

**OCEANPORT PLANNING BOARD
MINUTES
October 14, 2014**

Chairman Widdis called the meeting to order at 7:30 p.m. and gave the Statement of Compliance with the Open Public Meetings Act: "Adequate notice of this meeting has been provided by notice to the Asbury Park Press and The Link News on January 23, 2014, and by the posting of same on the municipal bulletin board and Borough Web Site."

Chairman Widdis led the flag salute.

MEMBERS PRESENT: Mr. Kahle, Mr. Johnson, Councilman Gallo, Mr. Kleiberg, Mr. Sullivan, Mr. Whitson, Ms. DeSousa, Mr. Savarese, Mr. Widdis

MEMBERS ABSENT: Mr. Gruskos,

OFFICIALS PRESENT: Jeanne Smith, Board Secretary, Rick DeNoia, Esq., Board Attorney, William White, Board Engineer/Planner and David Marks, Special Conflicts Engineer

BOARD BUSINESS:

1. Minutes of the meeting of September 23, 2014 were approved on a motion from Mr. Whitson and a second from Mr. Kleiberg and approved by the eligible Board members.

OLD BUSINESS:

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| <ol style="list-style-type: none">1. PB2014-10 Kornafel, Kathryn
93 Cayuga Avenue
Block 27, Lot 15
Request for Bulk Variances for House Elevation and associated improvements | CARRIED FROM SEPTEMBER 23, 2014 |
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Board member Johnson advised that he had been noticed on the application and recused himself from the matter.

Kathryn Kornafel, Applicant and Owner, was reminded still under oath continuing hearing from last meeting. Mr. White, Board Engineer & Planner was sworn in.

Mrs. Kornafel stated she had appeared before the Board last meeting seeking variance relief and at the Board's request had hired a land surveyor to compile the average setback data provided on a plan submitted in advance of the meeting. There was discussion on the properties surrounding the site and the distances calculated.

Mr. DeNoia summarized for the Board the application, the Board's request for data to be provided in order to determine if the requirement for average setbacks was in order or if a variance was needed, the submittal of a plan provided in advance of the meeting and a proposed resolution.

Mr. White stated that his initial review of the average needed to be changed as the average had included the subject property and so the average of 25.58' should be 22.25' and that the average of the rear yards was 17.8' and Applicant proposing 9.67'.

Chairman Widdis asked for any other comments from the Board.

Ms. DeSousa stated she was fine with the numbers and it should be noted that the rear yard setback was from an open back and would not impact the view of the adjacent neighbors.

Mr. Whitson commented that he appreciated the Applicant's diligence.

Mr. White also pointed out that the new plan submitted had eliminated the circular driveway.

PUBLIC:

Chairman Widdis opened the meeting to questions and comments from the public. As there was no one from the public that wished to be heard, that portion of the hearing was closed.

Ms. DeSousa made a motion to approve the application and resolution with the adjusted averages discussed which was seconded by Mr. Sullivan and received the following roll call:

AYES: Mr. Kahle, Councilman Gallo, Mr. Kleiberg, Mr. Sullivan, Ms. DeSousa,
Mr. Whitson, Mr. Widdis
ABSTAIN: None
ABSENT: Mr. Gruskos
INELIGIBLE: Mr. Johnson, Mr. Savarese

Ms. Smith stated the motion carried.

NEW BUSINESS:

1. PB2014-11 RPM Development
Block 27, Lot 15
Request for Preliminary Major Site Plan and Major Subdivision with Variance(s)

- A-1 Application
- A-2 Certification of Publication and Mailing – James Berube Esq.
- A-3 Site Survey prepared by Langan Surveyors, Gary A. Veenstra, LS dated 9/12/2014
- A-4 Preliminary Major Site Plan & Subdivision Plats prepared by Louis Zuegner, IV, PE
MidAtlantic Engineering Partners, Inc. dated 9/22/2014 consisting of 20 pages
- A-5 Stormwater Management Narrative prepared by MidAtlantic Engineering Partners dated
9/30/2014 (5 pgs)
- A-6 Street Dedication Report prepared by MidAtlantic Engineering Partners 9/30/2014
- A-7 Traffic & Parking Statement prepared by MidAtlantic Engineering Partners 9/30/2014
- A-8 Fort Monmouth South Post Housing Plats prepared by Kitchen & Associates, Architects
and Engineers, Eugene F. Schiavo, Architect dated 9/30/2014
- A-9 Color Overlay of Aerial Photograph of Site prepared by MidAtlantic Engineering Partners
dated October 14, 2014
- A-10 Photographs of Unit Interiors prepared by Kitchen & Associates dated October 14, 2014
- J-1 Letter of Completeness – David Marks, PE. T&M Associates 10/8/2014
- J-2 Engineering Review Letter – David Marks, PE T&M Associates 10/10/2014 (9 pages)

Chairman Widdis advised that Board Engineer Mr. White would not be advising on this application due to a conflict and that David Marks, T&M Associates would be acting in that capacity.

James Berube, Attorney for the Applicant, made introductions and gave a brief description of the application for development of a Fort Monmouth property that his client, RPM Development was the successful bidder for purchase of the property. Mr. Berube advised which professionals would be presenting and their role.

David Marks, Conflict Engineer appointed by the Board previously, was sworn in and confirmed that he was appointed through a fair and open process and found acceptable.

Chairman Widdis asked Mr. Berube to provide some clarification as to their purpose before the Board and the Board's purview on a subdivision which contradicted previous guidance given for the Fort Monmouth properties and the local agency's role.

Mr. Berube responded that Brendan McBride would provide the technical logistics and technically the Army still owned the property which had been leased by FMERA and then subleased to RPM Development. There was discussion on the redevelopment plans in use by FMERA and the Borough's adopted reuse plan and the role of the Board, and that the application originally was for 2 parcels known as north and south posts of the officers' housing and that tonight's application was focused on the south parcel known as the non-commissioned officer's housing. Mr. Berube stated that technically that the application with the exception of a bulk variance and a parking variance otherwise conforms with Oceanport's ordinance as well as the Fort's reuse plan.

Mr. DeNoia commented then the Board was being asked to carve out the parameters of the property being purchased as the Fort was one block and one lot and that there were different aspects before the Board and that the subdivision was basically to determine what it was being purchased other than the one minor bulk variance.

Mr. Berube commented that what the Board usually considered would be vacant lot being determined for intensity of use but this application was for existing.

Chairman Widdis asked if they have anything from FMERA authorizing the application and was told yes, they had signed off on the application.

Mr. DeNoia then stated that there was a notice requirement which was reviewed and was in order and jurisdiction was accepted for the presentation.

Mr. Berube proceeded with testimony by Brendan McBride, Vice-President RPM Development was sworn in. Mr. McBride testified that it was his understanding in conversation with FMERA, Mr. White and then Mr. Marks, that the process for consideration of Site Plan approval would need to happen in 2 parts, the first being a submission of a conceptual document to FMERA for their mandatory conceptual review and to make sure what was being proposed was in accordance with their requirements and reuse plan and then an appearance before the Oceanport Planning Board for preliminary subdivision and site plan approval. As for the question why it was necessary to come for site plan for an existing facility that was not being changed but it was decided that because their plan was to be around and that they wanted to share with the Board some of the details as well as speak to some of the variances being requested.

Mr. Johnson asked if it was only for the south post and not the north and was told they decided to separate the two for easier management.

Mr. McBride continued with testimony including the history of RPM Development, their markets for rental and for sale housing and adaptive reuse and historic, their business plan, some of the projects completed, their funding sources, their response to a request for proposals to redevelop the officer's housing parcels with FMERA, the anticipated closing date of March 2015. Mr. McBride described the plan for the south post parcel which was a combination of fair market and workforce housing, affordable, 24 units of each for a total of 48 units, existing garages and a community building that would be financed through low income housing tax credits – a federal housing program and CDBG HUD funding for housing areas in Sandy affected areas and a contribution of trust funds from the Borough of Oceanport of \$300,000.

Chairman Widdis asked if one of the buildings would be made into an office and was told a small area would be used for the leasing office. Chairman Widdis asked if it needed a variance as it was an office and amenities. Mr. Marks commented know as it was part of the reuse plan and its primary use was civic and gathering for tenants. Chairman Widdis asked for approximate area of the office and was told 200 s.f.

Mr. McBride then described that a live-in superintendent was on the site 24 hours as well as a property manager that was on site at minimum once a week. Chairman Widdis asked if the 24 units were COAH and none on the north parcel and was told yes.

Mr. Johnson questioned the affordable units as he understood it that the 20% set aside for affordable requirements were only for new construction not existing. Mr. McBride stated he couldn't speak to that. Mr. Johnson stated he was going to ask why rental units but from the sounds of the sources of funding the only other funding mechanism would be historical and was told correct.

Mr. Johnson commented that he thought 48 rental units in Oceanport was a lot to take on and asked how could you have affordable unit next to a fair market unit when they're existing and were the same whereas with new construction the affordable unit is usually made smaller. There was discussion on how not to create unequal sets of housing on the market and affordable because of their funding sources. Yes, there would be an impact on the schools which they were currently negotiating with the town. There was discussion on how the units were reworked from 3 bedrooms to 2 bedrooms. Mr. Whitson asked how many of the market units were 3 bedroom and was told all of the market units would have 3 bedrooms. Discussion also included estimated sale prices, market, moderate and affordable, the median income requirements, the process for evaluation of applicants for the housing, background checks, vigilant watching for overcrowding.

Chairman Widdis asked for questions from the Board.

Ms. DeSousa stated her questions were the same as Mr. Johnson's, about the school demand and anticipated number of student age occupants for those units.

Mr. Berube advised that those discussions were presently ongoing with the Borough's officials and FMERA officials and were unable to provide projections. Ms. DeSousa asked if the discussion also included emergency services. Chairman Widdis asked if it would be a tax situation or a PILOT. Mr. McBride answered that a PILOT had been negotiated with the Borough but hadn't been adopted yet.

Chairman Widdis asked would the PILOT be for the south parcel and taxes for the north parcel and was told yes. Additional questions were asked about when the PILOT would be in effect and that it was a 30 year PILOT based on the HUD funding requirements.

Ms. DeSousa asked about the rental process it was stated that there was a large pool of applicants and asked where they came from and was told with aggressive marketing and working with non-profit organization and that they have a low turnover and high capacity.

Mr. Whitson asked if the north post was in Oceanport and was told yes, asked if it was normal to check for convictions, felony in the rental world and was told yes, though not everyone used it. Mr. Whitson asked with regards to the schools, these units would not be generating a lot of taxes for the Borough but there would be an immediate influx of students.

Mr. Berube interjected that all those questions were subject to ongoing negotiations with the Borough Council.

Mr. Whitson stated that questions have been asked and told answers are from somewhere else and asked will there be relatively no funds coming into the town but an influx of students. Mr. McBride answered he didn't know if he could answer that question. Mr. Berube added respectfully that it was still under discussion with the Council.

Chairman Widdis asked if that information was public at this time and was told no, it was not public at this time.

Mr. Johnson commented that it was real estate negotiations and weren't normally public.

Mr. Kahle asked how they got Sandy credits and funds through Superstorm Sandy for housing that wasn't impacted by Sandy. Mr. McBride explained that HUD after the storm allocated all kinds of funding and in this case because of the demand in multi-family housing implemented a program to meet the demand in target areas.

Mr. Johnson asked if there had to be a certain number of Sandy victims housed there and can they be from Oceanport. Mr. McBride responded absolutely, preference was given to those impacted by the storm over those just off the street.

Councilman Gallo asked if the road north was going to be a County road.

Mr. Savarese commented that most of their projects were inner city type places and how do they feel working in a bedroom community with a small diversity of people. Mr. McBride answered that it wasn't a large project and that it was existing housing and that they saw a mix of different housing options, rental and for sale and while they started their work in cities over the course of the last few years they've done more suburban projects.

Mr. Kleiberg asked questions about the construction, would they be a gut or would they use existing plumbing and use prevailing wage. Mr. McBride deferred to the architect but they would not be gut jobs and yes, they would be paying prevailing wage.

Mr. Whitson asked if there was any guarantee that the south be built and not the north and was told no as their response and obligation to FMERA was to do both.

Chairman Widdis stated that the Fort Monmouth area had been designated by the State as an area in need of redevelopment and was that why there was so much funding available. Mr. McBride responded yes, but that the State attached points based on the factors of the site and the funding was competitive.

Mr. Berube further commented that he may have been referring to blighted areas and that the BRAC rules for the Fort's closure created a State agency whose funding applied to these types of areas.

Mr. Kahle asked it would cost \$4.5 million to redevelop the homes, was told just construction, and asked how much funding was RPM obtaining – was it in form of loans or grants to which Mr. McBride explained how the funding worked and that the loan from the Borough would be paid back as well.

Chairman Widdis expressed concern for PILOT negotiations among all of the developers that would be coming in and expressed concern that there was no certainty that the north post parcel would be developed.

Mr. McBride explained why they chose to move first with the rental units compared with the market units on the north post which would be on an ownership basis and could happen faster and because the rental project took longer to achieve funding they started that early with the intent of beginning both parcels together.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public. As there was no one from the public that wished to be heard, that portion of the hearing was closed.

Mr. Berube then called for Louis Zuegner, the Applicant's Professional Engineer who was sworn in and presented his qualifications and was accepted by the Board as an expert in engineering.

Mr. Berube then presented several documents which were marked as **Exhibits A-1, A-2, A-3, A-4, A-5, A-6 and A-7.**

Mr. Zuegner gave an overview of the project, description of the site's location and characteristics, that there were no new buildings being proposed but rehabilitation of the existing buildings, described 5 units that would be accessible units that were scattered throughout the development, described the garages and no constraints such as buffers. Mr. Zuegner further testified as to the technical aspects of the application, that the project was in compliance with both the FMERA and Oceanport reuse plans, the one bulk questioned was density, the allowable density for the size of the lot and that the carve out of the lots and right of ways brought the density just slightly over the allowable. Mr. Zuegner stated he wasn't certain if a variance was needed as it meant the intent of the plan and was existing units and existing parcel of land and pursuant to N.J.A.C. 19:31 specifically says that relief is allowed and the reasoning by exceptional situation uniquely affecting the property strict application would result in exceptional or undue hardship and it was his opinion that there was reason and justification for the density.

Mr. DeNoia asked if one of the experts would be a Planner or was that testimony purport to be planning testimony to meet the criteria of those variances. Mr. Berube responded that he did not have a Professional Planner but did have testimony by David Nuse of FMERA's Real Estate Director to indicate the purposes of the reuse plan would be advanced by a deviation which is the other exception such that it could be granted based on the fact that both the FMERA has allowed this as an appropriate reuse and the Borough of Oceanport has adopted in their Fort to Village. Mr. DeNoia commented that Mr. Zuegner was qualified as an Engineer but seemed to be testifying as to planning criteria and it may be in the best interest to have that introduced by someone other than the engineer.

Mr. Zeugner continued with testimony including 115 parking spaces required, 138 provided – 49 garage units, 50 driveway spaces outside of the garages and then 39 on street spaces. Chairman Widdis asked how wide is the street and was told 29' total width, 22' travel lane with 7' wide parking spaces which complies with RSIS, parking would only be on the north side of the street.

Mr. Savarese asked if they were counting the spaces in front of the garage and was told yes, RSIS permitted that approach. Mr. Savarese stated so will it state that the garage can only be used for parking.

Mr. Kahle asked if the 22' travel lane was enough space for 2-way travel. Mr. Marks responded yes, in accordance with RSIS, 11' was an allowable single lane, 11' 2-way with parking on one side.

Councilman Gallo asked if it snows no parking allowed on the street, what were they going to do about that parking which would be eliminated. Mr. Zeugner responded that with the garage and driveway spaces was 109 spaces for 48 units so he believed it would be sufficient.

Chairman Widdis asked why the street would be two-way and not leave it as a one-way? Mr. Zeugner answered that it was his opinion he opposed one-ways unless substantial reason for it as most people don't usually understand particularly because the width of the road gives the appearance that it was 2-way.

Mr. Whitson asked where would the parking go when it snows. Mr. Zeugner reiterated that it was 49 in the garages and 50 driveway space providing 109 total spaces to which Mr. Whitson interjected no, its 99 spaces not 109, which Mr. Zeugner confirmed amounts to 2 spaces per unit.

Mr. Savarese asked wasn't the standard for 3-bedroom higher. Mr. Zeugner answered RSIS it was slightly higher and incorporated visitor parking as well so in a snow storm the visitor parking would be lost. Mr. Savarese stated but you're saying 2 units for each unit when its more for 3-bedroom. Mr. Zeugner answered that the parking count of 115 spaces was based on 2 and 3-bedroom units. Mr. Zeugner also pointed out that the driveway depth from sidewalk to garage was 22' deep and the striped area was half the length so effectively you could fit 2 cars in the driveway. Mr. McBride added that the garages would be assigned to units so there wouldn't be neighbors blocking in neighbors.

Mr. Zeugner testified further on the accessibility, ramps for ADA, curbing, street conditions, all sidewalks to be replaced on both sides of the street, removal of existing tot lot at west end and replaced with a pocket park, street lighting which was part of FMERA's lighting scheme fort wide JCP&L, landscaping including street trees, foundation plantings, utility lines – all sewer and water lines on the subject parcel that they have possession of would be replaced with brand new both lines which were outside of the roadway, stormwater system was in good condition and there were no plans to change only to check for maintenance and upkeep.

Mr. Zeugner's next described the 9 acre parcel consisting of a 50' wide compliant right of way equaling 1.65 acres, lot 1 would be 3.56 acres and lot 2 would be 3.79 acres, will serve letters from the utilities and the army who controls some of those and therefore have access.

Mr. Zeugner testified as to the design exceptions including the parallel parking space of 7' versus 8' which are restricted by the conditions of the road, the lots, utilities and that 7' was RSIS compliant, existing curb cuts for the driveways were limited by the reuse plans to 36' and described it as a unique condition of the site.

Chairman Widdis stated that he was testifying as to planning. Mr. Zeugner acknowledged that it was planning testimony but that he believed as a licensed engineer could testify as to bulk criteria and dimensional criteria.

Mr. Zeugner continued that driveway intersections – the reuse plans require 50' separation whereas the subject site had as little as 19' and was a unique situation, a maximum driveway width was 100' and the plans limit it to 20' but again this was an existing condition.

Mr. Zeugner stated that they would need to come back at Final to address the engineer's review letter for the stormwater lines and electric lines, the comment requiring 20' easement for utilities was in his opinion covered by the 50' right of way adjacent to the utility lines and they were limited physically going to structures.

Chairman Widdis asked Mr. Marks to go through his review letter.

Mr. Marks spoke as to the design waivers to which he had no objections to the Board granting waiver for items 1-4; as to the RSIS width of the road the driveway widths, the curb cut widths and some of those existing unique circumstances, the one design waiver somewhat requested was for the easements and as the Applicant stated they would provide those as a condition of approval should the Board approve which he had no objection to but thought that it should not be granted as an official waiver.

Mr. Marks then began review of the technical items and brought to the attention of the Board the dedication of the right of way to the Borough and discussions up to this point the right of way would be maintained by the Applicant for a period of time but it was his thought that the Borough was not able to take on more infrastructure without the roadway being upgraded properly including the utilities. Additionally, any dedication of the roadway would be handled at the Governing Body and should the Board choose to approve the application that should be made a condition of approval.

Mr. Berube commented that dedicated versus non-dedicated, there would be Fort wide standards set by FMERA but did not object to a condition subject to resolving with the Governing Body which could be resolved before any final approval. Mr. Marks was in agreement.

Review of Mr. Mark's letter continued at page 4 item C1 concerning a particular driveway and the taper and how it ties in which Applicant would comply, item C2 the community building ADA accessible which Mr. Zeugner identified on the Exhibit and Applicant agreed to add to the plan the ADA ramp access to the community building, section D requested additional grading in the area of the pocket park, raised concrete area that would need more details as things progressed.

Mr. DeNoia interjected and asked the Applicant if they had reviewed Mr. Mark's letter and was there anything that they had a problem with or not willing to comply with. Mr. Zeugner answered yes, they had reviewed and that on page 4, item 6 under grading and utilities they were comfortable reviewing with the engineer the existing stormwater system for adequacy and inspect inlets but were opposed to televising them. In order to simplify for the purposes of any approval, the Applicant advised that they would comply with the engineer's review with the exception of the televising which they felt was not necessary.

Mr. Johnson commented that that item was a huge concern as the Borough was currently going through that with the existing system and did not want to inherit any problems and would be a sticking point and that televising was necessary. Mr. Marks commented that the system was extensive and that it could be reviewed and separated out that the portions of the system that would be publicly owned be required to be televised and not those parts that were private to which Applicant was willing to comply. Mr. Johnson said because the system could collapse the next day. Mr. Marks stated then Item D6 could be revised or limited to incorporate area in the proposed right of way. Chairman Widdis stated anything that would be turned over to the Borough which Mr. Johnson agreed.

Mr. Marks stated he had no other concerns.

Mr. Kahle asked how it was handled without doing calculations that the pipes are large enough to handle runoff for stormwater management but the next property down the road couldn't handle it. Mr. Marks responded that was one of his concerns as expressed in one of his review comments and didn't know if there was an overall stormwater management analysis of the Fort with respect to redevelopment to understand if there were bottlenecks and issues within the existing drainage system. The Applicant's parcel was at the end of a drainage system with outfalls that would fall into the Husky Brook. There was additional discussion on the extensive system on the Fort and availability information. Mr. Zeugner stated he could not speak as to what was off the subject parcel but did FMERA should. Chairman Widdis asked if they knew what they had in the ground, what size pipes. Mr. Zeugner answered yes, they have it mapped but did not know what size. Mr. Marks reminded the Board that they were only improving existing facilities to comply with NJDEP. There was additional discussion on the impact of stormwater management and the level of confidence in the system's integrity.

Mr. Berube addressed one other item of Mr. Mark's review letter Page 7, #3 – access to restrictive portions of the Fort which remained unknown at this time the Applicant agreed to provision of a circulation plan to address accessible and non-accessible areas of the Fort as a condition of any approval and subject to review by the Board Engineer.

Mr. Zeugner addressed section I, page 2 discussing an environmental assessment report which FMERA had on file. Mr. Marks stated he would like the Applicant to provide a summary of all the available environmental assessment reports that addresses previous uses, adjacent area impacts, etc. for his review.

Chairman Widdis asked if a Phase I or II had been performed for the property. Mr. McBride answered that what was in place done by the Army was a Finding of Suitability to Lease (FOSIL) and that they were in the process of having a Phase I prepared.

Mr. Whitson asked if the one side of the street parking on Gosselin would be on the north or south side and was told north. Mr. Whitson commented that 1 of the 5 ADA parking spaces was not near a garage so if they couldn't park on Gosselin then they wouldn't be near any access. Mr. Zeugner answered that that one was having a new driveway constructed just for that one.

Mr. Marks also commented on a point mentioned earlier regarding the utility easements and as a point of reference the proposed water and sewer utility were being installed under the existing sidewalk and recognizes the argument that they didn't need to provide the full 20' width but he doesn't believe there's even 10' and RSIS the easement should be generally centered over the utility and does realize that the existing buildings that may conflict and asked for testimony on the proposed 7' easement rather than 10'. Mr. Zeugner expressed concern for the existing stoops and existing houses and being that they had the right of way thought that was sufficient. Mr. Marks asked if it would be an issue if the utilities were moved 2-3' closer to the curb. Mr. Zeugner stated that they were willing to look at it further to see if there was a way to make any of it up. Mr. Marks asked for D-13 page 5 could be left and then adjusted during final.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public. As there was no one from the public that wished to be heard, that portion of the hearing was closed.

The Board took a 5-minute adjournment at 9:32 p.m.

The Board returned at 9:43 p.m.

Mr. Berube called for testimony from the Applicant's architect. Mr. Berube introduced a document which was marked as **Exhibit A-8**, the letter of completeness was marked J-1 and the review letter prepared by Dave Marks was marked as J-2.

Eugene Schiavo, Architect for the Applicant, was sworn in, presented his qualifications and was accepted as an expert in the field of architecture.

Referring to Exhibit A-8 and its 24 pages as well as a Color Overlay of an Aerial Photograph introduced and marked as **Exhibit A-9**, and Sheet of Photographs of Unit Interiors which was marked as **Exhibit A-10**, Mr. Schiavo gave a brief overview of the conditions of the existing structures, the assessments of the existing structures and his opinion that the structures' exteriors were in great shape, proposed ADA improvements, the proposed restorations, replacements and/or improvements and the use of energy efficient mechanical systems.

Mr. Savarese asked about Sheet A-3 of Exhibit A-8 that it looks like the lower left corner of #3 saying that the windows are new and in good condition but looks like the lower section is in bad shape and asked those being replaced and if so do they meet latest energy code. Mr. Schiavo responded that whole lower level would be replaced – it was the one that caught on fire and all those windows would be replaced. Mr. Savarese asked if they were replacing all the appliances or only those that needed. Mr. Schiavo answered yes, all appliances as they will meet energy star but the range is gas so wasn't energy star but all refrigerators were energy star, the range hood would be energy star – these are energy requirements of the tax credit application.

Mr. Kleiberg asked how they would insulate the buildings. Mr. Schiavo answered that the buildings that were not insulated which are the 2 that were gutted would be done with a batten insulation, with the brick wall thickness and the 3 1/2 " bat met energy code. Mr. Kleiberg asked if it was R-19 for the outside of the walls and was told it would probably be about 15 but they planned to insulate the attics. Mr. Kleiberg commented that he saw a few of the buildings needed to be painted and asked how was their maintenance program. Mr. McBride answered that typically what they do is they develop a maintenance plan that would be implemented on a scheduled basis.

Mr. Savarese commented that they were changing from duplexes to simplexes and asked if they would rate the floors and was told yes, they have to do that and meet building codes for fire separation etc.

Councilman Gallo asked how they were heated and was told gas fired high efficiency hot air. Councilman Gallo asked if they had basements and was told yes, they do and referred to Exhibit A-8 where its shown an access panel to the basement as well as access from inside the unit. Councilman Gallo asked if there were attics and was told there was no access.

Mr. Kleiberg asked if there would be air conditioning, was told yes and asked who'd be obtaining permits – would it be done through Oceanport or the State. Mr. McBride answered he did not think it was under their purview but would apply for whatever permits needed but it was to his knowledge that it would be Oceanport.

Mr. Marks weighed in that if the project were to be approved, the subdivision would be effectuated thereby creating a parcel in Oceanport and then Oceanport would have jurisdiction.

Chairman Widdis asked if there were calculations as to the size of the units. Mr. Schiavo answered yes, but they ranged depending on the unit and then described which unit types were what square footages. There was discussion on the size of the units and total area for each building.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public. As there was no one from the public that wished to be heard, that portion of the hearing was closed.

Mr. Berube then called for David Nuse, Director of Real Estate Development for the Fort Monmouth Economic Revitalization Authority (FMERA) who was sworn in, explained FMERA's role and would be testifying as a fact witness of the operations as well as an institutional fact witness on the status. Mr. Berube asked that the Board understand that Mr. Nuse would render an opinion that the bid that was accepted by FMERA from RPM Development does in fact conform with the RFOTP which incorporated both the Borough's goals and FMERA's reuse plan which Mr. Nuse confirmed was accurate.

Mr. Nuse testified as to the RFOTP that was issued, the selection by the FMERA Board, his capacity with the NJEDA prior to FMERA and experience with RPM Development on another project and the belief that they were suitable for the historical redevelopment of the site.

Mr. Nuse testified as to FMERA's efforts to prepare for the closing of the property, FMERA's retention of a firm to study the sanitary sewer system, meetings with the sewer authority and plans for sanitary flow, initiation of examining stormwater systems, the other projects proceeding in this side of the Fort and how they tied into those plans, the plans for opening portions of the Fort in that area.

Chairman Widdis asked if they would seek final approval prior to the sale of the property. Mr. Berube answered that final design plans would be completed prior to the closing. Chairman Widdis asked if all of the information on circulation and stormwater system would be available at that time. Mr. Nuse answered that information would be developed on a project by project basis. Chairman Widdis asked about the sewer and water systems. Mr. Nuse responded that as of the current date the Army owns and operates systems on the main post including the water and sanitary sewer and those utilities would initially be transferred to FMERA, owned and operated by FMERA until certain upgrades were made in conjunction with TRWRA and NJ American Water.

Mr. Johnson asked the original plan calls for this site to be historical and weren't they supposed to be market rate units. Mr. Nuse stated it was his understanding that the reuse plan always contemplated a portion of the project being affordable housing. The Attorney General's office has interpreted the statute and the plan as requiring 20% of each housing project be affordable whether existing or new construction. Mr. Johnson asked the Attorney General made that decision and was told yes.

Mr. Johnson respectfully disagreed with the Attorney General and it was his assumption that COAH law required a 20% set aside for any *new* construction and not for any existing construction and it was difficult to accept the 48 rental units alone and then compound it with 24 affordable housing units.

Councilman Gallo asked if Salzmänn would be turned over to the County. Mr. Nuse answered yes, the County had adopted a resolution indicating what portions would be maintained by the County.

Mr. Whitson asked when would the fences come down. Mr. Nuse answered that it would likely come down in sections as they sell the abutting property and gave examples of where that would happen, how the transition from State police patrols to local patrol would be integrated.

Ms. DeSousa asked for information on how they could have some confidence that phase 2 would be completed and not just left undeveloped. Mr. Nuse explained that by statute each purchase has attached to it a Redevelopment Agreement that stipulates time requirements and other terms and RPM could not vary from that plan without approval from FMERA and if they were to fail to develop the property on the north side, FMERA would have the right to essentially recapture that property and that the plan was fulfilled for market rate for sale housing. Ms. DeSousa asked how do they hold the developer to that – are they posting bonds.

Mr. McBride responded that they were essentially bonding it themselves as both parcels were part of the purchase and they would not let the north post lie fallow and undeveloped as they made a significant investment in the property.

Mr. Nuse added that the contract itself was only in draft however other agreements gave FMERA the right to repurchase the property as well as implement fines and penalties.

Mr. Savarese asked if there was a time frame to finish both projects. Mr. Nuse said yes, it would be part of the redevelopment agreement.

Chairman Widdis asked how was Oceanport protected – for example making the parcel taxed. Mr. Nuse answered typically that was done in the negotiations for a PILOT and that there was an agreement between the Borough, RPM Development and FMERA and other protective measures.

Chairman Widdis asked if there was a survey available of all of Oceanport. Mr. Nuse answered yes, it was just completed. Chairman Widdis asked for a copy of it which Mr. Nuse said yes. Discussion ensued on the importance of that type of document and how all of it would fit in and what it would look like. There was also discussion on who and how the land was subdivided and why this one was before the Oceanport Board because FMERA did not have possession of the property to create the subdivision. Once FMERA took possession they would not be subject to the Municipal Land Use Law and could divide by deed. So Oceanport would still see for subdivision the north parcel to separate into individual lots.

Mr. DeNoia asked who had made the determination of the bounds for the south parcel. Mr. Nuse answered that it was a joint undertaking between the Army and FMERA and took into account the amount of land needed to accommodate the homes and some of the natural features of the site. In the future when FMERA takes possession from the Army it would be solely the FMERA Board that would make those decisions but certainly in consultation with the Borough.

Mr. Whitson asked what was the time frame between the south post being done and the north section – how much time lag in terms of completion dates – approximate. Mr. Nuse stated that it was their expectation that the start of construction would be very shortly thereafter the start of the work on the south parcel with work commencing before the end of 2015. Mr. Whitson asked

if the contract stipulated what date they had to be completed. Mr. Nuse answered that that date had not yet been fully negotiated.

Mr. Whitson asked if for some reason the north parcel fell through would the south still be a done deal to itself. Mr. McBride answered they were a packaged deal – together.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public. As there was no one from the public that wished to be heard, that portion of the hearing was closed.

Mr. Berube gave closing comments.

Mr. Whitson commented that there had been nothing about traffic study and expressed concern with impacts to Main Street especially in the summer. Mr. Berube stated that they could calculate the number of trips but would be of little value as the site is part of a larger community and the circulation plan was unknown at this time and that access was guaranteed from Oceanport Avenue. Mr. Whitson commented that didn't help him as he wants to know impacts to Main Street. Mr. Berube asked to bear with them as they don't know and was difficult to project.

Ms. DeSousa asked then any resolution of approval would make the discussions with the Governing Body and the payment in lieu of taxes, would any resolution approval be contingent upon successful negotiation of a PILOT. Mr. Berube advised that those negotiations were ongoing with the Borough. Ms. DeSousa asked if there was an anticipated date for conclusion of those discussions. Mr. McBride answered in the next month to 2 months.

Ms. DeSousa stated that she thought it should be public in exchange for the added burden on the municipalities.

Chairman Widdis asked Mr. Berube if he was suggesting that it wasn't part of the application. Mr. Berube responded that he was suggesting that it was beyond the purview of the Board to make that a condition of any approval but certainly had the right to ask the elected officials as to what might be the ultimate agreement.

Mr. DeNoia opined that the Board by statute had certain rights, parameters, jurisdiction and unfortunately these types of topics were between the Governing Body to protect the residents of Oceanport and the Developer was trying to negotiate those agreements. The Board could infer that its conditioned upon certain things but that condition was beyond the purview of the Board and was the responsibility of the Governing Body. Mr. DeNoia stated the Board was being asked for preliminary site plan and major subdivision and arguably a bulk variance and the impact of the negotiations may not even happen for the next 6 months. His concern was if these items weren't resolved before final and the challenge would be how to prepare a resolution with conditions.

Mr. Savarese commented that it seems like time is not of the essence and asked if it would make sense to carry the application until some of the items could be ironed out.

Mr. Berube responded that time wasn't of the essence but they were under time pressures for the financing items.

Mr. Savarese stated that Mr. McBride's statement that they should be worked out within a month to two months. Discussion ensued with Mr. McBride stating that they were seeking preliminary in order to prepare construction drawings and to conform with all the conditions and that they did not have the luxury to postpone the decision on preliminary and while he

understood the importance to the Borough on impacts of school children, it was not the purview of the Board to condition any approval on the outcome of those negotiations.

Mr. Kahle asked why were they coming in so late in the game and not before them a month or so ago. Mr. McBride stated there was a lot of things to work together and that the State doesn't provide for a lot of lead time and the process was competitive for funding and that they couldn't line everything up until all those items were in place.

Chairman Widdis asked for the Board's action.

Mr. Johnson made a motion to deny the application as he had concerns regarding 48 rental units and too many unanswered questions which was seconded by Mr. Whitson who expressed same concerns as well as the traffic concerns and that with a little bit more time they would have some of the answers to their questions and received the following roll call:

AYES: Mr. Kahle, Mr. Johnson, Mr. Kleiberg, Mr. Whitson, Mr. Savarese
NAYES: Councilman Gallo, Mr. Sullivan, Ms. DeSousa, Mr. Widdis
ABSTAIN: None
ABSENT: Mr. Gruskos

Ms. Smith stated the motion carried.

RESOLUTIONS:

1. PR-14-16 Determination of Consistency with Master Plan

Ms. Smith read the resolution for the record which was moved by Mr. Johnson and seconded by Mr. Kleiberg and received the following roll call:

AYES: Mr. Kahle, Mr. Johnson, Councilman Gallo, Mr. Kleiberg,
Mr. Sullivan, Ms. DeSousa, Mr. Whitson, Mr. Widdis
NAYES: None
ABSTAIN: Mr. Savarese
ABSENT: Mr. Gruskos

2. PR-14-17 Recommendations for Proposed Ordinance #936 to the Governing Body

Ms. Smith read the resolution for the record which was moved by Mr. Whitson and seconded by Councilman Gallo and received the following roll call:

AYES: Mr. Kahle, Councilman Gallo, Mr. Kleiberg, Mr. Savarese,
Mr. Whitson, Mr. Widdis
NAYES: Mr. Johnson, Mr. Sullivan, Ms. DeSousa
ABSTAIN: None
ABSENT: Mr. Gruskos

PETITIONS FROM THE PUBLIC: Chairman Widdis opened the meeting to Petitions from the Public and as no one from the public was present closed that portion of the meeting.

ADJOURNMENT: As there was no further business, the meeting was adjourned at 10:49 p.m. on a motion by Mr. Kleiberg which was seconded by Mr. Savarese and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary