

TOWNSHIP OF DENVILLE
PLANNING BOARD
MINUTES

December 11, 2013

The Planning Board of the Township of Denville held its regular meeting on Wednesday, December 11, 2013. The meeting was held at the Township Municipal Building, 1 Saint Mary's Place. Vice Chairperson Buie presided.

Secretary Probasco read Notice of Public Meeting.

Roll Call: **Present** – Vice Chr. Glenn Buie, Mayor Thomas Andes, Marilyn Kuntz, Sue Filauro, Mark London, Kurt Schmitt, Peter Nienstadt, Christopher Golinski
Absent – Chr. Louis Maffei
Professionals present – Edward Buzak, Esq., John Ruschke, PE, Jason Kasler, PP

MINUTES

May 22, 2013

Motion to adopt the meeting minutes as **amended** was made by Mbr. Filauro, seconded by Mbr. Golinski and unanimously approved by all members able to vote.

June 12, 2013

Motion to adopt the meeting minutes as **submitted** was made by Mbr. Kuntz, seconded by Mbr. Filauro and unanimously approved by all members able to vote.

September 11, 2013

Motion to adopt the meeting minutes as **amended** was made by Mbr. Golinski, seconded by Mbr. Filauro and unanimously approved by all members able to vote.

October 9, 2013

Motion to adopt the meeting minutes as **amended** was made by Mbr. Kuntz, seconded by Mbr. Filauro and unanimously approved by all members able to vote.

PURCHASING

Motion to pay vouchers submitted by **Kasler Associates** (dated September 30, 2013) subject to the availability of funds, was made by Mbr. Golinski, seconded by Mbr. Nienstadt and unanimously approved by a majority of Members present and able to vote.

Motion to pay vouchers submitted by **Hatch Mott MacDonald** (dated September 19, 2013) subject to the availability of funds, was made by Mbr. Golinski, seconded by Mbr. Nienstadt and approved by a majority of Members present and able to vote.

Motion to pay vouchers submitted by **The Buzak Law Group** (dated November 1, 2013) subject to the availability of funds, was made by Mbr. Filauro, seconded by Mbr. Golinski and unanimously approved by a majority of Members present and able to vote.

RESOLUTIONS

**MPV 08-03: Glenmont Commons Developers, LLC
Block 10002, Lot 3
Casterline Road**

The board attorney summarized that this resolution was an extension of time for one year to December 9, 2014 of protections for preliminary major subdivision approval in connection with the development on the above referenced property.

Motion to approve the resolution of **Approval** was made by Mbr. Kuntz, seconded by Mbr. Schmitt and unanimously approved by all Members present and able to vote.

ROLL CALL: Ayes Kuntz, Schmitt, Filauro, London, Andes, Acting Chr. Buie

**PSP/FSPV 13-06: Reinertsen Motor Car Co., LLC (Fiat)
Block 30609, Lot 1
295 Route 53**

The board attorney summarized that this resolution was for preliminary and final site plan approval with variances in connection with signage onsite at the above referenced property. Two changes in the resolution were noted for the correct naming of the dealership as Fiat of Morris County.

Additionally, public legal notice for the applicant's public hearing was referenced. As stated in the resolution, the applicant was required to provide the Board Attorney with an updated list of property owners within 200 feet of the Property from the Township Tax Assessor.

Motion to approve the resolution of **Approval** was made by Mbr. London, seconded by Mbr. Kuntz and unanimously approved by a majority of Members present and able to vote.

ROLL CALL: Ayes London, Kuntz, Schmitt, Andes, Buie
Abstain Filauro

EXTENSIONS

**MS/SS 13-01: The Valva Family Trust
George C. Valva & Mary Patricia Valva Co-Trustees
Block 10401, Lot 13
Michael Street & Echo Lane**

Alan Adler, Esq. (10 Park Place, Morristown) was present and represented the applicant. Mr. Adler stated that the board approval minor subdivision approval on May 22, 2013. The 190 day period to file the legal descriptions on the lots expired on November 28, 2013. Explaining that the filing has been delayed due to the title closing on the conveyance of one of these lots also being delayed. Which title closing has been scheduled with the Township of Denville for December 19, 2013. The applicant is seeking an extension of sixty days to allow this closing due to delay in required approvals.

Edward Buzak, Esq. stated that a memorializing resolution has been prepared in advance, due to the planning board not having any additional meetings prior to the end of the year to adopt the resolution. This resolution grants the applicant a sixty day extension through January 27, 2014 to perfect the subdivision and accomplish the closing.

Motion to approve this extension was made by Mbr. Filauro, seconded by Mbr. Nienstadt and unanimously approved by all Members present and able to vote.

ROLL CALL: Ayes: Filauro, Nienstadt, Golinski, London, Schmitt, Buie
Recused: Kuntz, Andes

PUBLIC HEARINGS

**MSV 13-05: Albert & Erzebet Szollosi
Block 60207, Lot 22 & 31
61 Crystal Drive**

Acting Chr. Buie announced to members of the public that the public hearing for this application would not be heard tonight. The applicant has requested adjournment. The public hearing for this application will be rescheduled and renoticed.

**NJSA 40:55D-89: 2013 Periodic Re-Examination Report
Township of Denville Master Plan**

This was a review of the Periodic Re-Examination Report of the Township of Denville's Master Plan under the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-89. Jason Kasler, PP provided a presentation to the board on the regulation of hotels/motels in the Township. A summary of the five sections of the report was provided with the most emphasis placed on specific changes recommended. Jason Kastler stated that if there is no Re-Examination Report the assumption of validity is taken away. Leaving the Township responsible to provide proof that the development regulations are reasonable.

Mr. Kasler referenced storms Sandy and Irene as it relates to susceptibility with major weather events. Indicating that the Township is in the process of updating the Environmental Resources Inventory, last updated in 1976. The Township Planner referenced the Housing Element be updated based upon the elimination of cross examination, changes in COAH and FEMA.

The Re-Examination provides a definition in the ordinance of hotels, motels and other associated items. It would remove hotels/motels from B2 and B2A Zones, which correlate to the Route 46 and Route 10 Zones. It would remove hotels/motels from a permitted use in I1 Zone, which follow the railroad areas. It would allow hotels/motels in the I2 Zone as a conditional use. The three I2 Zones are the Northwestern Corridor, the Luger Avenue and the Franklin Area. Defined conditional use standards include being ½ mile from a Federal highway and being at least two acres in size and cannot be in a flood zone or high risk area.

A Re-Examination Plan can be used as a tool for a specific, single use for crafting ordinances. A Re-Examination Plan would be also be used as tool for regulating sexually oriented businesses in a specific zone. Stating that this method is being used for one type of use that impacts four zones and over 700 parcels of land.

Acting Chr. Buie opened to the professionals.

John Ruschke, PE had none at this time.

Acting Chr. Buie opened to the board members.

Mbr. London referenced definitions and defensible positions. Jason Kasler, PP responded that the Township was in a good position based upon the definitions.

Mbr. Filauro thought being located near the highway and not in the residential areas was a good idea but sought to understand the need for hotels and the requirements the Hampton Inn needed to comply with. Voiced concern for the impacts to traffic and would be interested to know occupancy. Mayor Andes commented on the Township enjoying the rateable. Mbr. Filauro inquired about FAR. Jason Kasler, PP commented five stories and a height of 55 feet by ordinance.

Mbr. Kuntz reserved comments.

Mayor Andes no comments at this time.

Mbr. Schmitt inquired about the adjacent properties and Zone, commenting on Vanderhoof not meeting the design standards. Jason Kasler, PP stated that there be buffering on neighboring properties and a landscaping plan subject to approval.

Mbr. Golinski commented on all the public outreach, modernization being welcomed by all, lack of public in attendance, the three responses/comments Golinski received were that more sidewalks are needed, height not to exceed the Hampton Inn and in favor of modernization.

Mbr. Nienstadt inquired how parking was determined. Jason Kasler, explained it was determined by rooms. I would be approximately 1.2 parking spaces per room and the sum of additional uses in the building.

Acting Chr. Buie had no comments at this time.

Acting Chr. Buie opened the public hearing to the public.

Jason Rittie, Esq. Partner at Einhorn & Harris, was present and cited NJSA 40:55D – 89. Mr. Rittie cited NJSA 40:55D – 62.1 and stated that proper notice was not provided. Mr. Rittie stated that the limited review performed was not allowed. Stating that a limited notice is provided for a Periodic General Re-Examination Plan. Referencing page one states the Re-Examination is not a comprehensive review and that the Township will be making a comprehensive review in the coming year.

Jason Rittie, Esq. referenced Ted Einhorn commented at September 11th meeting and the 2008 denial. Mr. Rittie stated for the record, that their firm represents Roma Hotels Associates, LLC, (350 Morris Avenue, Lot 2.01 and Block 62101) the owner of the Hampton Inn. Stating that this is not a General Re-Examination but a Limited Re-Examination and notice should have been made. Questioned the urgency and why not the notice provisions. Referenced the letter that was sent by the Township that referenced 'Limited' and requires comprehensive. Stating extensive public review and analysis by public, and experts, hearings and public notice.

Jason Rittie, Esq. inquired about the significant pressure to modernize and modify the zoning regulation to regulate the size and location of hotels/motels. Stated the basis is unknown after no communications were a result of a recent OPRA.

Edward Buzak, Esq. provided an explanation of the process. Stating this is a Examination Report which is required every ten years. Conducting a Re-Examination does not require prior notice and a public hearing is also not required. The mailing and hearing were gratuitous. Board consideration of the Re-Examination Report. Master Plan remains the same but a report is issued. Modification and Amendment of the Master Plan does require prior notice and public hearings. The Board Attorney further stated that under NJSA 40:55D- 62.1, the Township would be required to determine if individual notice is required should they introduce an ordinance related to the adopted Re-Examination Report. Stating that the boards focus is to look at the Re-Examination Report at this time.

Acting Chr. Buie asked for other members of the public.

John Wyciskala, Esq. (Inglesino, Pearlman, Wyciskala & Taylor, LLC (600 Parsippany Road, Parsippany) represented the property owner of 370 Morris Avenue (Block 62101, Lot 2.02). This is the adjacent property to the Hampton Inn. Mr. Wyciskala was accompanied by Paul Barnish and his wife, Barbara. Stating that Mr. Barnish is one of the owner's of the property in the Morris I2 Zone mapped area. Stating that his client does support the recommendations in the Master Plan that have been prepared by the Township Planner. They believe the zone changes will allow for additional responsible hotel development that will provide other hotel options. Mr. Wyciskala referenced competition, pricing, storm events, special events, corporations, local businesses and residents.

Acting Chr. Buie asked for other members of the public and seeing none, closed the public portion of the meeting.

Acting Chr. Buie opened to the board members.

Mbr. London inquired about flood concerns and commented on maintenance permeable pavement and boutique hotels. Jason Kasler, PP responded to shared parking and how it impacts floor area ratio (FAR). Stating that the zoning change does not preclude boutique hotels in the downtown area.

Mbr. Golinski commented on the boutique hotels. Jason Kasler, PP responded that boutique hotels are still possible.

Mbr. Filauro commented on the existing hotel. The Township Planner responded that the current hotel was approved by the zoning board and would be brought more into conformance with this zoning change.

Mbr. Filauro agreed with Mbr. Schmitt's comments on adjacent residential properties.

Mbr. Golinski commented and disagreed with John Wyciskala, Esq. regarding his comment as it relates to not having an impact. Stating that there would be a positive impact on Denville.

Mbr. Kuntz commented on tonight's being a different presentation than the last meeting and inquired about the benefit of approving now instead of waiting. Jason Kasler, PP responded that the substantive portion remains the same but additional mapping was added. Stating the Master Plan process in one year can be a long process and may take several years. Edward Buzak, Esq. responded that the Governing Body can do an ordinance at any time.

Mbrs. Filauro and Kuntz did not feel comfortable approving the Re-Examination Report and voiced concern for having more information prior to approving.

Motion to approve the 2013 Re-Examination Report as presented tonight was made by Mbr. Golinski, seconded by Mbr. Nienstadt and unanimously approved by the majority Members present and able to vote.

ROLL CALL: Ayes: Golinski, Nienstadt, London, Schmitt, Andes, Buie
Nays: Kuntz, Filauro

OLD BUSINESS

There was none.

NEW BUSINESS

Mbr. London referenced the Natural Resource Inventory update and asked the board members to mark their calendars for the first planning board meeting in January. Asking all the members to forward any comments to his attention.

ADJOURNMENT

Motion to adjourn.

Denean Probasco, Board Secretary

Date Approved: January 15, 2014