



# BOROUGH OF EAST RUTHERFORD PLANNING BOARD MEETING MINUTES APRIL 10, 2017

A meeting of the East Rutherford Planning Board was held on **April 10, 2017** at 7:00pm at the Borough Hall, located at 1 Everett Place, East Rutherford.

## ROLL CALL

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| <input checked="" type="checkbox"/> Carmen Polifronio, Chairman<br><input checked="" type="checkbox"/> Kaz Dabek, Vice-Chairman<br><input type="checkbox"/> Mayor James L. Cassella<br><input checked="" type="checkbox"/> Councilman Saverio Stallone<br><input type="checkbox"/> Robert Roth<br><input checked="" type="checkbox"/> Joseph Morris<br><input checked="" type="checkbox"/> John Fusco<br><input checked="" type="checkbox"/> Michael Homaychak, Mayor's Alternate | <input checked="" type="checkbox"/> John Giancaspro, Secretary<br><input checked="" type="checkbox"/> James Novello, Attorney<br><input checked="" type="checkbox"/> Mark Everett, Planner<br><input checked="" type="checkbox"/> Glenn Beckmeyer, Engineer |
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*Denotes in Attendance*

The meeting was called to order by Chairman Carmen Polifronio, followed by the Pledge of Allegiance.

## APPROVAL OF MEETING MINUTES

| <b>APPROVAL OF MINUTES OF MARCH 13, 2017</b> |          |          |          |    |          |             |
|--|----------|----------|----------|----|----------|-------------|
| MEMBER                                       | MOVED BY | SECOND   | AYE      | NO | ABSTAIN  | NOT PRESENT |
| Polifronio                                   |          |          | <b>X</b> |    |          |             |
| Dabek  |          |          | <b>X</b> |    |          |             |
| Cassella                                     |          |          |          |    |          | <b>X</b>    |
| Stallone                                     |          | <b>X</b> | <b>X</b> |    |          |             |
| Roth   |          |          |          |    |          | <b>X</b>    |
| Morris                                       | <b>X</b> |          | <b>X</b> |    |          |             |
| Fusco  |          |          |          |    | <b>X</b> |             |
| Homaychak                                    |          |          |          |    | <b>X</b> |             |

During the approval of the last meeting's minutes, Councilman Stallone questioned whether the Eros Café application was approved appropriately, raising concern over the design encroaching in

the Right of Way and beyond the extent of the licensing agreement. Mr. Beckymeyer provided further detail, explaining that the Applicant sought to place an ADA parking space partially in the Right of Way, but could not determine the exact size of encroachment. He noted that the licensing agreement with the Borough only allows the steps to be in the Right of Way. Mr. Novello reported that he had discussed with Mr. David Crook, the Applicant's Attorney, and Mr. Crook was going to provide Mr. Novello with an updated licensing agreement to include the parking space. Mr. Novello noted he would report back to the Board next meeting on the issue.

## **APPLICATIONS**

### **DOCKET #16-005**

#### **Application for Preliminary and Final Site Plan Approval**

#### **10 Morton, LLC**

10 Morton Street

Block 8, Lot 4

*Applicant seeks preliminary and minor site plan approval to construct a 76-unit multi-family affordable housing residential development.*

Mr. Brian Chewcaskie, Attorney for the Applicant came forward to reintroduce the application to the Board and noted that following the last meeting, the Applicant's design professionals met with the Board's Planner and Engineer. He explained that the feedback from that meeting required revisions to the plans, which resulted in the Applicant asking that the application be adjourned until this meeting. He explained that the Applicant would introduce updated plans at this meeting, which addressed the concerns of the Board's professionals and the Fire Department.

Mr. Adolph Montana, Engineer for the Applicant presented a set of revised plans based on meeting with the Board's professionals. Mr. Montana presented a revised site layout on Sheet C-4 (Exhibit A-6), dated March 30, 2017. He highlighted that the layout incorporated the comments of the Board Engineer and Fire Department. Mr. Montana provided the following information related to the revised site plan:

1. Sidewalks outside the Applicant's property were removed from the plan
2. Proposed sidewalks and utilities would be within the site location and easement area
3. Additional landscaping was added to the plan
4. The two proposed waste containers were updated from 2 yards to 6 yards, which would require a waiver from the Board.
5. Crosswalks were added in the parking lots to provide for pedestrian safety and access.
6. Addressing the Fire Department's comments, markings/signs, yellow curbs, and fire lanes were added to the plan.
7. The proposed retaining wall was relocated and sized to comply with the Borough's 4-foot requirement.
8. A 24-inch pipe was added to the plan on the eastern portion of the plan to capture eastern watershed and routed to a 12-inch pipe/outlet structure.
9. A detention system was designed on site to handle all water on the site.

10. A bypass pipe was added to the design of the stormwater system, and would spill into the lawn area.

Mr. Montana concluded by noting that he felt the revised plan addressed the concerns of the Board Engineer.

Mr. Montana provided additional details regarding the updates made based on the Fire Department's comments. He explained that the requested signage, markings, and fire lanes were added to the plan. Additionally, he reported that the Fire Department Connection would be placed on the northwest corner of the retaining wall and in close proximity to a fire hydrant. He also noted that a fire hydrant was relocated from the trash enclosure area to an island in the eastern parking lot.

Mr. Glenn Beckmeyer, Engineer for the Board, was present and provided a report to the Board reporting concerns he had regarding the application's updated plans. He noted that he felt it was important to address the issue regarding whether the access to the site was determined to be a private driveway or public Right of Way, as the determination would determine required design criteria.

Mr. Beckmeyer raised concerns over the proposed drainage and asked for Mr. Montana's method in conducting field observations. Mr. Montana responded that a dye test was conducted which determined that the flow proceeded to Madison Street. He explained that he did not televise the line.

Mr. Beckmeyer asked how connection was made to the municipal stormwater system, to which Mr. Montana responded that connection was via a 12-inch line which crosses through private properties and into the Borough system. Mr. Beckmeyer raised concerns over the pitch of the manhole and piping, along with its capacity and condition. He expressed concern over possible clogs, blockages, and breaks and recommended the existing conditions be televised and cleaned where necessary to determine any issues that may create future issues. He also requested that the details of the design be provided along with calculations.

Mr. Chewcaskie noted that the Applicant felt the design was accommodating the drainage without utilizing the 12-inch existing pipe.

Mr. Dabek voiced his concern over the condition of the existing 12-inch line and agreed that the condition and path of the line should be confirmed through televising of the line. He explained that would determine if Mr. Beckmeyer's concerns were valid and issues could be addressed accordingly. Mr. Montana noted that he felt it was unnecessary as the site was providing enough on-site drainage to accommodate all the water on the site, including the 2, 10, 100-year storms.

Mr. Novello asked about the ownership of the system beyond the Applicant's property. Mr. Montana and Mr. Beckmeyer explained that the system crossed private properties and connected

into the system in the area of Madison Street and Plosia Way. Mr. Novello raised concern of use of this line as the condition across the other properties was not known and asked how that would be addressed. Mr. Chewcaskie responded that it was an existing system.

Mr. Beckmeyer asked about the capacity of the basin, to which Mr. Montana responded that no water would be held in the basin. Mr. Beckmeyer also requested mapping be provided for the system, downstream.

As Mr. Montana's testimony concluded, Mr. Chewcaskie noted that the Applicant would provide downstream mapping of the system and would review the easements pertaining to the stormwater system.

Mr. Mark Everett, Planner for the Board, asked if the Survey, noted as S-1 had a revision date. Mr. Montana noted that the survey was dated November 30, 2016 and had no revision.

Mr. Everett asked why the sidewalk was eliminated on the eastern side of the property. He noted that he felt it necessary to provide pedestrian access and eliminate people walking in the street. Mr. Montana responded that the sidewalk was eliminated due to the Applicant not having ownership or access to the property in which it was proposed and internal site sidewalks were still being proposed. Mr. Homaychak and Mr. Fusco raised similar concerns and felt that the sidewalk should run to the furthest extent possible. Mr. Chewcaskie noted a small section at the eastern side of the property could be added.

Mr. Everett asked if a calculation of the cut and fill was made. Mr. Montana responded that the calculation was net zero.

Mr. Charles Flenner, Jr. came forward to represent the East Rutherford Fire Department. Mr. Flenner explained that the Fire Department would like details regarding maximum flow, the type of sprinkler system being proposed, and any fire pumps proposed. Mr. Mark Virgona, Architect for the Applicant responded that the sprinkler system was designed to the NFPA 13 standard.

Mr. Flenner continued by stating that the Fire Department had concerns related to the access of the site and felt that a second entrance should be provided to ensure the access of emergency equipment. He noted that based on the singular access, the use was not appropriate for the site.

Chairman Polifronio asked Mr. Flenner if he felt that fire apparatus could circulate the site. Mr. Flenner responded that the Applicant was cooperative and demonstrated that the Fire Department's largest apparatus could appropriately navigate the site.

Mr. Homaychak asked Mr. Flenner if there was an appropriate access for the Fire Department in the rear of the proposed structure. Mr. Flenner responded that fire apparatus could not be positioned on all sides of the structure, but that was not uncommon. He further noted that appeared that the Fire Department could use ground ladders to reach the top floor of the building.

Mr. Novello asked Mr. Flenner to elaborate on the Fire Department's concerns regarding water capacity. Mr. Flenner explained that the site is in a location within the Borough which has historically had fire hydrant capacity issues. He explained that he would like the Applicant to provide a maximum flow calculation in order to determine if additional fire suppression measures would be necessary. He offered a supplemental water tank as a potential measure to assist in fire protection if the water supply is not adequate. Mr. Flenner concluded his point by stating that he understood the difficulty in obtaining information from Suez Water, but he would prefer to see calculations as soon as possible. Mr. Morris voiced his support of providing the Fire Department with calculations prior to approval due to the associated life safety hazard.

Mr. Flenner also testified over his concern of the evacuation of the building during the emergency, and the Fire Department's access being restricted to one point. He noted that this could be a hazard to the building occupants as emergency apparatus arrived on site.

Mr. Flenner asked about the extent of fire lanes, to which Mr. Montana explained fire lanes would be provided within the area of the Applicant's property and the easement. Mr. Flenner followed up by asking how the parking would be regulated in the rest of the area. Mr. Chewcaskie responded that regulation of the area was beyond the responsibility and capability of the Applicant.

Mr. Flenner concluded by reiterating his concerns over access and stated that he did not feel the site was appropriate for the proposed use due to the limitations of Fire Department access. He felt that the access issue when compounded with the high residential occupancy of the application posed a life safety hazard. Mr. Reagan, Special Monitor, asked Mr. Flenner if the Fire Department had raised access concerns to the Borough's Governing Body, to which Mr. Flenner stated it had not. Mr. Reagan noted that the proposed use is allowable in the zone. Mr. Flenner stated an opinion that perhaps the zoning was adopted with the assumption that multiple lots would be used to develop the area.

A motion was made by Councilman Stallone, seconded by Mr. Dabek to open the meeting to the Public. All were in favor.

Mr. Adam Faiella, representing Lester Entin Associates came forward to ask questions of Mr. Montana. Mr. Faiella asked Mr. Montana if the Applicant still proposed to connect the proposed site into the stormwater line on his client's property. Mr. Montana responded that the line would connect to the line and then continue across several other properties.

Mr. Faiella explained that he believed the site was not even in regard to topography and would increase sheet flow on to his client's property. Mr. Montana disagreed and noted that the improvements would capture stormwater flowing from east to west.

Mr. Faiella asked if the condition of the existing 12-inch pipe was known, to which Mr. Montana stated the dye test that was conducted proved the line was functional. Mr. Faiella asked what the

impact would be if the 12-inch line is not functional, to which Mr. Montana stated that the proposed site design was improving current conditions and would handle the site's stormwater runoff.

Mr. Faiella questioned how the Applicant determined the current gravel on site is considered impervious surface. Mr. Montana responded that the determination is in accordance with the NJDEP regulations and would be subject to its review prior to development.

Mr. Faiella explained that the loading dock area on his client's property is lower than the rest of the site, and the Applicant's site. He asked how the overflow on the Applicant's site would impact this lower area. Mr. Montana responded that a berm on the Applicant's property would divert the water to the north, and not on to the Applicant's property.

Mr. Faiella asked if the 12-inch pipe connected to an 18-inch pipe. Mr. Montana explained it was not known, but further information would be provided to Mr. Beckmeyer for review and determination.

Mr. Faiella asked Mr. Montana to explain the soil types noted in Appendix B of the Stormwater Report. Mr. Montana explained that the soils on site are considered urban land, and all other soils not marked in the report are not present.

Mr. Faiella asked Mr. Montana if utility connections would be made in the easement area and if they had legal authority to do so. Mr. Montana responded that the utilities would be connected in the easement but deferred the legal aspect to the Applicant's attorney.

Mr. Faiella asked if there was a plan to ensure continuous access to his client's property during construction. Mr. Montana assumed there would be and Mr. Chewcaskie stipulated that the Applicant would ensure continuous access.

Mr. Faiella asked if the New Jersey Administrative Code was used in determining the flood hazard area. Mr. Montana explained that a FEMA map was utilized.

Mr. Faiella asked what the extent of the eastern driveway was proposed as. He also asked what the distance of the stop bars were from the easement. Mr. Montana explained that the driveway extended to the easement and stop bars were proposed at 15 feet from the property line in the western driveway, and 10 feet in the eastern.

A motion was made by Mr. Homyachak and seconded by Mr. Dabek to close the meeting to the Public.

Mr. Mark Virgona, Architect for the Applicant, came forward to testify to revisions made to the architectural plans. Mr. Virgona explained that revisions were made and he submitted Sheet A-7 with a revision date of March 28, 2017. Mr. Virgona explained the changes consisted of the following:

1. Floor elevations were lowered based on updated survey data
2. The Parking Level plan was revised to reflect changes in the mechanical room to accommodate the Fire Department Connection in the western driveway area
3. Pedestrian Crosswalks were added in the parking areas
4. Sheet A-3 was revised to show the location of the firewall.

Mr. Virgona explained the fire protection systems in the building, noting that the building would be protected by a NFPA Type 13 system. He explained a maximum flow calculation would be provided to the Fire Department but required the design of the sprinkler system first and if the water supply is insufficient in the area, a fire pump could be added. Mr. Chewcaskie asked if Mr. Virgona felt a water tank may be necessary on site, to which Mr. Virgona responded he did not think it would be necessary, but could be added in the event it was needed.

Mr. Polifronio asked if the changes in the parking areas had changed the amount of spaces being provided. Mr. Chewcaskie explained that 174 parking spaces were being provided and the application still exceeded the 152 required. Councilman Stallone asked if there were any fees associated with parking spaces, to which Mr. Chewcaskie responded that no fees would be charged.

Mr. Polifronio asked if the height of the building had changed based on the elevation changes. Mr. Virgona explained that the height had not changed, but the survey data and elevation heights were updated.

Mr. Homyachak asked if the parking area was sprinkled. Mr. Virgona responded it was.

Mr. Dabek asked if the slope of the back elevation hindered the Fire Department's access to the rear of the building. Mr. Virgona stated that the Fire Department could access, and Mr. Flenner confirmed that the Applicant had demonstrated the Fire Department's ability to access the rear with ground ladders.

Mr. Homyachak moved to open the meeting to the Public. Councilman Stallone seconded the motion. All were in favor.

With no member of the Public wishing to be heard, Councilman Stallone moved to close the meeting to the Public. Mr. Homyachak seconded the motion. All were in favor.

After a short a recess, the Board reconvened hearing of the application.

Mr. Joseph Staigar, P.E. came forward to testify regarding the traffic impacts of the application. Mr. Staigar explained that a Traffic Impact Analysis was conducted focusing on three areas, (1) existing conditions, (2) amount of traffic to be generated and the impacts on the surrounding area, and (3) the safety of the design and efficiency.

Mr. Staigar explained that traffic counts were taken in November, generating typical residential counts. He explained the methodology of determining the level of service the site would be provided and noted that he had determined the level of service would be Levels A through C.

Mr. Staigar testified that the proposed development would generate approximately 23 trips during morning peak hours and 30 evening trips during peak hours. He noted that there was good traffic dispersion beyond the intersection of Morton Street, Carlton Avenue, and Cottage Place.

Mr. Staigar further explained that he had worked with the Applicant's engineer in development of the site plan. He noted that the parking aisles are designed at 24 feet and the parking stalls are 9 by 18 feet, which is consistent with the RSIS standard.

Mr. Staigar noted that the development posed no major impact on traffic in the area and provided adequate on site parking.

Mr. Staigar explained that the existing island at the intersection of Morton Street and Chadwick Street could be redesigned and constructed in a manner that would allow the Fire Department a second means of accessing the site.

Mr. Staigar also noted that pedestrian access, particularly for students, could be achieved via Chadwick Street which provided sidewalks and direct access to McKenzie School.

Chairman Polifronio asked if any study was conducted of the nearby industrial use. Mr. Staigar explained that the property generated low volumes of traffic and it would not be unusual to have traffic to the site in the morning.

Mr. Homyachak asked for the timing of the traffic counts. Mr. Staigar responded the counts were conducted between 7am and 9am, and 4pm and 6pm. Mr. Homyachak voiced concerns over heavy traffic in the morning hours due to school traffic.

Mr. Beckmeyer requested a copy of the submitted Traffic Study, to which Mr. Chewcaskie responded it would be provided.

A motion was made by Councilman Stallone, seconded by Mr. Dabek to open the meeting to the Public. All were in favor.

Mr. Adam Faiella came forward to ask questions of Mr. Staigar.

Mr. Faiella asked if the secondary means of access would be achieved via Morton Street or Chadwick Street, to which Mr. Staigar responded Chadwick.

Mr. Faiella asked if considerations were made to the sight lines at the intersection of Morton Street and Carlton Avenue. Mr. Staigar responded that they had not studied the sight lines as it is an existing condition. Mr. Faiella followed up asking for information related to the sight lines at the driveways. Mr. Staigar said the driveways and curbs were appropriately designed and provided optimal visibility.

Mr. Faiella asked Mr. Staigar if he was aware of the time restrictions on truck traffic to his client's site and if he felt that would increase the burden of traffic. Mr. Staigar noted he was not aware of the restrictions but felt it would not have any significant impact.

Mr. Faiella concluded by asking Mr. Staigar felt that a truck could navigate a 24-foot roadway with other cars present. Mr. Staigar responded he felt it was adequate.

Mr. Ken Ochab, Professional Planner, came forward to provide testimony. Mr. Ochab testified that he had reviewed the application for compliance with Borough regulations. He summarized that the application was a permitted use in the zone and met all the bulk and area requirements. He noted that a waiver would be required for dumpster size. He further noted that the development did not front on a public street, but could be relieved due to the practical difficulties and hardships of the site.

Mr. Ochab also explained that he felt there was adequate ingress and egress to the site for the use proposed.

Mr. Ochab testified that he did not feel the proposed application would have a detrimental impact on the zoning of the Borough or the Master Plan. He felt it complies with the zoning and the Applicant established criteria that there would be impairment or detrimental impact. He noted that the application provided a beneficial use and promoted public welfare.

Councilman Stallone asked about the projected impact to the school districts. Mr. Ochab responded that based on studies conducted by Rutgers University, it was assumed there would be 35 children of varying ages and school levels. He further explained that based on references to similar developments, the number of students could be closer to 70. He noted that based on his analysis, he felt the schools could accommodate the additional students. He also stated that the number could be lower if there were senior citizen occupied units.

Chairman Polifronio asked Mr. Ochab if he felt the site was suitable for such development. Mr. Ochab responded he felt the site was suitable and the area could see further redevelopment as a result of it.

Mr. Everett asked if the Financial Impact Analysis had been updated. Mr. Chewcaskie responded it would be updated based on the previous meeting.

Mr. Everett asked about the affordable housing unit breakdown for the application. Mr. Reagan explained that 13% would be set for very low income. Mr. Ochab noted that the Applicant would work closely with Mr. Reagan in implementing the income levels appropriately.

Mr. Everett asked if there were any senior citizen units set aside. Mr. Chewcaskie responded that the Applicant was not restricting units in any fashion and would comply with the applicable regulations.

Mr. Everett asked about the condition of financing the project. Mr. Chewcaskie responded that the project would be a tax credit project, but not exclusively.

Councilman Stallone asked if the development would fulfill the Applicant's obligation in other municipalities. Mr. Reagan responded it would not, and that is no longer legally allowed.

Mr. Homaychak moved to open the meeting to the Public. Mr. Morris seconded the motion. All were in favor.

Mr. Adam Faiella came forward to ask questions of Mr. Ochab.

Mr. Faiella asked if the issue related to the Right of Way was a variance or a waiver. Mr. Ochab explained it was part of the Site Plan Ordinance, therefore it was a variance request.

Mr. Faiella asked if the site plan complied with the Borough ordinance, and why the Applicant utilized the RSIS standard rather than local ordinance. Mr. Ochab responded that he was unsure if the site met all regulations of the ordinance but the RSIS standard was well-established criteria that is largely recognized.

Mr. Faiella asked Mr. Ochab how he estimated the number of school children. Mr. Ochab responded he had used the Rutgers University study, and reference projects of approximately 50 units.

A motion was made by Mr. Dabek, seconded by Councilman Stallone to close the meeting to the Public.

Mr. Homaychak asked if the Borough's Utilities Commission had reviewed the plans to determine whether the site would be adequately serviced for sewage. Mr. Chewcaskie noted that a review letter was provided by Alaimo Engineering on October 17, 2016. He noted that a Treatment Works Application approval would be required prior to construction and connection to the sewer line.

With no further testimony before the Board, Chairman Polifronio announced that the application would continue to be heard at the May 8<sup>th</sup> meeting, and no further notice would be required. Mr. Reagan noted that he would be reporting back to the Court on the status of the application and

explained he would report that the Board would likely reach a decision at the May 8<sup>th</sup> meeting. The Board agreed.

With no further business before the Board, a motion was made by Councilman Stallone, seconded by Mr. Homyachak to adjourn the meeting. All were in favor.

Minutes By:  
John Giancaspro  
Board Secretary