

SPECIAL MEETING OF FEBRUARY 5, 2007

Vice Chairman Peter Kortright III, called the meeting to order at 7:00 p.m. in Room 215 of the Municipal Building.

Notice of the Open Public Meeting Law was read stating that the newspapers were notified and notice posted on the first floor bulletin board of the Municipal Building.

ROLL CALL:

Present: Deputy Mayor Marty Etler, Todd Malkin, Joseph D'Arco, Peter Kortright III, Michael Cohen, Alan Neggia, Todd Malkin, Larry Metzger, Phil Cassidy, Absent: Honey Morgenstern and Barry Winston (recused) Also present: Board Engineer John Rottenbacher, Board Attorney Douglas Bern and Board Secretary Cathryn Hochkeppel

Ordinance Number: 2070-2007

Attorney Douglas Bern explained that the Board is conducting its statutory review. It should review the ordinance for consistency with the master plan and has 35 days within which to comment. Harvey Rubinstein asked about legal notice. Attorney Douglas Bern explained that Council has the actual hearing and is required to notice, not the Planning Board. Peter Kortright III, explained that he wanted to review the ordinance in detail.

Todd Malkin suggested that paragraph one on Page two be changed since the number of affordable units will be based on the actual development and number approved. He suggested that "23 to 27" be removed and the words, "in accordance with Section 1 (D) (2)" be inserted after the words "affordable units".

Peter Kortright III, stated that since the court has struck down C.O.A.H.'s (Council on Affordable Housing) growth share that page one, paragraph five be amended to add the words "or other terminology determined by the State", after growth share. Peter Kortright III, suggested that changes be referred to the Planner. Attorney Douglas Bern suggested that Ms. Cathryn Hochkeppel send a memo outlining the recommendations to the Council with a copy to the Planner for her input.

Phil Cassidy pointed out there was an inconsistency with the number of units per building and the length of the building as it would result in a ten foot wide town house. Peter Kortright III, stated that these were only guidelines. Harvey Rubinstein stated that

you wouldn't want a flat building 180 feet long. The façade should not be one straight wall. Board members agreed that the façade should be variegated. Peter Kortright III, suggested that the planner draft the language.

Harvey Rubinstein pointed out that the word "law" in the second line of page two should be "low".

Todd Malkin suggested that the number of age restricted units be increased to 33%. Michael Cohen pointed out that it was consistent with the Planner's recommendation. Peter Kortright III, stated that due to the recommended recent court ruling, he suggested that the number of affordable age restricted units be reduced to 25%. Cathy Hochkeppel pointed out that the townhouse definition in the code does not fit the design. Peter Kortright III, suggested that the definition be changed to townhouses/flats and that the Planner draft the definition with the design criteria.

Accessory uses were discussed. It was recommended that the words "recreational uses such as" be inserted.

Peter Kortright III, pointed out that the setbacks are different for buildings over 2.5 stories as defined on Page 5. The Board discussed the interior and exterior buildings. Peter Kortright III, pointed out that building heights of 45 feet are precluded on Third Street and Fair Lawn Avenue. Anything fronting on these streets will be 35 feet or less.

Harvey Rubinstein commented that sidewalks will be needed and he was concerned with the setbacks. Board Attorney Douglas Bern stated that there is normally a right of way easement which would address any widening or sidewalk requirements. It was suggested that an exterior and interior principal building be defined to insure that large buildings be kept to the interior. The exterior building would be those on Fair Lawn Avenues and Third Street. Joseph D'Arco suggested that the finished façade face the main streets and the wording of Section 6C be amended. He also suggested that Section 6D be amended to read the reviewing authority *shall* consider rather than the reviewing authority *may* consider. Board Attorney Douglas Bern opined that you are regulating the Board not the developer. Although normally these items would be considered, it is up to the sitting Board.

Peter Kortright III, suggested that Section 6B be amended to add the words "and/or monitoring equipment". Harvey Rubinstein commented that an Environmental Impact Statement should be required. It was agreed that the words, "An environmental

inventory” would be replaced with the words, “An environmental impact statement in accordance with Section 125-65 (D) (1).

Harvey Rubinstein also suggested that on page six, the word may be replaced by the word “shall”. Board Attorney Douglas Bern agreed.

Offsite improvements were discussed. Board Engineer John Rottenbucher explained that the developer would be required to post a bond for any improvements. Harvey Rubinstein wondered if all off site improvements should be required to be completed rather than allowing improvements to be done in phases. Board Engineer John Rottenbucher explained that normally phases are permissible since offsite improvements can be directly related to the number of units.

Peter Kortright III, asked if Section 2, paragraph 13 should be amended to include reference to a No Further Action letter. Attorney Doug Bern commented that the broad terms would include such a letter and all other communications of approval such as a memorandum of understanding. Harvey Rubinstein asked if the Borough should hire its own environmental expert to review all the reports. Board Attorney Douglas Bern stated he did not think the Borough should duplicate the State’s efforts particularly since they have jurisdiction on this type of environmental matter, are well aware of the ongoing remediation and have the expertise.

It was pointed out that the ordinance often references municipality when referring to the Borough of Fair Lawn. Ms. Cathy Hochkeppel was asked to review other ordinances for consistency.

Harvey Rubinstein commented that a median may be required on Third Street. He asked whether this should be included since the street would need to be widened. Peter Kortright III, stated that it would depend upon the design of the plan whether or not it would be required. He stated that the determination would be made by the Board at the time of application.

At the Board’s request, Cathy Hochkeppel read back the amendments suggested.

Upon motion by Todd Malkin and a second by Michael Cohen, the meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Cathryn Hochkeppel
Land Use Administrator/
Secretary to the Planning Board

CH:blcl