

**TOWNSHIP OF LOPATCONG
PLANNING BOARD MEETING
REGULAR MEETING
7:00 pm**

March 22, 2023

Chairman VanVliet called the Planning Board Meeting to order.

A Prayer was offered followed by the Oath of Allegiance

Chairman VanVliet stated “Adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Ledger and The Express-Times and by posting a copy on the bulletin board in the Municipal Building.”

Present: Members Coyle, DiLeo, Palitto, Weeks, Mayor Mengucci, Chairman VanVliet. Also present were Attorney Bryce, Engineer Wisniewski and Planner Ritter.

Old Business:

Minutes – Chairman VanVliet asked if there were any questions, objections, corrections and with that hearing none, Chairman VanVliet stated the minutes would stand as published.

New Business:

The Cubes – Block 102, Lots 9.01 & 9.03 -

Chairman VanVliet – The new business is The Cubes, Block 102, Lots 9.01 and 9.03 – Redevelopment and Preliminary Final Major Site Plan Completeness. Is the applicant here? Please come forward.

Attorney Costa – Good evening. My name is Christopher Costa from the law firm of Stevens & Lee. I represent the applicant The Cubes at US 22 Sub 1 LLC which is the owner of the property known as Phillipsburg Mall and this evening the two lots at issue are in Block 102, Lot 9.01 and 9.03. As the Board is aware, we are proposing to demolish the existing mall and replace it with a warehouse of approximately 848,000 square feet. A little more than half that would be located in Lopatcong and a little less than half would be located in Pohatcong and we received a completeness letter from the Board Engineer and the Board Planner and since receiving those, we have had conversations and also submitted additional plans in response to those letters so, we would like to respond to any questions the Board or Professionals may have and hopefully be deemed complete this evening.

Chairman VanVliet – Thank you very much.

Attorney Costa – I have one witness with me who is James Thaon if you would like to swear him in, at this point or

Attorney Bryce – We don't generally do that for completeness hearing.

Attorney Costs – Yeah, that's fine.

Chairman VanVliet – There's a couple questions that I have here concerning the Highlands. Have we received the Highlands Report for Lopatcong?

Engineer Wisniewski – Yes, Mr. Chairman, so, what we have received from the applicant since our completeness letter was issued was a Highlands Exemption application. Essentially, it permits, let me pull that application out. So, the applicant is seeking an exemption from the Highlands submission for a Highlands Consistency Determination. Under Exemption 4, which is an exemption that the Township is able would be able, to grant and this is for the reconstruction of any building or structure for any reason within 125% of the footprint the lawfully existing impervious surface on site provided that the reconstruction does not increase the impervious surface by 1/4 acre or more and the date that the existing mall has been in Highlands Planning Area, that area would be, the area is subject to that limitation via anything that was existing on the date of September 5, 2013. The Board is aware the mall is constructed in the late 1980's to its current condition and based on the application that was submitted and the plans that were submitted by the applicant, I have a summary here somewhere, looking down, the applicant currently is proposing, not currently, but will be reducing the impervious surface on the site overall by 2.56 acres of that .6 acres will be reduced in Lopatcong and 1.96 acres of coverage will be reduced in Pohatcong and that would exempt the applicant from the Highlands Consistency Determination process and my understanding is Pohatcong has already granted the exemption on the Pohatcong portion of the site.

Chairman VanVliet – Any questions George or

Planner Ritter – No, it was my general feeling that Exemption 4 was what was applicable in this case and as per Adam's observations and facts that have been provided, it appears that they will qualify for Exemption 4 and they're exempt from the Highlands.

Engineer Wisniewski – So, if you qualify for any of the exemptions that are enumerated in the Highlands Master Plan, then you are not required to seek a Consistency Determination.

Vice-Chairman Samson – So, is the application to us or to the Highlands?

Engineer Wisniewski – The exemption determination application is to the Township.

Vice-Chairman Samson – So, we don't need to hear from the Highlands.

Engineer Wisniewski – Correct. The Highlands has basically deputized the Township to review plans and make a determination as to exemptions. It is a pretty black and white process.

Chairman VanVliet – I was going over the fact that in the original report from Paul, he specifically indicted that we needed the Highlands Report and we have allowed to waiver that from your, we have to have a report in hand not a letter that might be coming

Engineer Wisniewski – If right, if, if the applicant

Chairman VanVliet – but if this is exempt

Engineer Wisniewski – then that goes away.

Chairman VanVliet – we would just make this an exemption.

Engineer Wisniewski – The exemption application wasn't filed until after our letter was issued

Chairman VanVliet – Oh okay, thank you very much

Engineer Wisniewski – and there was a supplemental package delivered that we received from the applicant that included that exemption application.

Chairman VanVliet – You and I had an extensive conversation on the phone about that. That explains that then.

Engineer Wisniewski – Yep.

Chairman VanVliet – Does the Board have any questions?

Member Weeks – I have one question. Checklist No. 51 it says site triangles have not been shown, alright, can you explain that?

Engineer Wisniewski – Sure, so, site triangles, you know, are elements that are added to a plan to denote what the visual triangle of visual view point of someone at an intersection who would see and ensure that that view shadow or whatever you'd like to call it, is kept clear of obstructions. In this case, that wasn't shown as there are no improvements for proposed in Rt. 22.

Member Weeks – It is not needed, so it is waived.

Engineer Wisniewski – Correct.

Chairman VanVliet – Any further questions on this? A motion to pass the exemption?

Attorney Bryce – You don't need to do a motion to pass the exemption. That's going to be handled administratively. There would be a motion to deem it complete with appropriate waivers as indicated and requested but they're just submission waivers; they're not waivers; it doesn't mean the obligation isn't there at this point. Deeming it complete, the Board's waiving those requirements just on the submission.

Chairman VanVliet – So, there is no further action.

Attorney Bryce – You just have to make a motion to deem it complete and grant the requested waivers subject to waivers.

Chairman VanVliet – I have one more question before deeming it complete. By our Checklist, is it required to submit a T3 way concerning wastewater on the property? Now, in your submission, I see you got an okay from Remington and Vernick who is the sewer engineer for Phillipsburg, we have our own Sewer Dept. here where we require a TWA from JMT in order to

indicate that we have capacity because there is a question to having capacity and it goes back as far as when the mall was built there was a certain capacity of sewer that was transferred from Lopatcong to Pohatcong and that's been in dispute for I don't know for how long. I never got a complete answer on what's happening there. I don't know if this affects this; first time the mall has ever been demolished and going to a different just so you may be entitled to that sewer capacity but I would appreciate a letter from or at least a contact to Dan Madden he's our sewer engineer so if you can make that a conditions

Attorney Costa – We can do that.

Chairman VanVliet – of approval.

Engineer Wisniewski – So, we require that as part once an application is deemed complete, in order for the application to essentially arrive at a state where it can be approved, you know, we would prepare technical reports as well as George prepare a report as the planner and also Dan Madden the Township Sewer Engineer would also prepare a report in support of the application or providing comments on the site plan if needed to address any technical issues that he might see and he would also speak to sewer capacity.

Chairman VanVliet – Does the applicant agree to that?

Attorney Costa – Yes, that would be part of it.

Chairman VanVliet – After that, I'll entertain a motion to deem the application complete.

Member Palitto – Motion.

Member Coyle – I'll second it.

Chairman VanVliet – Roll call, Beth.

AYES: Members Coyle, DiLeo, Palitto, Weeks, Vice-Chairman Samson, Chairman VanVliet.

NAYS: None

Attorney Costa – Thank you very much.

Chairman VanVliet – You're quite welcome. Okay, Planning Board news – we have two members that have resigned from the Board, Earl C. Clymer, Jr. and Michael Sazanov. I believe Michael moved out of town so he is no longer eligible and Earl has been here as long as I have; some 30 years and I guess he's tired of doing it. We thank them for their service. At this point we'll open the meeting to public comment.

Judy Liptak – 47 Kyle Drive – She noted that she shouldn't have to speak about her hearing disability. She requested again they speak into their microphones. The completeness vote that you took tonight, it's with the condition of sewer capacity? So, they got sewer Phillipsburg but not Lopatcong but it's a completeness but they have to still get that? I wasn't sure I understood what you were saying.

Attorney Bryce – Reminded everyone that this is public comment not public comment and questions.

Judy Liptak – I understand that but again, I didn't hear everything that you were saying, so I'm trying to clarify what I think I understood I heard.

Chairman VanVliet – Going back to the beginning that our Checklist requires a TWA which is basically

Attorney Bryce – It's capacity, not actually TWA. Within our sewer engineer it says, does an analysis as to capacity. I can't remember the exact language

Engineer Wisniewski - It's a confirmation from the Township's sewer engineer that capacity is reserved for the use proposed.

Judy Liptak – So, I understood that part of it. Phillipsburg/Lopatcong didn't understand what was being said there.

Chairman VanVliet – Well, the background on that is the Phillipsburg Wastewater Management Program is located in Phillipsburg. That's the plant that actually does the treatment of the wastewater. Lopatcong contracts with Phillipsburg's Sewer Department to have so much capacity for the entire Township. We've exceeded that now. Supposedly coming up, difficult thing to determine, but we leave that in the hands of the sewer engineer. On the last go around of warehouses, it was determined that we had no more sewer capacity to give out and if you remember there was also a question of who was in the sewer service area and who wasn't in the sewer service area. Well, obviously the mall has been in the sewer service area for a long time. There's been a question of a certain amount of gallonage that was given to, deeded to, whatever they used the term of, to Pohatcong from Lopatcong coming back for the use of the mall. Since the mall no longer exists, the mall owners now don't have the authority to reallocate those gallons. It has to come back to the Township of Lopatcong. That's out of the Planning Board's realm. We don't involve ourselves in that so, that's what I'm asking for is to have that document certified by our sewer engineer mentioning the Township of Lopatcong has the capacity, will grant the capacity to them of what they have. This is an argument that has been going on for a long, long time so I, we never really get into that. The Township Council basically, is the one that runs that so, I

Judy Liptak – So, that's what I guess I missed in the motion so, the completeness isn't really complete until they have that?

Chairman VanVliet – Yes,

Judy Liptak – It's like a preliminary completeness you just gave them?

Attorney Bryce – The way that it works, just to answer that, the completeness that was just made, is a triggering event under the Municipal Land Use Law to actually proceed to a hearing. That's sets up time frames for a hearing. So, it is a necessary precursor to a hearing where there's notice. This particular motion was to grant them that completeness but give them a

submission waiver, meaning that they still have to provide that document, they just don't have to provide it today.

Judy Liptak – That's what I missed. Understand and hearing what was said so, I appreciate that clarification and I appreciate you speaking in your microphones because I can hear you fine. So, I guess my statement then, so this is the warehouse that I think that prior to October, our Council was unaware of and this is the one that will be at the mall, parking lot, or mall area, we were told prior to October that no warehouse could be on this property; only maybe a parking lot so, I'm struggling to understand all of that; how we went from that to this. With the warehouses that were having, I'm wondering if the Council or not Council, the Planning Board has had any requests for expansions; are we getting requests for expanding properties or changing zoning so, that we can allow truck parking on our open lots because it seems more and more truck parking lots are popping up. So, we have Twilight, we have Eagle which are now, after I think well over a year, are like they went through the courts and they're kind of getting rid of them but I understand that Belview Road is having some truck parking issues; we have 220 Belview Road that had quite a few tractor trailers parked on it and our Zoning Officer had to go out. 210, I think it's 210 the property right next to it has heavy industrial trucks parked on that property. That road, part of that road, is weight limit. The other part that isn't the weight limit has that bridge. Correct Brian, it has a bridge that, you can even see the bridge dips and is separating from the road so both those properties are riding from 519 down Belview that nice little winding residential road that has a sign that says "kids at play" and we have heavy trucks coming from 210 and 220 so I was wondering if there was a change in some zoning or something that came to the Planning Board asking to change what those properties can be used for. I don't think I missed that many meetings but I'm kind of sick; I mean yes, we have our warehouses now. Now, we're dealing with the consequences of them and wait until John talks to you he counted 5 pee bottles tossed on Strykers Road today – disgusting but I'm concerned about these truck parking lots. The one on 220 Belview backs up right to the border, the river, the creek, the Lopatcong Creek and you know, that's terrible. Is it that easy to all of a sudden make a buck and allow trucks to park on your property.

Chairman VanVliet – I'm not aware of any applications coming before us for, at the, no change in the ROM District. It was when we first started the Rom Zone that was kind of an industrial area before, I'm not sure ever there, you know, if it was a

Talking over each other.

Judy Liptak – Does anybody know the weight could take; does anybody know that?

Member Weeks – Most bridges are county.

Engineer Wisniewski – Belview Road bridge is a county bridge.

Judy Liptak -Yeah, so, it would be the county commissioners to find out what that is, okay.

Chairman VanVliet – Anyone else, please come forward state your name, your address.

Joe Collucci – 1500 Bloomfield Avenue, Bloomfield – I represent the Iron Workers in Warren and Hunterdon County and the building trades appreciate you guys for passing, moving this project forward. I happened to work at the Phillipsburg Mall when they built it back in 1987 and 88. So, we appreciate you moving the project forward. A lot of people don't realize when you hire a union, we also have a program called Helmets to Hardhats. In that program we hire Vets when they come back from the service, we automatically sign them in jobs and we start more Veterans in the business than you can imagine so, we appreciate it and thank you very much guys – thank you.

Chairman VanVliet – Thank you. Yes, sir.

Bob Bruce – 11 Harwich Road – Been going to the Council meetings and the Planning Board meeting for a year and a half. I remember when they had the meeting about making the properties in need of development and had the maps up there and its kind of all made sense. I've come to understand that what happened was nothing other than a warehouse was allowed to be built at the mall and I don't know if anyone of you, Mr. Ritter, particularly, you're the planner, would address whether anything other than a warehouse was allowed to be built at the mall.

Planner Ritter- The answer is, is that the redevelopment plan that was approved by Council is an Overlay District to the mall zoning so, that basically, the Highway Business District which is what the mall is in, allows various retail, commercial, personal services, offices; all those uses could have been built at the mall and still technically can be built at the mall. The redevelopment plan was put in place by Council that limited or provided an option if someone chose to do it that would allow basically, warehousing and office uses to be constructed in addition to what is there today. So, to answer your questions correctly, yes, more could be built at the mall than warehousing as it exists today. What the applicant has chosen to do is put in a warehouse which is permitted under the redevelopment plan.

Bob Bruce – But would not have been permitted absent the redevelopment plan. It would have been a prohibited use.

Planner Ritter – It would not have been permitted in the HB District, that's correct.

Bob Bruce – Thank you.

Chairman VanVliet – Any further questions, comments? Seeing none and hearing none, we'll close the public portion and entertain a motion for adjournment.

Member Palitto – Motion.

Member Weeks – Second

Chairman VanVliet – All those in favor signify by saying yes. All said yes. No nays, no abstentions.

Respectfully,

Margaret B. Dilts
Planning Board Secretary

