

**MINUTES OF THE BOROUGH OF NORTH CALDWELL PLANNING BOARD
REGULAR MEETING HELD MAY 20, 2019**

Chairman Brower called the meeting to order at 7:30 p.m. The following members were present:

ROLL CALL

PRESENT: Chairman Brower, Mayor Alessi, Mr. Campbell, Councilman Rees, Mr. Fishbone, Dr. Spinelli, Mr. O'Sullivan, Mr. Barba

ABSENT: Ms. Nathans

Others present: Mr. Dusinberre, Esq., Attorney, Paul Ferriero, Borough Engineer

ADEQUATE NOTICE of this meeting of the Borough of North Caldwell Planning Board was given as follows: Notice was sent to The Progress and Notice was filed with the office of the Borough Clerk.

APPROVAL OF MINUTES

None

ITEMS FOR DISCUSSION

Chairman Brower opened the discussion by making an announcement that the application from Pulte Homes of NJ was being carried to the June 10th meeting for formal hearing.

Chairman Brower also indicated that the 2019 Periodic Reexamination of the Master Plan was being tabled from the agenda in order to coordinate the appropriate public notices for consideration at an upcoming Regular Meeting. He asked Mr. Dusinberre and Mr. O'Sullivan to coordinate.

APPLICATIONS

Chairman Brower explained the procedure to be followed for the hearing of applications before the Planning Board.

APPLICATION FOR AMENDED PRELIMINARY AND FINAL MAJOR SUBDIVISION

70 Grandview Avenue, LLC,
Amended Preliminary and Final Major Subdivision
Block 1903, Lot 2

Mr. Michael S. Rubin, Esq. of the Law Office of Michael S. Rubin, LLC, Caldwell, New Jersey entered an appearance as Counsel on behalf of the applicant, 70 Grandview Ave., LLC and introduced the project as well as his professionals in attendance.

Mr. Rubin introduced and qualified Charles J. Stewart, P.E., P.L.S. of Stewart Engineering and Land Surveying, LLC for testimony as a licensed professional engineer. Mr. Dusinberre noted that Mr. Stewart has previously been accepted by the Planning Board as a professional witness. The Board agreed and accepted Mr. Stewart as a professional witness.

Mr. Stewart was sworn in as witnesses by Mr. Dusinberre.

Mr. Stewart reviewed the application and the changes to the application compared to the initial hearing. He identified that the primary changes occur within the formal design of the stormwater system. He described the underground stormwater detention system as five rows of 48" diameter pipe within the roadway which will be used for detention and ultimate discharge to the Grandview Avenue storm sewers. He reviewed the location and nature of the sanitary sewers and the proposed utility connections. He mentioned that he has worked with the Borough's DPW to locate the existing sanitary sewer earlier in the day and testified that the design parameters and changes will meet RSIS requirements.

Mr. Stewart then proceeded to address the engineering items included in Mr. Ferriero's updated review letter dated May 16th, 2019.

Mr. Stewart began with the comments in Part I, Section C (Preliminary Major Subdivision Plat) of Mr. Ferriero's letter and moved through each comment in the order of the letter.

Mr. Stewart agreed to comply with comment C1 by providing a demolition plan as noted by Mr. Ferriero.

Mr. Stewart agreed to comply with comment C2 by submitting a TWA application and staging needs as noted by Mr. Ferriero.

Mr. Stewart confirmed that the application will require de minimus exceptions for the proposed sewer easement widths as noted in comments C3 and C4. Mr. Ferriero requested that the de minimus exceptions be accompanied with proof of hardship and Mr. Stewart had no objection.

Mr. Stewart confirmed that the overflow pipe for lots 2.02 and 2.03 (as mentioned in comment C5) can be redesigned to extend or reconnect to different locations to reduce surface runoff and icing conditions. Mr. Dusinberre suggested that this may be revisited later in the meeting if future comments related to it.

Mr. Stewart had no objection to comment C6 as noted by Mr. Ferriero.

With respect to comment C7, Mr. Stewart testified that the post construction runoff for the application is reduced and the conditions at Lot 20 will be improved. He also indicated that the grading plans are preliminary and will be modified through final design and construction to reduce immediate runoff onto Lot 20.

Mr. Barba asked what can be done to improve the stormwater runoff to which Mr. Stewart indicated that runoff will be reduced via swales and possible underdrains.

Mr. Barba added that redirection of water should not worsen the roadway or onsite drainage system to which Mr. Stewart assured that the design would be modified to collect runoff into the storm sewers. Mr. Ferriero added that the method of accomplishing this can vary but agreed that the matter needed to be addressed.

Mr. Stewart agreed to comply with comment C8 by submitting an erosion plan to HEP Soil Conservation District. He noted that design and construction will try to accommodate as many trees as possible but the licensed landscape architect will testify on that further. Mr. Ferriero followed-up by reminding the applicant that inconsistencies between the site plans and the landscape plans shall be addressed.

Mr. Rubin confirmed that the applicant agrees to comply with all comments within Section D (Final Plat) of Mr. Ferriero's review letter.

Mr. Stewart further testified that he had no objections to complying with all comments within Section E (Soil Erosion and Sediment Control) of Mr. Ferriero's review letter.

Moving to section F (Road and Utility Profiles), Mr. Stewart testified that the recently located sanitary sewer will allow him to address comment F1 by finalizing a roadway profile and utility profiles.

Mr. Stewart testified that his observations lead him to believe there is adequate site visibility but agreed to provide site lines to verify.

Mr. Stewart testified that he has no objections to any comments within Section G (Construction Details) of Mr. Ferriero's review letter.

Mr. Barba asked if these items would be addressed as a resubmission or as conditions of an approval. Chairman Brower added that he was concerned with a mounting list of open-ended items.

Mr. Ferriero stepped in to advise the Board that the items within the Construction Details part of his letter can be addressed easily and he had no concerns with these items being conditions of approval. Mr. Dusinger asked if it was inclusive of all 11 comments within Section G to which Mr. Ferriero responded affirmatively.

Chairman Brower reiterated his concern that long lists of conditions on an approval can be taxing on the Board's engineer and the Board itself.

Mr. Rubin directly asked Mr. Stewart if he can comply with all of the comments in Section G to which Mr. Stewart confirmed positively.

Mr. Stewart indicated that the applicant's Landscape Architect will address the items on the Tree Removal and Planting Plan.

Mr. Stewart proceeded to Part II (Stormwater Management Report) of Mr. Ferriero's review letter.

Mr. Stewart began by addressing Comment A and stated that he stood by his calculations that classified the pre-existing conditions as a developed site.

Mr. Barba asked for clarification on this statement and asked if the improvements were worsening the stormwater conditions. Mr. Stewart testified that the lot is not a wooded lot as it was previously developed and that was how he framed his calculations.

Mr. Ferriero added that the NJDEP requires a conservative approach to these calculations and a site of this nature should be viewed with a weighted runoff number that may have an impact on the stormwater design, size and overall requirements.

Chairman Brower indicated that the system shall be designed as our professionals require since it will ultimately be owned and maintained by the Borough since it falls within the public right-of-way.

Mr. Stewart testified that he will revisit his calculations based on the discussions held and the comments within Mr. Ferriero's letter.

Mr. Ferriero clarified that the updated calculations should include a detailed analysis of the entire site to determine a weighted CN rather than taking a sitewide classification.

Chairman Brower asked if this updated calculation could be viewed as a condition of approval and Mr. Ferriero assured him that it can. Mr. Brower specifically asked Mr. Stewart if the calculations would be provided to which Mr. Stewart affirmed.

Councilman Rees asked if the more stringent approach would have an impact on the size of the detention basin to which Mr. Stewart answered yes. Councilman Rees asked if there was additional room for the system in the right-of-way or would easements be required. Mr. Ferriero estimated that easements may be necessary depending on the ultimate size and orientation of the system.

Councilman Rees also asked if there were conflicts between the proposed sanitary sewer on Lot 2.01 and the water or storm sewer system. Mr. Stewart testified that he would be able to provide adequate setbacks for all utilities.

Councilman Rees then asked about the proposed depth of the detention system and the means of construction. Mr. Stewart testified that the system will be approximately 15-16 feet in depth at the deepest location and may require blasting to achieve this construction.

Mr. Dusinberre asked if this depth impacted the maintenance operations or cost to which Mr. Ferriero and Mr. Stewart both agreed that the maintenance would require workers to jet the deeper end of the system and clean from the more shallow end.

Councilman Rees also asked if a detention pit was required on Lot 2.01 to which Mr. Stewart testified that it was not required based on his calculations.

Councilman Rees asked if all utilities were being proposed as underground utilities to which Mr. Stewart confirmed that everything will be underground.

Mr. Stewart testified that there were no significant objections to Comment B through Comment G within Mr. Ferriero's letter.

Mr. Stewart mentioned that he would provide an O&M Manual as noted in Comment H of Mr. Ferriero's letter. He further clarified that maintenance of the proposed swales would be the homeowner's responsibility and that maintenance would be referenced within the O&M manual.

Mr. Stewart testified that he had no objection to complying with Comments I and J.

Mr. Ferriero asked if Mr. Stewart could look into a different orientation of the underground stormwater retention system that runs parallel to Grandview Avenue to reduce the depth of the structure.

Mr. Campbell asked if the previously discussed revisions to the CN calculations would trigger water quality requirements. Mr. Stewart responded by saying that the site can accommodate the design of additional structures, if necessary. Mr. Ferriero agreed with this.

Chairman Brower asked Mr. Stewart if the sanitary sewer system can be designed to meet necessary standards while also accounting for today's field findings. Mr. Stewart confirmed that design of the sanitary sewer would not pose additional problems.

Chairman Brower indicated concerns with the long-term maintenance and operation of the storm sewer system and suggested that consideration of a maintenance bond and some contribution towards 10 years of annual operating costs should be considered to be posted with the Borough.

Chairman Brower also asked if special notices would be provided to potential owners regarding the nature of the proposed storm water system and the possibility of a special assessment for future costs. Mr. Rubin was unaware of any needs for this.

Mr. Dusinberre asked Mr. Stewart if he has ever designed a system like this which was to be ultimately dedicated to the municipality. Mr. Stewart confirmed this and referred to Ryer Court in Caldwell, New Jersey.

Mr. Dusinberre summarized what he believed to be two most pressing concerns before the Board as the long-term maintenance cost of the proposed storm sewer system and the responsibility to ultimate failure of the system. He asked the applicant to address each concern.

Mr. Rubin suggested that items like this might be more appropriately addressed in a developer's agreement. Chairman Brower responded by stating that the maintenance costs should be referred within the O&M manuals and any agreement or contribution towards future maintenance costs are preferred to be handled before the Planning Board.

Mr. Barba asked about the possibility of movement on the system or settlement of the system. Mr. Campbell also asked about observations of groundwater depths at the location to determine if groundwater would have an impact on buoyancy of the system. Mr. Stewart acknowledged that settlement is always a possibility with utility work and excavation. He also testified that he did not observe groundwater during his site inspections and tests. Mr. Ferriero asked to what depth was the soil excavated but Mr. Stewart did not recall.

Mr. Barba asked if rock was observed during the site investigations and tests. Mr. Stewart acknowledged that it was observed and construction of the proposed system would need to take this into consideration.

Councilman Rees asked if Grandview Ave was a county road. Mr. Rubin confirmed it was a county road and acknowledged that approval would also be required from the County Planning Board. Mayor Alessi stated that he is the chair of the County Planning Board.

Mr. Rubin introduced and qualified Bruce J. Davies, A.S.L.A., P.P., LEED A.P. of Davies Associates Landscape Architects for testimony as a licensed landscape architect. Mr. Dusinberre noted that Mr. Davies has previously been accepted by the Planning Board as a professional witness. The Board agreed and accepted Mr. Davies as a professional witness.

Mr. Davies reviewed the plans already submitted to the Board and testified that all attempts to preserve large diameter trees will be made.

Mr. Rubin asked Mr. Davies to review the purpose of the landscape screenings to which Mr. Davies testified that the landscaping is designed to protect the privacy of the new development.

Mr. Rubin asked if native trees were being utilized throughout the design. Mr. Davies confirmed that all proposed plant materials are native species with the exception of the Norway spruce.

Mr. Barba asked Mr. Davies if the demolition plan can be revised to remove 'X' (demolition indicators) where the possibility to save a tree exists. He also asked if the trees would be in conflict with the proposed sewers.

Mr. Ferriero indicated that much of the demolition and site clearing would be dependent on the final grading plan still to be provided by Mr. Stewart. He also confirmed that landscaping sitting atop sewer lines is problematic and separation from the sewers should be provided.

Mr. Cambell asked Mr. Davies the maximum amount of fill that an established tree can withstand around it's trunk. Mr. Davies testified that he tries to limit fill at tree trunks to no more than six inches but has seen successful filling more than eighteen inches.

Chairman Brower asked if trees can be located around swales to which Mr. Davies indicated that trees should sit atop the swale and testified that his landscaping plan will be coordinated with the final proposed plans.

Mr. Dusinberre asked Mr. Davies to address the comments in Mr. Ferriero's review letter.

Mr. Davies testified that he has no objection to item #1 in the landscaping section and trees will be moved away from sewer utilities.

Mr. Davies addressed that a final landscaping plan will coincide with the final grading plan and attempts will be made to save all trees unless removal is otherwise required.

Mr. Ferriero asked if the proposed honey locust trees will impact the proposed stormwater infrastructure. Mr. Davies testified that the smaller leaves should pass through the system more easily and decompose more quickly.

Councilman Rees asked if tree roots were a concern on the site and if root barriers were necessary. Mr. Davies testified that root barriers were not necessary.

Mr. Rubin indicated that the applicant's environmental consultant was also available to testify if the Board felt it necessary.

Mr. Campbell asked if the site was tested for pesticides. Mr. Rubin testified that the site was tested for pesticides but non were found.

Councilman Rees asked if the test results have been provided. Mr. Rubin indicated that they were already submitted. Chairman Brower confirmed that Mr. Zichelli, the previous Borough Engineer, reviewed them from an engineering perspective.

The meeting was opened to the public to question the applicants on their testimony.

No members of the public stood to be heard.

Councilman Rees stated his concerns with the application, specifically referring to the constructability of the stormwater system and long-term ownership of the stormwater system being an added burden to the Borough.

Mr. Barba stated his concerns that he was not comfortable with the proposed plans without adequate response from the applicant on all of the items discussed, specifically paying attention to the stormwater issues.

Chairman Brower also raised his concerns with respect to the stormwater system long-term costs and acknowledged two options: require resolution through a developer's agreement with the Mayor and Council or require resolution as a condition of the Planning Board approval. He added that he felt it more appropriate to resolve this matter through the Planning Board approval

with a condition requiring the system to be protected with a maintenance bond and offset through a contribution towards ongoing maintenance costs.

Mr. Fishbone indicated that his vote on the projects initial application was 'yes' but that was without the full understanding of the ultimate stormwater design brought forth in the tonight's application. He felt there to be too many open ended questions which needed to be answered for the Board to fully understand the design details. He felt this should occur before approvals are granted to accept the stormwater utility plan.

Mayor Alessi stated that he agrees with the sentiment of the Board but likes the idea of the site being developed.

Mr. Fishbone reiterated that he would like to understand the design further before taking a vote.

Mr. Rubin requested a five-minute recess to deliberate with the applicant.

After the five-minute recess, Mr. Rubin acknowledged the Board's feedback and desire to see a final design acceptable to the Board and Mr. Ferriero's comments.

Chairman Brower reviewed the upcoming schedule and offered July 1, 2019 at 7:30 PM to continue the hearing without new notice but reiterated that design shall be coordinated by the applicant in advance of the meeting to address the evening's discussion.

CITIZENS TO BE HEARD

Chairman Brower opened the meeting for citizens to be heard. There were no members of the public present.

ADJOURMENT

Chairman Brower requested a motion to adjourn at approximately 10:15 pm. A motion was made by Mr. Barba and seconded by Mr. Campbell. All members voted in the affirmative.

Kevin O'Sullivan
Planning Board Secretary