

PLANNING BOARD MINUTES
PUBLIC MEETING
AUGUST 10, 2023- 7:00 P.M.
HELD AT THE OAKLAND SENIOR CENTER
20 Lawlor Drive, Oakland, NJ
www.oakland-nj.org

Pursuant to Chapter 231, Public Law 1975 (Open Public Meetings Act) adequate notice of this meeting has been provided by:

- ❑ Adoption of an annual schedule of meetings
- ❑ Posting a copy of same at Borough Hall and the Borough's website
- ❑ Advertised in The Record more than 48 hours in advance of the meeting
- ❑ Mailing a copy to any person requesting same

**** MEETINGS CONCLUDE AT 10:30 P.M., THEREFORE, NO TESTIMONY WILL BE TAKEN AFTER 10:00 P.M.**

PLANNING BOARD MEMBERS:

Andrew Gissonna, Edward Clark, Andrea Levy, Joseph Marscovetra, Michael Rose, Thomas Connolly, Lee Haymon, Gregory Liss, Councilman Kulmala, Mayor Linda H. Schwager and Chairman Thomas Potash.

FLAG SALUTE, MEETING OPENED AT 7:03 P.M., ROLL CALL:

Present Members: Ms. Levy, Messrs. Gissonna, Clark, Marscovetra, Haymon, Liss, Councilman Kulmala, Mayor Schwager and Chairman Potash.
Absent Members: Mr. Connolly.

EXCUSE ABSENCES:

Motioned by Ms. Levy and seconded by Mayor Schwager, to excuse the absence of Mr. Connolly was voted unanimously by the Board.

Mr. Joseph Russo, Esq., Board Attorney, Mr. John Yakimik, Board Engineer and Mr. Steve Lydon, Borough Planer were in attendance.

BOARD PROFESSIONALS SWORN IN:

Mr. Steve Lydon and Mr. John Yakimik were sworn in.

Mr. Gissonna will sit in for Mr. Connolly.

OPEN MEETING TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA.

Motioned by Mr. Rose and seconded by Mr. Liss, to open the meeting to the public for matters not on the agenda was voted unanimously by the Board.

No comments.

Motioned by Mr. Rose and seconded by Ms. Levy, to close the meeting to the public for matters not on the agenda was voted unanimously by the Board.

There was a discussion concerning the meeting being broadcast live. The videographer responded that they are testing new equipment and the meeting will be broadcast live.

PUBLIC HEARING:

1. Public hearing for the review of the Amended Land Use Plan Element.

Chairman Potash recommended that this matter be carried to the September 14th public hearing with no further notice to be given.

2. K. Hovnanian – McCoy Road, Block 4202, Lots 1, 2, & 3. Public hearing for a Final Major Subdivision and Site Plan.

Chairman Potash announced that this is a public hearing for a Final Major Subdivision and Site Plan application by K. Hovnanian located on McCoy Road.

Ms. Jennifer Knarich with Price, Meese, Schulman and D'Arminio was before the Board on behalf of the applicant, K. Hovnanian. She gave a brief history of the application for Block 4202, Lots 1, 2, and 3 located on McCoy Road, reviewed the court approved settlement for Affordable Housing litigation allowing 200 units including 40 affordable housing units. As a result of a new zone established, RA-2AH, K. Hovnanian will develop the property consistent with the requirements of that new zone.

Earlier this year, February 9, 2023 the Oakland Planning Board granted preliminary major site plan subdivision approval for 151 market rate units as well as 40 affordable rental units. This evening, the applicant will seek final major subdivision and site plan approval as well as a soil a movement permit to import approximately 24,800 cubic yards of soil. Also, variances were granted to allow for the retaining walls and fences associated with the improvements.

A discussion ensued concerning latest professional comments and recent reviews from the various Borough agencies. It was noted, for the record, that Mr. Clark would recuse himself from the application but is still free to comment on the application on behalf of Shade Tree Commission.

There was a discrepancy concerning completeness of the application concerning sewer hook-up and the recent wastewater management plan approved by the DEP. Chairman Potash explained that usually the professionals deem the application complete but there was some disagreement. He believes that the application can continue but the applicant will need to satisfy all necessary conditions and approvals concerning the sewer hookup with DEP.

Mr. John Cote, with Langhan Engineering located in Parsippany, NJ was sworn in, gave his credentials and the Board accepted his qualifications. Mr. Cote explained that relative to the wastewater management adoption, the subject property is referenced in the approval as one of the properties to be serviced.

The water supply will be provided by Veolia, and they have applied to the DEP for a water main extension to connect to McCoy Road. The sanitary sewer, TWA, is under technical review with both Franklin Lakes and Oakland. Mr. Cote read a section concerning conditions in the wastewater management plan which the applicant meets the conditions concerning the inter-basin transfer. Mr. Yakimik expressed that it should be clear that other steps need to be taken before the Borough have sewers installed.

Chairman Potash suggested that a vote be taken to deem the application complete. Councilman Kulmala questioned if there has been any response from the traffic officer or the fire subcode official concerning their comments and why they are not present at the meeting. Mr. Yakimik and Chairman Potash informed Councilman Kulmala that those issues should not affect the completeness of the application and those issues will be taken up later on in the hearing. Chairman entertained a motion to deem the application complete.

Motioned by Mr. Rose and seconded by Mr. Haymon, to deem the application complete. Mr. Liss confirmed with Chairman Potash that this was the only issue of completeness.

Roll Call Vote: Ayes: Ms. Levy, Messrs. Gissona, Rose, Marscovetra, Haymon, Liss, Councilman Kulmala, Mayor Schwager and Chairman Potash.

Nays: None

Abstain: None

Absent: Mr. Connolly

Councilman Kulmala expressed that he believes that the traffic officer and the fire subcode official should be present at this hearing due to the magnitude of the application. A discussion ensued that there were letters submitted by both traffic officer and fire official but was not distributed to the applicant.

Mr. Cote entered an exhibit.

Exhibit A-1, Site Plan with an Aerial Overlay.

He reviewed with the Board that the project fronts McCoy Road by means of a boulevard as a main entrance which makes its way down to the site to the affordable housing units. Further down to the market rate townhouses, there are a series of roadways providing access to each townhouse. In addition, as part of the settlement agreement, the plan provides access points for the horse farm in accordance with RSIS standards. These access points will require retaining walls and fencing which triggers variances.

The site will consist of three detention or infiltration basins positioned as you come into the main boulevard as well as a small detention basin out along McCoy Road. There will be sidewalks provided throughout the complex for pedestrian connection. They have communicated with the Board of Education concerning building a connecting sidewalk from the property to the high school. However, they have not responded. In addition, the BOE has a fence that encroaches on the subject property and his client is willing to give them permission to let the fence remain.

Mr. John Caniglia, K. Hovnanian counsel, was sworn in. He explained that the Board of Education is interested in maintaining an easement for the small triangular piece that encroaches on his client's property. However, there has been no further discussion concerning the sidewalk with direct access to the school from the subject property. As part of the preliminary approval, there is a condition requiring that escrow to the Borough be deposited for the cost of sidewalks beyond the front of the site, along McCoy Road and up Yawpo Avenue. The amount of escrow will be quantified during the final approval and developer's agreement.

Mr. Cote informed the Board that he would go through each item in Mr. Yakimik's report. The completeness issue was addressed concerning the proposed sanitary sewer and water system. There is a request for profiles and construction cross sections for parking, aisles and driveways, curbing walkways and exterior stairways and railings. These standards will be provided to the contractor and a copy will be provided to the Borough engineer when they are available.

Mr. Cote referenced the soil movement application in accordance with the code. The soil moving permit requires soils import of approximately 24,000 cubic yards. A discussion ensued concerning the number of trucks this will involve. It was discussed that a particular route be a condition of approval.

The applicant shall pay its pro-rata share of the cost of all off-tract improvements. Contribution for the construction and/or repairs of Allerman Brook will be 1 percent of the estimated cost which is stipulated in the developers agreement and will be calculated closer to the time of improvements. Mr. Cote entered an exhibit.

Exhibit A-2, Overall Sanitary Force Main dated May 11, 2023

The plan shows the overall length and route of the off-site sanitary sewer force main, the on-site pump station and force main that is routed out to McCoy Road. Approximately two-thirds of the way down the property, off to the west, is the pump station. The force main routes down the

boulevard out to McCoy Road and crosses into Franklin Lakes where it runs down the length of Colonial Road up to Sunset Terrace.

A TWA application has been submitted to the Borough and Franklin Lakes for their review. The pump station will collect all flow from the site, both affordable and market-rate units. Once the Borough and Franklin Lakes endorses the application, then it goes to Northwest Bergen County Utility Authority for their endorsement and then delivered to the DEP. Mr. Cote entered another exhibit.

Exhibit A-3, Master Site Plan dated May 19, 2023

A discussion ensued concerning comments from the fire official. He questioned if water will be hooked-up before framing begins. Mr. Caniglia responded that he believes that it will. Mr. Yakimik questioned if this could be made a condition of approval. Mr. Caniglia objected to the request. He explained that this would be their intention but circumstances change and they do not want to delay the project from being built. He expressed that the supply issue for materials is better than prior years and does not see an issue with the installation of water. Mr. Yakimik requested that before any clearing of the property occurs, the applicant secures approval for water conveyance and sanitary sewer. Mr. Caniglia agreed to his request.

Exhibit A-4, Water Main Extension Package

The utility plan previously presented contained a loop that runs through the site and provides the off-site connection by Veolia. A water main permit package has been submitted to DEP. A new 12-inch main connecting from Colonial Road to McCoy Road. Two 8-inch lines will come off of the McCoy Road main, into the site to service the loop of the development. Chairman Potash confirmed that fire hydrants would meet the specifications required as requested by the fire department. Mr. Cote responded that hydrants would meet the required specifications.

Exhibit A-5, Master Landscape Plan dated May 19, 2023

Mr. Cote informed the Board that there was a lot of feedback and discussions with Mr. Clark at the board hearings. There have been added terms of additional plantings along the perimeter and internal of the site, consisting of a number of species requested by Mr. Clark. Additional plantings will be added around the basins and on the downhill slope adjacent to add support. Additional plantings will be added along the front by the basin within the affordable housing portion of the site and run the perimeter of the Leone property on both the west and east side of the site.

Mr. Cote requested time to go over the comments he did not receive before going further.

Meeting recessed 8:06 p.m.

Meeting resumed 8:20 p.m.

Chairman Potash requested a roll call.

Present Members: Ms. Levy, Messrs. Gissona, Clark, Marscovetra, Haymon, Liss, Councilman Kulmala, Mayor Schwager and Chairman Potash.

Absent Members: Mr. Connolly.

Mr. Cote informed the Board that he could address the comments from the traffic officer, Steven Albert. In his comments, he talks about the connection and the access drive to the property. This was discussed during the previous application how they propose to provide two means of egress through the site, via the boulevard, which will act as a dual lane extending to the primary intersection (Road A and E). Mr. Lydon requested that Mr. Cote remind the Board what about RSIS standards. Mr. Cote responded that RSIS is endorsed by New Jersey to set rules to govern residential development throughout the state. It sets standards that are used to bring all residential development to a higher standard including emergency access referred to in this case as the boulevard. The width of the roadways is demonstrated in the circulation plan which shows points of site accessibility for emergency vehicles such as a fire truck. In addition, as a condition of preliminary approval, there will be no parking allowed on the streets.

Mr. Lydon questioned if the applicant is to follow the RSIS standards or the Borough's ordinance with regard to roadway design, construction, and things of that nature. Mr. Cote responded that RSIS supersedes the Borough's standards because it is established throughout the state to create uniformity and safety concerning roadways, parking, and utilities.

A discussion ensued concerning safety with one ingress and egress. Mr. Cote expressed that this was addressed during the preliminary approval and as a result they have included mountable curbing, smaller plantings in and around the islands. Mr. Lydon informed the Board that RSIS standards have been in effect since 1997, over 25 years. He pointed out that the farm has access to the applicant's property and there are gates that, in an emergency, can be used as another egress. Chairman Potash informed the Board that in a message from the attorney for the horse farm, he said that they would not prevent the Borough from using that access in an extreme emergency. A discussion ensued recommending a conversation between the property owner and municipal officials concerning the locked gates. Mr. Lydon questioned Mr. Russo if the Board could require the horse farm owner to provide a knock-box as part of the site plan approval. Chairman Potash responded that the horse farm owner will have to agree to it. Councilman Kulmala explained the procedure for the knock-box regarding the fire department. Chairman Potash informed Mr. Caniglia that the knock-box for the gate will be a condition in the resolution. Mr. Caniglia had no objection but could not consent to it.

Mr. Cote reviewed comments from Fire Official, Mr. Knubel. He explained that spacing in between for the fire hydrants will not exceed 500-feet. The entire complex will be fed by two 8-inch mains which will loop throughout the complex connecting to a 12-inch main on McCoy Road to ensure adequate flow for suppression. Fire Prevention also requested hydraulic calculations by a licensed professional including the flow-sufficient for fire suppression operations. Mr. Cote informed the Board that Veolia has that information, and he will see if he can provide this.

Mr. Cote informed the Board that fire apparatus will be able to navigate but it will be tight. Appropriate signage, striping for fire zones and no parking areas will be in place throughout the complex. Above ground utilities shall be provided with impact protection. Bollards are usually not provided around hydrants because they are stepped back for this reason. There will be six EV parking/charging spaces located in a rear row. The market rate townhouses will have connection panels that will be ready for EV installation. Mr. Cote agreed that he would reach out to the fire official to answer his questions.

A discussion ensued concerning no elevators in the affordable housing units. Mr. Cote responded that there was testimony concerning this subject that the ground level units are setup to be ADA accessible with no steps and meets code requirements governed by the town. Utility and mechanicals for each unit will be mounted internally. A knox-box will be installed to provide all keys to access buildings. For emergency purposes, labeling and or numbering buildings for police, fire and EMS will be provided.

Councilman Kulmala questioned if the buildings would have sprinkler systems. Mr. Cote requested Mr. Long to answer that question. Mr. Jeoffrey Long was sworn in and testified that the affordable buildings will be fully sprinkled which meets the most up-to-date code. Adding to the accessibility for the first floor, both buildings will meet the clearance requirements with grab bars, clearance within the kitchen, and washer and dryers will be side by side instead of stackable. Mr. Russo questioned if the clubhouse is sprinkled. Mr. Caniglia responded that the clubhouse is under 3,000 square feet which does not require them to sprinkle the building. We are required to follow the DCA requirements, and they do come out and inspect.

Mayor Schwager stressed that she is very concerned with safety and wants to make sure that this complex is safe. Mr. Long explained that they are also very concerned about safety, health and welfare of their residents as well as the design for accessibility. As part of their application, they work hand in hand with the town's Fire, Police and EMS departments.

Chairman Potash recommended that they go through resolution items. A discussion ensued concerning a soil movement application. Mr. Cote explained that they will provide the information close to the construction and establish an approach once a contractor is on board. Ms. Knarich responded that the information will be supplied but under the ordinance, we do not need a separate application. Mr. Russo questioned about a soil erosion sediment control plan. Mr. Cote responded that this has been filed with the county and is in review. Councilman Kulmala questioned if the route for dump trucks could be in and out through Colonial Road/McCoy. Mr. Caniglia agreed to this.

Mr. Russo reminded Mr. Cote and Ms. Knarich that structural design calculations and cross section for each retaining wall need to be submitted. Mr. Cote responded that this will be provided closer to construction. Mr. Russo confirmed that establishing a reasonable escrow account for sidewalks along McCoy Road up to Yawpo Avenue was discussed and will be included in the developer's agreement. He also confirmed that he would be following conditions set forth in the preliminary resolution. The applicant shall install premium silt fencing, back stopped by hay bales.

Mr. Russo referenced the Kelly Bill and that snow removal throughout the development, garbage, refuse and recyclable materials will be done by the HOA and will be reimbursed by the Borough at a reasonable cost. In addition, the HOA will provide lighting of the streets throughout the development. He read the specific language set forth in the preliminary approval resolution.

Councilman Kulmala expressed that this year, there has been a sewer project going on which has been a burden on the residents. He requested that the applicant be diligent with policing the improvements to the street and at the end of the day, make sure that the streets are free of debris. Mr. Caniglia agreed to the request. Mr. Yakimik explained that during the pre-construction meeting with Borough officials which include DPW, police and the Borough engineer, this will be a requirement before the work is started. Mr. Caniglia added that it can be made a condition and part of the developer's agreement that the applicant applies for a road opening permit.

Chairman Potash informed the Board that they will not vote on the application this evening so that Mr. Yakimik can get more information on the Allerman Brook issue. A discussion ensued concerning the presence of emergency service personnel. Chairman Potash expressed that most of their comments have been addressed but we can request their presence at the next meeting. He added if they cannot make the meeting, maybe the applicant can arrange a meeting prior to iron things out. Mr. Caniglia responded that he would be happy to meet with the fire official and traffic safety officer before the next meeting. Mayor Schwager informed the Board that she reached out to the school board and superintendent since there will be an elementary school affected.

Chairman Potash entertained a motion to open the meeting to the public with regard to the testimony given by Mr. Cote, Mr. Caniglia and Mr. Long.

Motioned by Mr. Rose and seconded by Mayor Schwager, to open the meeting to the public regarding testimony given by Mr. Cote, Mr. Caniglia and Mr. Long was voted unanimously by the Board.

Mr. Joseph Ryan, 740 McCoy Road, informed the applicant that he lives across the street from the proposed development in Franklin Lakes. He explained that he works for a construction company and is familiar with this type of work. He questioned that during this construction and improvements to the roadway, will residents on McCoy have access to their properties. Mr. Yakimik responded that they will work towards compelling the contractor to work on one side of the road leaving access at all times to the residential properties. Mr. Cote confirmed that one-lane access bypassing the construction will be provided. Mr. Ryan thanked the Board.

Mr. Edward Clark, 6 Morton Place, commented that the plan is better than when it started. He has 4 comments that will need to be discussed further:

- Species swaps and adding some species.
- The extent of the irrigation

- Screening additional screening along McCoy Road up behind the football field bleachers
- Plantings within the island between the Boulevard.

A discussion ensued concerning the height of trees near the boulevard. Mr. Liss recalled that Mr. Clark recommended that the applicant use trees or plantings that would not be able to cover both sides the entire boulevard. Mr. Cote and Caniglia will continue to meet with Mr. Clark.

Chairman Potash entertained a motion to close the meeting to the public with regard to the testimony given by Mr. Cote, Mr. Caniglia and Mr. Long.

Motioned by Mr. Rose and seconded by Mayor Schwager, to close the meeting to the public regarding testimony given by Mr. Cote, Mr. Caniglia and Mr. Long was voted unanimously by the Board.

Chairman Potash announced that this application will be carried to the September 14, 2023 public hearing with no further notice.

REVIEW OF ORDINANCES:

- Ordinance 23-Code-923
- Ordinance 23-Code-924
- Ordinance 23-Code-925
- Ordinance 23-Code 926
- Ordinance 23-Code-927

Chairman Potash informed the Board that Mayor and Council requested that the Board review and recommend the 5 ordinances. Three of the ordinances were already reviewed and recommended. Council decided to remove the “level of service” section in three of the ordinances and reintroduce them. No changes were suggested for the remaining ordinances.

Motioned by Mr. Rose and seconded by Mr. Liss, to authorize Mr. Russo to draft a letter recommending the ordinances for adoption.

Roll Call Vote: Ayes: Ms. Levy, Messrs. Gissona, Rose, Marscovetra, Haymon, Liss, Councilman Kulmala, Mayor Schwager and Chairman Potash.

Nays: None

Abstain: None

Absent: Mr. Connolly.

CONTINUED REVIEW OF ORDINANCE:

- RVRHAP

Chairman Potash announced that this ordinance will be carried to the September 12th meeting for further review.

MEMORIALIZATIONS:

A & E Ventures of Oakland – Request for extension.

PAYMENT OF BILLS:

Motioned by Mayor Schwager and seconded by Mr. Haymon, to pay the bills subject to the availability of funds.

Roll Call Vote: Ayes: Ms. Levy, Messrs. Gissona, Rose, Marscovetra, Haymon, Liss, Councilman Kulmala, Mayor Schwager and Chairman Potash.

Nays: None

Abstain: None

Absent: Mr. Connolly.

APPROVAL OF MINUTES:

July 13, 2023 Minutes:

Motioned by Mr. Rose and seconded by Mr. Liss, to approve the July 13, 2023 Minutes.

Roll Call Vote: Ayes: Ms. Levy, Messrs. Clark, Rose, Marscovetra, Haymon, Liss, Councilman Kulmala, Mayor Schwager and Chairman Potash.

Nays: None

Abstain: None

Absent: Mr. Connolly.

NEW BUSINESS:

None

OLD BUSINESS:

None

PUBLIC MEETING ADJOURNED AT 8:00 P.M.

Motioned by Mr. Rose and seconded by Mayor Schwager, to adjourn the meeting by a unanimous vote by the Board.

Respectfully Submitted by,

Kathlyn Gurney, Administrative Assistant

*Next meeting on September 14, 2023