the time and place of the meeting with the proposed agenda, which notice was posted, made available to the newspapers and filed with the clerk of the Town of Clinton in accordance with Section 3(d) of the Public Laws of 1975".

"Meetings are held on the first Tuesday of each month. Applications must be filed at least 21 days prior to the meeting date. In order to ensure that all applications receive complete and thorough consideration of the board, all meetings will adjourn no later than 10:00pm with all items not concluded to be carried over to the next month's agenda".

ROLL CALL:

Present: Mr. Sailer, Mayor Kovach, Mr. Carberry, Mr. Feldmann Ms. Healy, Mr. Maher, Mr. Mellick, Mr. Smith, Mr. Viotto

Absent: Mr. Blanco, Mr. Schaumburg,

Approval of Minutes:

A Motion was made by Mr. Smith, seconded by Mr. Carberry, to approve the November 7, 2017 minutes:

All Ayes. Motion Carried
Abstain: Mellick

Exemption from Site Plan- Block 11 Lot 8- 25 Main Street Applicant- 717 Northampton LLC:

Mr. Mike Lewis advised the board he would like to relocate his fudge business across the street to 25 Main Street, the prior space was occupied with office space and therefore is requesting a waiver of site plan to permit the change of use.

A Motion was made by Mr. Carberry, seconded by Maher to grant the Waiver of site plan:

All Ayes. Motion carried.

Board discussion:

Mr. Craig Rogers advised the board he has an interest in bringing a small craft brewery into town and is open to questions from the board. He advised the board he has a space in mind, the space is relatively small and would be limited to 2 ½ barrels. The brewery process would start out as brewing a single barrel twice a week and could potentially go to two barrels twice a week. The business would be open Thursday-Sunday and would close by 10:00pm, no food would be served and no live music and or bands would be permitted, all licensing and regulations are governed through the Division of ABC. The space can handle up to 49 people but in the warmer weather they would have outdoor seating on the patio. Mr. Rodgers stated he would look to open in 6 to 12 months. The space Mr. Rogers is looking to

occupy was already setup as a restaurant this is a permitted use and no board approval or applications are necessary, the next step will be construction permits for interior renovations.

Executive Session:

A Motion was made by Mr. Maher, seconded by Mr. Viotto, to enter into executive session at 7:20pm to discuss appointments:

RESOLUTION # 17-05

RESOLUTION AUTHORIZING EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act; *N.J.S.A. 10:4-6 et seq.*, declares it to be the public policy of the State to insure the right of citizens to have adequate advance notice of and the right to attend meetings of public bodies at which business affecting the public is discussed or acted upon; and

WHEREAS, the Open Public Meetings Act also recognizes exceptions to the right of the public to attend portions of such meetings; and

WHEREAS, the Land Use Board find it necessary to conduct an executive session closed to the public as permitted by the *N.J.S.A. 40:4-12*; and

WHEREAS, the Land Use Board will reconvene in public session at the conclusion of the executive session;

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Town of Clinton, County of Hunterdon, State of New Jersey that they will conduct an executive session to discuss the following topic(s) as permitted by *N.J.S.A. 40:4-12*:

A matter which Federal Law, State Statute or Rule of Court requires be kept confidential or excluded from discussion in public (Provision relied upon: _____);

_____A matter where the release of information would impair a right to receive funds from the federal government;

_____A matter whose disclosure would constitute an unwarranted invasion of individual privacy;

_____A collective bargaining agreement, or the terms and conditions thereof (Specify contract:

_____A matter involving the purpose, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed;

_____Tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection;

_____Investigations of violations or possible violations of the law;

_____ Pending or anticipated litigation or contract negotiation in which the public body is or may become a party; (the general nature of the litigation or contract negotiations is) OR the public disclosure of such information at this time would have a potentially negative impact on the municipality's position in the litigation or negotiation; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.)

_____ Matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his or her ethical duties as a lawyer; (The general nature of the matter is: _____
OR _____ the public disclosure of such information at this time would have a potentially negative impact on the municipality's position with respect to the matter being discussed; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists);

___X___ Matters involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective or current public officer or employee of the public body, where all individual employees or appointees whose rights could be adversely affected have not requested in writing that the matter(s) be discussed at a public meeting; (The employee(s) and/or general nature of discussion is _____

OR _____ the public disclosure of such information at this time would violate the employee(s) privacy rights; therefore this information will be withheld until such time as the matter is concluded or the threat to privacy rights no longer exists.;

_____ Deliberation occurring after a public hearing that may result in the imposition of a specific civil penalty or loss of a license or permit;

BE IT FURTHER RESOLVED that the Land use Board hereby declare that their discussion of the subject(s) identified above may be made public at a time when the Town Attorney advises them that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Town or any other entity with respect to said discussion. That time is currently estimated to be: _____ (estimated length of time) OR upon the occurrence of _____

BE IT FURTHER RESOLVED that the Land Use Board, for the reasons set forth above, hereby declare that the public is excluded from the portion of the meeting during which the above discussion shall take place. Dated: 12/05/2017

The board reconvened the regular meeting at 7:40pm.

Affordable Housing Settlement:

A Motion was made by Mr. Carberry, seconded by Mr. Viotto, to endorse the affordable housing settlement:

All Ayes. Motion carried.

Attorney Caldwell, Mr. Clerico and Mr. Kyle arrived at 7:40pm for the next applicant and Mayor Kovach and Mr. Carberry per the MLUL recused themselves from the remainder of the meeting;

Minor Subdivision, D2, D4 and Bulk Variance application- Block 3 Lot 2- SNG Properties, LLC:

Attorney Michael J. Convery, Mr. Richard Roseberry, PE, Latitisa Russell, Certified Court Reporter and Mr. Gulshan Chhabra, owner were present.

The following items were submitted into evidence:

Applicant Submissions

- A1 Application
- A2 Affidavit of Service & Proof of Publication
- A3 Town of Clinton Clerk's Certified 200 foot list
- A4 Tax Certification dated November 17, 2017
- A5 Subdivision Plan dated March 24, 2017, prepared by First Order LLC
- A6 Concept design for Sign, prepared by Allen Industries
- A7 Concept Plan prepared November 1, 2016 -Richard Roseberry
- A8 Cover letter dated August 17, 2017- Michael J. Convery, Esq.
- A9 Revised Subdivision Plan dated signed October 26, 2017 prepared by First Order LLC
- A10 Aerial Photo exhibit
- A11 Master Plan exhibit 2 pages
- A12 Richard Roseberry Planner report dated May 27, 2016

Board Submissions

- B1 Robert Clerico, Van Cleef Eng. report dated 9/30/2017
- B2 Jim Kyle, Kyle Planning & Design report dated 12/4/2017

Outside Agency Submissions

- OA1 NJ DOT letter dated September 20, 2017

Mr. Gulshan Chhabra, owner was sworn in. The property is located at 111 West Main Street in the OB-2 zone the current use of the property is a five story hotel with 276 parking spaces, Mr. Chhabra stated that he was here tonight to get approval to subdivide the property for the purpose of offering the town affordable housing ,we would like to build a 50 unit residential building of which 20% will be set aside as affordable. Attorney Convery advised the board that the housing is not part of the application tonight.

Mr. Richard Roseberry, PE & PP Maser Consulting was sworn in. Mr. Roseberry stated the intent is to subdivide a portion of the land to create a separate lot to be developed for affordable housing, a concept plan was submitted to show that the site is buildable but we are not seeking any approvals at this time for the residential use.

The site as exists is 8.80 acres the proposed hotel site lot 2.1 will be reduced to 5.90 acres and lot 2.2 will be 2.09 acres. The subdivision will require two "D" variances for lot 2.1 and two "C" Variances for lot 2.2. The D-2 Variance approval needed is for an expansion of the non-conforming use, while no physical change is proposed to the hotel, the subdivision will result in a lot reduction associated with the existing nonconforming use of the hotel and therefore a D2 variance is required. The D-4 Variance is required because the lot has been reduced which increases the FAR from 29.2% to 42.8%, in where only 20% is permitted in the zone. The bulk variances sought on lot 2.2 are for maximum depth of measurement and the creation of an undersized lot, in where 3 acres are required, the newly created lot will be 2.27 acres. Mr. Roseberry testified the creation of lot 2.2 is slightly undersized but rather than creating an irregular shaped lot the lot will be more conforming in shape the deviation to create a straight lot line outweigh the determent of creating an irregular lot. The hotel will remain an oversized lot the minimum in the zone is 3 acres and the lot will remain at 5.90 acres. Presently we are not proposing any new development on Lot 2.2 so the subdivision will not have any impact on zoning or the Master Plan. Mr. Roseberry advised the board the proposed access to Lot 2.2 will be unrestricted and located directly across from Village Road and will require NJDOT approval and Hunterdon County Planning Board approval, which will be a

condition of subdivision approval by this board.

In regards to the positive criteria the increase in the FAR will not have a substantial impact on the surrounding properties, the site is suitable for the future development, the proposed affordable housing development supports the MLUL by encouraging the appropriate use of all lands that will promote the public health, safety, morals and general welfare. The Town of Clinton Master Plan identifies this specific property as a developable site, the subdivision will not impact the zone or Masterplan.

Mr. Roseberry advised the board the 50- foot riparian buffer along Route 173 will remain, Mr. Clerico suggested the deed description should include the buffer area. Mr. Kyle inquired about the trailers and equipment on site, Mr. Chhabra stated the trailers were used for storage for the interior renovation of the hotel project and will be removed, however there is a need for the lift for maintenance projects and requested to keep the lift equipment.

Mr. Roseberry testified they will comply with the technical comments of Mr. Clerico and Mr. Kyles' reports, they will add the riparian buffer area on the plan, the trailers will be removed and the approval will be conditioned upon obtaining NJDOT Approval and Hunterdon County Planning Board approval, Mr. Maser stated they will file the subdivision by deed with a concept plan along with the board resolution. The board stated they would like the approval for subdivision conditioned on the owner providing on site affordable housing.

The board agreed the subdivision as presented provides no negative impact to the town, the future use is a better use than an office building, the subdivision if granted will not be impair the Master Plan.

A Motion was made by Mr. Feldmann, seconded by Mr. Smith to grant the subdivision conditioned on providing future onsite affordable housing, outside agency approvals, removal of storage containers before filling of the deed:

Roll Call Vote:

Ayes: Mr. Sailer, Mr. Feldmann Ms. Healy, Mr. Maher, Mr. Mellick, Mr. Smith, Mr. Viotto

Nays:

All Ayes. Motion Carried.

Voucher Approval:

A Motion was made by Mr. Maher, seconded by Mr. Smith, to approve the voucher list:

All Ayes. Motion carried.

There being no further business a Motion was made by Mr. Mellick, seconded by Mr. Maher to adjourn the meeting at 9:00pm.

All Ayes. Motion carried.

Respectfully submitted,

Allison Witt
Land Use Board Administrator