



**MILLSTONE TOWNSHIP PLANNING BOARD
SPECIAL MEETING MINUTES
November 1, 2022**

The Millstone Township Planning Board Special Meeting was called to order by Chairman Newman on Tuesday, November 1, 2022 at 7:00 p.m. at the Wagner Farm Park Facility, 4 Baird Road, Millstone Township, NJ 08535. The purpose of this special meeting is for the continued hearing of Application P21-05, Hexa Builders, LLC, Block 11, Lot 19 – 711 Perrineville Road. Formal Action may be taken. Notice of this meeting was provided in accordance with Chapter 231 P.L. 1975, the Open Public Meetings Act.

Ms. Sims read the Open Public Meetings Act Statement.

There was a salute to the Flag.

Roll call for the below members was called:

Present: Chairman Newman, Mr. Pepe, Mr. Lambros, Mr. Beck, Mr. Kotby, Mr. Pado, Ms. Sinha, Mr. Ziner (late) and Ms. Riley (Alt. I).

Absent: C/W Zabrosky and Mr. Youngs (Alt. II).

Attending: Michael Steib, Esq.; Matt Shafai, PE, PP, Board Engineer; McKinley Mertz, AICP, PP, Board Planner; Danielle B. Sims, Board Secretary; Angela Buonantuono, Board Court Reporter.

Ms. Riley was sworn in as Alternate I, prior to the commencement of the meeting and was seated for C/W Zabrosky.

In advance of the meeting, Mr. Pepe and C/W Zabrosky reviewed the record and exhibits from May 11, 2022 regarding the Hexa Builders, LLC application (P21-05) and have signed the certification to be eligible to participate and act on the hearing for this application.

PUBLIC COMMENTS:

Chairman Newman opened the meeting up to members of the public for comments on matters not before the Board. With no members of the public coming forward, Chairman Newman closed the public comments session.

MINUTES:

Minutes from August 10, 2022

Chairman Newman asked the Board if they had any comments on the minutes that were prepared. With no comments from the Board, Mr. Lambros made a motion to adopt the Minutes from August 10, 2022, which was seconded by Mr. Beck. The Minutes were adopted on a roll call vote: Chairman Newman, Mr. Lambros, Mr. Beck, Mr. Kotby and Ms. Sinha.

Mr. Ziner arrived.

Minutes from October 13, 2021

Chairman Newman asked the Board if they had any comments on the minutes that were prepared. With no comments from the Board, Mr. Beck made a motion to adopt the Minutes from October 13, 2021, which was seconded by Mr. Lambros. The Minutes were adopted on a roll call vote: Chairman Newman, Vice-Chairman Pepe, Mr. Beck, Mr. Pado and Mr. Ziner.



RESOLUTION(S):

None.

CONTINUED/CARRIED APPLICATION(S):

Hexa Builders, LLC

Block 9, Lot 7 – 711 Perrineville Road

Preliminary and Final Major Site Plan Application # P21-05

Hearing dates: 3/9/22, 5/11/22, (6/8/22), 6/29/22, (7/13/22) and 8/2/22 (cancelled), 8/25/22 (cancelled), 11/1/22.

Proposal to develop a 36.5-acre property in the R-MF (Multi-Family) Zoning District with 122 market-rate townhouses across 16 buildings and 48 affordable units within two three-story apartment buildings with associated site improvements.

The following witnesses were sworn in or previously sworn in and still under oath:

Matt Shafai, PE, PP – Board Engineer
M. McKinley Mertz, AICP, PP – Board Planner
Chester DiLorenzo – Applicant's Engineer
Scott Nicholl – Applicant's Architect
John Rea – Applicant's Traffic Engineer
Greg Barkley – Applicant's Engineer (specializing in water and wastewater)
Matt Leatherwood – Applicant's LSRP
John Grelis – Applicant's Environmental Consultant
Kyle Weise – Applicant's Environmental Consultant

Mr. Steib, Esq., reviewed the additional exhibits provided to the Board since the hearings held on March 9, 2022, May 11, 2022 and June 29, 2022, additional exhibits were also introduced:

- Exhibit A-1: Jurisdictional Notice (Proof of Service)
- Exhibit A-2: Application, Checklist and Administrative Forms
- Exhibit A-3: Traffic Impact Analysis, prepared by McDonough & Rea Associates, dated 11/21/21
- Exhibit A-4: Environmental Impact Statement, prepared by Trident Environmental, dated 11/11/21
- Exhibit A-5: Drainage Study prepared by Midstate Engineering, dated 11/21/21
- Exhibit A-6(a): Survey of Property, prepared by Midstate Engineering, 1 sheet, dated 1/29/21
- Exhibit A-6(b): Survey of Property, prepared by Midstate Engineering, 1 sheet, revised 8/9/21
- Exhibit A-7: Aerial Display, undated, source unknown
- Exhibit A-8: Arch. Floor Plans/Elevations-Townhouses, prepared by Tekton Architecture Studio, LLC, 2 sheets, dated 6/22/21
- Exhibit A-9: Arch. Floor Plans/Elevations-Apartments Buildings, prepared by Tekton Architecture Studio, LLC, 2 sheets, revised 9/30/21
- Exhibit A-10: Site Plan, prepared by Midstate Engineering, 22 sheets, revised 10/11/21
- Exhibit A-11: Color Rendering of Proposed Apartment Buildings, dated 9/30/21
- Exhibit A-12(a): Extension of Time to Act through 5/31/22
- Exhibit A-12(b): Extension of Time to Act through 6/30/22
- Exhibit A-13: Site Plan, prepared by Midstate Engineering, 23 sheets, revised 4/2/22
- Exhibit A-14: Analytical Report-Environment Testing America, prepared by Eurofins Edison, released 4/18/22
- Exhibit A-15: Hydrogeologic Evaluation for Wastewater Discharge, prepared by Dwyer Geosciences, Inc., dated January 2022
- Exhibit A-16: Monmouth County Planning Board, Development Review, "Incomplete Application" dated 3/17/22



- Exhibit A-17: Notice (CRR) of NJPDES-DGW Permit is being submitted to the NJDEP, prepared by G Barkley Engineering, dated 2/4/22, received 2/7/22
 - Exhibit A-18: Stormwater Management Report, prepared by Midstate Engineering, revised 4/25/22
 - Exhibit A-19: Rendered Site Plan
 - Exhibit A-20: Aerial Photo w/ proposed development shown
 - Exhibit A-21: Monmouth County, Site Specific Amendment App. Review 5/16/22
 - Exhibit A-22: Townhouse Elevations for Cluster, prepared by Tekton Architecture Studio, LLC, 1 sheet, dated 5/23/22
 - Exhibit A-23: Correspondence
 - Exhibit A-24: Analytical Report-Environment Testing America, prepared by Eurofins Edison, released 5/31/22
 - Exhibit A-25: Stormwater Management Report, prepared by Midstate Engineering, revised 6/6/22
 - Exhibit A-26: Soil Log & Soil Sample Location Map, prepared by Midstate Engineering, 2 sheets, dated 2/1/22
 - Exhibit A-27: Site Plan, prepared by Midstate Engineering, 23 sheets, revised 6/6/22
 - Exhibit A-28: Soil Sample Evaluation, prepared by Grelis Environmental Services, LLC, 3 pages, dated 6/17/22
 - Exhibit A-29: Revised Arch. Floor Plans/Elevations-Townhouses, prepared by Tekton Architecture Studio, LLC, 2 sheets, dated 6/22/21 (no revision date noted)
 - Exhibit A-30: Series of 22 photos of 131 Hankins Road Disposal Field and Pretreatment Plant, taken 6/21/22
 - Exhibit A-31: Updated Rendered Site Plan dated 6/29/22
 - Exhibit A-32: Copy of Transmittal to Twp. Clerk dated 2/4/22, permit application and Hydrogeologic Evaluation for Wastewater Discharge dated January 2022
 - Exhibit A-33: Request to Adjourn 8/2/22 Planning Board Special Meeting.
 - Exhibit A-34: NJDEP LOI-V – Deficiency Memo, dated 7/12/22
 - Exhibit A-35: Monmouth County Development Review, dated 8/22/2022
 - Exhibit A-36: Phase I – Environmental Site Assessment, prepared by DuBois Associates, dated August 10, 2022
 - Exhibit A-37: Phase II Site Investigation Report, prepared by DuBois Associates, dated September 2022
 - Exhibit A-38: Site Plan, prepared by Midstate Engineering, 23 sheets, revised 9/26/22
 - Exhibit A-39: Stormwater Management Report, prepared by Chester DiLorenzo, revised 9/26/22
 - Exhibit A-40: Stormwater Management Maintenance Manual, prepared by Chester DiLorenzo, dated 6/6/22
 - Exhibit A-41: Soil Logs & Sample Location Map, Midstate Engineering, revised 9/22/22
 - Exhibit A-42: Drainage Area Maps, prepared by Midstate Engineering, 5 sheets, revised 6/6/22
 - Exhibit A-43: Basin Model Plan, 1 sheet, Hydrology Studio, dated 10/4/22
 - Exhibit A-44: Permeability Studies, prepared by Chester DiLorenzo, 13 sheets, dated 9/8/22, 9/9/22 and 9/12/22
 - Exhibit A-45: Jurisdiction Notice package for 11/1/2022
 - Exhibit A-46: Statement of Qualifications-Environmental Professional, Matt Leatherwood of Dubois & Associates, dated 10/28/22
 - Exhibit A-47: Updated Rendered Site Plan, dated 11/1/2022
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- Exhibit PB-1: Completeness Determination dated 12/8/21
 - Exhibit PB-2: Engineer's Report dated 1/11/22
 - Exhibit PB-2(b): Engineer's Report dated 5/3/22
 - Exhibit PB-2(c): Engineer's Report dated 6/22/22



Exhibit PB-2(d): Engineer's Review (supp. draining calcs) dated 7/26/22
Exhibit PB-2(e): Engineer's Review dated 10/26/22
Exhibit PB-3: Planner's Report dated 2/17/22
Exhibit PB-3(b): Planner's Report dated 5/5/22
Exhibit PB-3(c): Planner's Report dated 6/23/22
Exhibit PB-3(d): Planner's Review dated 10/26/22
Exhibit PB-4: Environmental Commission review dated 3/2/22
Exhibit PB-4(b): Environmental Commission review dated 5/5/22
Exhibit PB-4(c): Environmental Commission review dated 6/24/22
Exhibit PB-4(d): Environmental Commission review revised 7/20/22
Exhibit PB-4(e): Environmental Commission review revised 10/18/22
Exhibit PB-5: Shade Tree Commission review dated 11/18/21
Exhibit PB-5(b): Shade Tree Commission review dated 4/27/22
Exhibit PB-5(c): Shade Tree Commission review dated 6/27/22
Exhibit PB-5(d): Shade Tree review dated 10/25/22
Exhibit PB-6: Fire review dated 6/22/22
Exhibit PB-6(b): Fire Review dated 10/28/22

Mr. Guinco, Esq. again appeared on behalf of the applicant.

Mr. Guinco reviewed the application, which includes 48 affordable housing units, fulfilling 96 affordable credits.

He stated there is a minor variance relief noted in the planner's review memo and they can amend the plans to remove the required variance relief.

The plans have recently been revised by the Applicant's Engineer, Chester DiLorenzo and will be reviewed.

Mr. Chester DiLorenzo, PE, PLS, PP, was previously sworn in and remained under oath. At the previous meeting, the Board expressed concern over the dead ended roadway. He made some revisions to the site layout to allow full circulation of the roadway. Some of the other components have shifted as a result, including some of the units, parking areas, stormwater basins, etc. There is a comment in Mr. Shafai's review memo that says the drainage areas do not comply with the stormwater requirements and would require relief. Mr. DiLorenzo stated that they can make the adjustment to comply.

Mr. DiLorenzo stated that they have not received any correspondence from the DEP; however, they have had communication with them. They have not had any response regarding the Flood Hazard Area. They are working on getting required information for DRCC; however, they cannot obtain any approvals without approvals from the Planning Board. They may be required to reshape the detention basin, if they cannot meet the requirements. The basin is currently designed to be 5' in depth.

Electric vehicle hookups will be available in the townhome garages. They will meet the minimum requirement of 15 minimum "make ready" charging stations. For the multi-family units, it is required to have 1/3 of the required spaces fully installed. Mr. DiLorenzo stated that they would comply. Mr. DiLorenzo stated that they comply with the comments from the Fire Official's memo dated November 28, 2022 (Exhibit P-6b).

Mr. DiLorenzo reviewed the Stormwater comments from Mr. Shafai's review memo (P-2e). He stated that once the DEP confirms the wetlands lines, they will be monumented, as well as any required conservation areas.



Regarding the variance required would be for the 2-year storm, Mr. DiLorenzo stated the plans will be modified to raise the orifice to meet the standard and not require any relief.

Mr. John Rea was previously sworn in and remained under oath. He stated that the County currently has some plans under design for the intersection, but did not share the plans with the applicant. Chairman Newman inquired about the County's comment regarding a "left-turn lane." Mr. Rea stated he was not sure which intersection the County was referring to, but his assumption was the left intersection. There is a proposed ingress/egress lane, a proposed dedicated left turn lane and traffic in both directions. The County has requested an additional 8' of right-of-way, which they are providing.

Chairman Newman noted that the County had some stormwater/road comments. Mr. DiLorenzo stated that the County asked the applicant to provide some additional drainage. They are in the process of designing the cross-sections of the roadway. Mr. Guinco reminded the Board that this is all under the County jurisdiction.

Mr. DiLorenzo stated that there will be a Tier 2 (T2) operator for both the water and the treatment plant.

Mr. Shafai inquired if the applicant has resubmitted to the DEP for wetlands. He noted they are having some issues with the DEP flags. The plan has not yet been submitted to the DEP or to the Board.

The Applicant has not yet submitted a Threatened and Endangered Species report. Mr. Guinco disagrees with this and will later explain why he believes he complies with the ordinance.

Mr. Ziner inquired about the protection around the basin as it is going to 5' deep. Mr. DiLorenzo stated that it will be screened with trees, as required. Mr. Shafai confirmed that there are other basins 5' deep where there is no fencing.

Chairman Newman opened to the public for questions of the witness.

David Mooney of 723 Perrineville Road appeared. He inquired about the status of the Water Treatment permits

Kathryn Lugo of 112 Baird Road inquired about the installation of the EV charging stations and the safety of the same. The applicant stated they will be installed in accordance with the State law.

Michael Pisauro of the Watershed Institute appeared. He asked questions about the depth of the basin. Mr. DiLorenzo stated that the water tables are 2' below the basin. Mr. Pisauro asked several technical questions about the soil log results. There was testing done in the areas of the sanitary sewer areas. Mr. DiLorenzo stated the he has discussed the basin areas with Mr. Shafai and they calculated to all be 2.5-acres. Mr. Shafai confirmed this and asked that the drainage area be added to the applicant's stormwater report. Reviewing page 6 of the most recent site plan (Exhibit A-38), Mr. Pisauro inquired about the flow of the stormwater and how the flow would get to the basin and asked several other questions of Mr. DiLorenzo.

Elizabeth Borsuk of 1030 Windsor Road inquired about the depth of the proposed wells. She is concerned with the freshwater supplies and asked about the quality and quantity of the water to the surrounding properties. Mr. DiLorenzo stated that they are going 350' to 400' deep to a



lower aquifer and should not affect the wells of surrounding properties with typical well depths of about 100-something foot depth. The DEP requires this well depth for this type of development.

There were no other members of the public that came forward with questions of Mr. DiLorenzo. Chairman Newman closed the public questions at this time.

Matthew Leatherwood provided his credentials as an environmental professional. He was recently licensed as a LSRP with the NJDEP. He stated that he conducted the Phase I investigation. There were two adjoining off-site properties which have been contaminated, one on the west side of the site, the other is on the east side of the site (partially in East Windsor), which was a former Getty gas station and salvage yard. They investigated the off-site contamination impacts. The affected off-site properties are across the street from the site.

Mr. Leatherwood reviewed the Phase I (Exhibit A-36) and Phase II (Exhibit A-37) Environmental Reports. The evidence of lead is likely from historic pesticide application on the site. Mr. Leatherwood stated that there is no remediation necessary. He stated the remedy for the non-indigenous fill would be to remove this fill from the site. There was no evidence of contamination spread from the two contaminated sites across the street which exceed the allowable standard. Regarding the groundwater testing, Chairman Newman inquired why they wouldn't do a full monitoring well. Mr. Leatherwood stated that there is no purpose to put in a permanent monitoring well. There is no trigger to submit anything to the State. He stated that the found contaminants should not be any concern to the neighboring properties. Chairman Newman inquired how the levels of the noted contaminants are above the acceptable level of the DEP standards, but do not require further action of the applicant.

Mr. Shafai stated the first round of 10 samples and no one has provided any information on the first tests. Mr. Leatherwood stated he did not review these samples. Mr. DiLorenzo stated that he took the samples immediately after fertilization and sent the samples to EuroFin. He stated that these samples were inadvertently contaminated. Mr. Shafai stated that the ordinance requires 135 samples and the applicant asked to prepare a limited test and present to the Board in lieu. Mr. Steib reviewed the ordinance criteria. The ordinance gives the option to prepare a Phase I report instead of the 135 samples. Chairman Newman inquired why they chose to do the Phase I. Mr. Leatherwood stated that the Phase I satisfies the requirements. He stated they completed the full testing in the areas closest to the known contaminated sites. He is satisfied that all the measurements taken are in compliance with the NJDEP requirements.

John Grelis was sworn in stating he is a licensed subsurface evaluator and a licensed site remediation professional under LSRP. He stated that as a licensed LSRP representative of the NJDEP, he would not recommend any further action based on the investigations provided. He stated that there were no reported exceedances on the property. He stated that he advised that he should get rid of the initial samples and resample as they didn't meet the standards.

Kyle Weise of Trident Environmental was sworn in and provided his credentials with a background in environmental science. The Board accepted him as a professional. In reviewing the mapping, databases studies and doing the investigation, there was no evidence of the Rank 3, 4 and 5 habitats. There were no findings that were in the site area that fall in these categories, the closest being about a half mile from the site. There is no habitat on site that requires protection. The rear of the site is rank 1 or 2 and the remainder of the site, where the farmed are is not ranked at all. The proposed development is within the formerly farmed area.



Mr. Weise stated that the DEP has jurisdiction for wetland or other buffers and the applicant would abide by this. In his opinion, there is no further action required.

Chairman Newman inquired why "Appendix E" of the ordinance has not been provided per ordinance. Mr. Guinco stated that they were deemed complete and it is not required. Mr. Shafai stated that the ordinance still requires that it be provided and that it has been in his review memo since "day one." Mr. Guinco stated that they have reason to believe that this would not apply and if the Board feels it is necessary, he would offer it as a condition of any approval. Mr. Weise stated that the DEP uses a quarter mile of the site as the standard to use as "adjacent to the site."

Kathryn Lugo of 112 Baird Road asked if the water areas have been tested for endangered species. She noted blue spotted salamanders, southern great tree frog and bog turtles are known to be in this area and within the water sources. Mr. Weise stated that these were not recognized during his investigation.

There were no other members of the public that had any questions of this witness and Chairman Newman closed the questions to this witness.

Ms. Mertz confirmed that the applicant is requesting a waiver from the tree inventory survey as under 35-11-25.3. Mr. DiLorenzo stated that the site is approximately 36-acres. The area of disturbance is approximately 8-acres. Mr. Guinco stated the waiver is supported by the settlement agreement. Mr. Steib stated that it may not be unreasonable to identify the trees within the area of disturbance. Ms. Mertz stated that there were several specific paragraphs that were considered in the settlement agreement, this was not one specifically indicated. Ms. Mertz indicated that the relaxation of this requirement is in the settlement agreement, but never made it into the ordinance. Mr. Steib clarified that relaxed is not the same as waived.

Mr. DiLorenzo stated that twelve-acres of the site are already cleared, and the proposed development would require approximately 8.9-acres to be cleared. Mr. DiLorenzo stated this would take approximately 5 days and the cost estimate would be about \$5,000.00.

With no further testimony, the matter was opened to the public.

Charles Boris of 60 Red Valley Road appeared and was sworn in. He stated that the applicant provided reasons for not performing some of the necessary tests was due to costs and does not think this

Mike Pisauo, Director of Policy of the Watershed Institute was sworn in. He stated he does not believe the Stormwater Report is not sufficient. He believes the stormwater logs do not meet the DEP requirements. In reviewing the Stormwater Report (Exhibit A-39) and page 8 of the site plan (Exhibit A-38), he stated, that the basins do not appear to meet the separation of the seasonal high-water table. He stated does not appear that the applicant meets the Stormwater regulations.

There were no other members of the public.

Mr. Guinco provided a summary to the Board. He stated that the applicant chose to not provide the full number of units permitted by ordinance. He also noted that an application permitted by ordinance without variance relief is covered by case law, Pizzo Martin. He stated that they have interacted with the Board to develop a better plan. The issues of the Environmental Commission



and other various reports, he stated, have been addressed. The application is in compliance with their agreement with the Township and in full compliance with the Township ordinances and with affordable housing. Mr. Guinco stated that applicant will be required to obtain all outside agency approvals. He believes that they have addressed the requests of the Board and believes that they are entitled to an approval. The ratio of 96 credits to 120 market rate units is a high ratio for affordable developments.

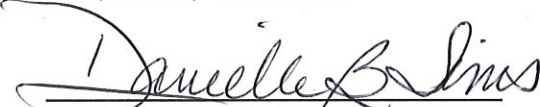
Chairman Newman made a motion to approve the application for Preliminary Site Plan approval only, with the outside agency approvals pending and would not approve the request for the waiver for the tree survey within the areas to be cleared (withholding Final approval for the outside agency approvals). Mr. Steib noted the conditions that were discussed throughout the hearing process. Mr. Pepe seconded the motion to grant Preliminary approval.

On a roll vote in favor of the motion to approve: Chairman Newman; and with those opposed: Mr. Pepe, Mr. Lambros, Mr. Beck, Mr. Pado and Mr. Ziner. The motion to approve failed to advance; which constitutes a denial. Application denied 5 – 1.

BOARD DISCUSSION:

With no further business, Mr. Lambros made a motion to adjourn. Chairman Newman seconded the motion to adjourn and closed the meeting.

Respectfully submitted,


Danielle B. Sims, Board Secretary