

**TOWNSHIP OF MAHWAH PLANNING BOARD
REGULAR /WORK SESSION MEETING MINUTES
MUNICIPAL BUILDING, 475 CORPORATE DRIVE, MAHWAH, N.J.
MONDAY, JUNE 24, 2019 AT 7:30 P.M.**

I. CHAIRMAN 'S OPENING STATEMENT, ROLL CALL, AND FLAG SALUTE

The combined public/work session meeting of the Planning Board of the Township of Mahwah held at the Municipal Building, 475 Corporate Drive, Mahwah, NJ was called to order at 7:34 p.m. by Mr. Crean. The Opening Statement was read according to the Sunshine Law followed by the flag salute.

These minutes are a synopsis of the meeting. A verbatim audio recording is on file at the Planning Board Office, 475 Corporate Drive, Mahwah, NJ. Copies may be purchased for a fee.

II. Roll Call:

The following individuals were present:

Mayor Roth
Mr. Crean
Mr. Donigian
Mr. Ervin
Ms. Galow
Mr. Grewal
Ms. Jankowski
Mr. LoIacono
Mr. Olear
Mr. Pallotta
Mr. Van Duren

Professionals: Peter J. Scandariato, Esq., Michael Kelly, P.E., Debbie Alaimo Lawlor, P.P., Darlene A. Green, P.P., AICP, Geraldine Entrup, A.O.

III. APPROVAL OF BILLS:

Phillips Nizer	May 2019 General	\$1, 402.50
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A motion to approve the above bill was made by Mr. Donigian and seconded by Mr. Ervin. A roll call of members present revealed 11 aye votes by Mayor Roth, Mr. Crean, Mr. Donigian, Mr. Ervin, Mr. Grewal, Mr. LoIacono, Mr. Olear, Mr. Pallotta, Mr. Van Duren, Ms. Jankowski and Ms. Galow.

IV. APPROVAL OF MINUTES: None to Present

V. RESOLUTION FOR MEMORIALIZATION:

1. Resolution of The Township of Mahwah Planning Board Review of Proposed Amendment To Chapter 15 and Chapter 24 of the Code of the Township of Mahwah ((N.J.S.A. 40:55D-26)) Ordinance #1863, Resolution of Approval

A motion to approve the resolution was made by Mr. LoIacono and seconded by Mr. Donigian. A roll call of members revealed 10 aye votes by Mayor Roth, Mr. Crean, Mr. Donigian, Mr. Ervin, Mr. Grewal, Mr. LoIacono, Mr. Olear, Mr. Pallotta, Ms. Jankowski and Ms. Galow.

2. E-BD-216-3140 Apple Ridge Condo Association, 400 Apple Ridge Boulevard, Block 126, Lot 114 Soil Movement Permit Application, Resolution of Approval

A motion to approve the resolution was made by Mayor Roth and seconded by Mr. Donigian. A roll call of members revealed 10 aye votes by Mayor Roth, Mr. Crean, Mr. Donigian, Mr. Ervin, Mr. Grewal, Mr. LoIacono, Mr. Olear, Mr. Pallotta, Ms. Jankowski and Ms. Galow.

VI. OPEN TO THE PUBLIC – 15 MINUTES:

A motion to open the meeting to the public was made by Mr. Ervin and seconded by Mr. Van Duren. All voted in favor.

Ms. Maureen Postolowski of 7 King Street approached to discuss Ordinance #1868, regarding Block 82. Mr. Scandariato explained that there would be an opportunity for discussion about that Ordinance after it is reviewed as part of the Work Session.

A motion to close the meeting to the public was made by Mr. Van Duren and seconded by Mayor Roth. All voted in favor.

Mr. Crean explained that the order of the meeting was being changed to hear the Work Session New Business prior to the Public Hearing.

VIII. WORK SESSION:

A) NEW BUSINESS:

Ms. Darlene Green of Maser Consulting at 53 Frontage Rd, Suite 110, Hampton, NJ approached the Board and provided an overview of the following Ordinances that were drafted to effectuate the recent changes to the Master Plan.

1. Review of Proposed Ordinance #1867 – An Ordinance of the Township of Mahwah, Amending and Supplementing Chapter XXIV “ZONING” of the Land Development Code to Establish a New MUD-2 Mixed-Use Development Zone and to Set Forth the Standards and Criteria Applicable Thereto.
2. Review of Proposed Ordinance #1868 – An Ordinance of the Township of Mahwah, Amending and Supplementing Chapter XXIV “ZONING” of the Land Development Code to Establish a New Mixed-Use Development 1 Overlay (MUD-1) District and to Set Forth the Standards and Criteria Applicable Thereto.
3. Review of Proposed Ordinance #1869 – An Ordinance of the Township of Mahwah, Amending and Supplementing Chapter XXIV “ZONING” of the Land Development Code to Establish a New Multi-Family 1 Housing District and to Set Forth the Standards and Criteria Applicable Thereto.
4. Review of Proposed Ordinance #1870 – An Ordinance of the Township of Mahwah, Amending and Supplementing Chapter XXIV “ZONING” of the Land Development Code to Establish a New Multi-Family 2 Housing District and to Set Forth the Standards and Criteria Applicable Thereto.
5. Review of Proposed Ordinance #1871 – An Ordinance of the Township of Mahwah, To Delete and Replace Subsection 13 “Affordable Housing Regulations” of Chapter XXIV “ZONING” Within The Land Development Code to Address the Requirements of the Fair Housing Act and the Uniform Housing Affordability Controls (UHAC) Regarding Compliance with the Township’s Affordable Housing Obligations.
6. Review of Proposed Ordinance #1872 – An Ordinance of the Township of Mahwah, To Delete and Replace Subsection 15 “Development Fees” of Chapter XXIV “ZONING” Within The Land Development Code to Provide for the Collection of Development Fees in Support of Affordable Housing as Permitted by the New Jersey Fair Housing Act.
7. Review of Proposed Ordinance #1873 – An Ordinance of the Township of Mahwah, To Delete and Replace Subsection 16 “Housing Plan Enforcement and Penalties” of Chapter XXIV “ZONING” Within The Land Development with Subsection 16 “Township-Wide Set-Aside Ordinance”, to Establish a Township-Wide Set-Aside Requirement and to Set Forth The Standards and Criteria Applicable Thereto.

Mr. Scandariato affirmed the conversation from the previous meeting regarding the inconsistency of Ordinance #1867 with the Wellhead Protection Ordinance.

A motion to open the meeting to the public was made by Mr. Ervin and seconded by Mayor Roth. All voted in favor.

Ms. Maureen Postolowski of 7 and 9 King Street approached to discuss Ordinance #1868, regarding Block 82. Ms. Postolowski stated that there was no public notice about the change in zoning and that she hadn’t received a certified letter. Ms. Postolowski questioned the differences in zoning requirements between the new Ordinance #1868 and the prior Ordinance #1670 regarding Block 82, that was never passed. Ms. Postolowski discussed the presentation that the contract purchaser had given at the Council meeting on May 31, 2018. Ms. Postolowski expressed concerns that Ordinance #1868 would allow

for development of the area, accommodating this contract purchaser. Ms. Postolowski said she was not happy with the notice that has been given regarding the zoning changes and explained the lack of notice that had occurred regarding the Council meeting last year. Ms. Postolowski expressed concerns that these changes may make her property a corner lot and that setbacks associated with that change would need to be defined. Ms. Postolowski inquired who had written and collaborated on the Ordinance and discussed her concerns regarding Mr. Brian Chewcaskie's involvement. Ms. Postolowski gave a history of her preferences in the zoning and discussed the rezoning process that she went through for her property. She mentioned her understanding that the overlay would be used maintaining existing uses in the Zone.

Ms. Green discussed that the contract purchaser who was proposing a density of approximately 60 units to 1 acre did attempt to intervene multiple times but the Township was able to provide evidence so that the Settlement Agreement specifies that development of the Zone be limited to 14 units per acre.

Mayor Roth stated that the Ordinance was not crafted for a specific developer. There was further discussion of the hearings and the lower density that was approved in the settlement.

A motion to close the meeting to the public was made by Mr. Ervin and seconded by Mr. Donigian. All voted in favor.

The Board had the following discussion before voting on each of these Ordinances:

1. Review of Proposed Ordinance #1867 – An Ordinance of the Township of Mahwah, Amending and Supplementing Chapter XXIV “ZONING” of the Land Development Code to Establish a New MUD-2 Mixed-Use Development Zone and to Set Forth the Standards and Criteria Applicable Thereto.

There was discussion regarding the conflict of this Ordinance with the restriction that the Wellhead Protection Ordinance #1803 has on fueling stations in this area. There was also discussion about whether the Wellhead Protection Act was currently part of the Master Plan. Ms. Lawlor stated that the last revision to the Master Plan was in 2013 while the Wellhead Protection Ordinance was adopted in 2017. Based on this, the Board agreed that Ordinance #1867 is consistent with the Township's Master Plan, but it is not consistent with the Wellhead Protection Ordinance #1803. The Board objected to the line on Page 2 of Ordinance #1867 which reads “A big box retail facility may include an exterior fuel dispensing station” and the lines on Page 5, Section 24-4.1.2.d.2.d which read “Fuel dispensing stations (which shall mean a retail facility for the dispensing of vehicular fuels and no other uses) in connection with, accessory to and operated by a permitted Big Box Retail establishment. No fueling of tractor trailers shall be permitted. A fuel dispensing facility is not subject to the location requirements of the Township Code Section 24-6.7a.”. Additional discussion clarified that an Applicant would need to comply with all Ordinances such as the Wellhead Protection Ordinance or The Highlands Act.

A motion to recommend adoption of Ordinance #1867, with suggested modifications was made by Mr. Donigian and seconded by Mr. Grewal. A roll call of members present revealed 1 no vote from Mr. Olear and 9 aye votes by Mayor Roth, Mr. Crean, Mr. Donigian, Mr. Grewal, Mr. LoIacono, Mr. Pallotta, Mr. Van Duren, Ms. Jankowski and Ms. Galow. Mr. Ervin recused himself from this vote.

2. Review of Proposed Ordinance #1868 – An Ordinance of the Township of Mahwah, Amending and Supplementing Chapter XXIV “ZONING” of the Land Development Code to Establish a New Mixed-Use Development 1 Overlay (MUD-1) District and to Set Forth the Standards and Criteria Applicable Thereto.

A motion to recommend adoption of Ordinance #1868 was made by Mr. LoIacono and seconded by Mr. Grewal. A roll call of members present revealed 10 aye votes by Mayor Roth, Mr. Crean, Mr. Donigian, Mr. Grewal, Mr. LoIacono, Mr. Olear, Mr. Pallotta, Mr. Van Duren, Ms. Jankowski and Ms. Galow. Mr. Ervin recused himself from this vote.

3. Review of Proposed Ordinance #1869 – An Ordinance of the Township of Mahwah, Amending and Supplementing Chapter XXIV “ZONING” of the Land Development Code to Establish a New Multi-Family 1 Housing District and to Set Forth the Standards and Criteria Applicable Thereto.

A motion to recommend adoption of Ordinance #1869 was made by Mayor Roth and seconded by Mr. Van Duren. A roll call of members present revealed 10 aye votes by Mayor Roth, Mr. Crean, Mr. Donigian, Mr. Grewal, Mr. LoIacono, Mr. Olear, Mr. Pallotta, Mr. Van Duren, Ms. Jankowski and Ms. Galow. Mr. Ervin recused himself from this vote.

4. Review of Proposed Ordinance #1870 – An Ordinance of the Township of Mahwah, Amending and Supplementing Chapter XXIV “ZONING” of the Land Development Code to Establish a New Multi-Family 2 Housing District and to Set Forth the Standards and Criteria Applicable Thereto.

A motion to recommend adoption of Ordinance #1870 was made by Mr. Donigian and seconded by Mr. Van Duren. A roll call of members present revealed 10 aye votes by Mayor Roth, Mr. Crean, Mr. Donigian, Mr. Grewal, Mr. LoIacono, Mr. Olear, Mr. Pallotta, Mr. Van Duren, Ms. Jankowski and Ms. Galow. Mr. Ervin recused himself from this vote.

5. Review of Proposed Ordinance #1871 – An Ordinance of the Township of Mahwah, To Delete and Replace Subsection 13 “Affordable Housing Regulations” of Chapter XXIV “ZONING” Within The Land Development Code to Address the Requirements of the Fair Housing Act and the Uniform Housing Affordability Controls (UHAC) Regarding Compliance with the Township’s Affordable Housing Obligations.

A motion to recommend adoption of Ordinance #1871 was made by Mr. Donigian and seconded by Mr. Pallotta. A roll call of members present revealed 10 aye votes by Mayor

Roth, Mr. Crean, Mr. Donigian, Mr. Grewal, Mr. LoIacono, Mr. Olear, Mr. Pallotta, Mr. Van Duren, Ms. Jankowski and Ms. Galow. Mr. Ervin recused himself from this vote.

6. Review of Proposed Ordinance #1872 – An Ordinance of the Township of Mahwah, To Delete and Replace Subsection 15 “Development Fees” of Chapter XXIV “ZONING” Within The Land Development Code to Provide for the Collection of Development Fees in Support of Affordable Housing as Permitted by the New Jersey Fair Housing Act.

A motion to recommend adoption of Ordinance #1872 was made by Mr. Lo Iacono and seconded by Mr. Van Duren. A roll call of members present revealed 10 aye votes by Mayor Roth, Mr. Crean, Mr. Donigian, Mr. Grewal, Mr. LoIacono, Mr. Olear, Mr. Pallotta, Mr. Van Duren, Ms. Jankowski and Ms. Galow. Mr. Ervin recused himself from this vote.

7. Review of Proposed Ordinance #1873 – An Ordinance of the Township of Mahwah, To Delete and Replace Subsection 16 “Housing Plan Enforcement and Penalties” of Chapter XXIV “ZONING” Within The Land Development with Subsection 16 “Township-Wide Set-Aside Ordinance”, to Establish a Township-Wide Set-Aside Requirement and to Set Forth The Standards and Criteria Applicable Thereto.

A motion to recommend adoption of Ordinance #1873 was made by Mr. Donigian and seconded by Mr. Van Duren. A roll call of members present revealed 10 aye votes by Mayor Roth, Mr. Crean, Mr. Donigian, Mr. Grewal, Mr. LoIacono, Mr. Olear, Mr. Pallotta, Mr. Van Duren, Ms. Jankowski and Ms. Galow. Mr. Ervin recused himself from this vote.

Mr. Donigian discussed the negative comments on social media regarding these zoning changes. He wished that the people making the comments were at the meeting so they could understand the history and process that the Township has gone through, ultimately resulting in very positive outcomes for the Township. Ms. Galow suggested an outreach to help inform the public. There was further discussion on the role of the Planning Board and Town Council in the process.

VII. PUBLIC HEARING(S):

1. Docket #599 – Realty Acquisition Group LLC 6 Industrial Avenue, Block 110.01, Lot 9 Preliminary and Final Site Plan Approval and Soil Movement Permit Application

Mr. Grewal recused himself from this Public Hearing and left the meeting at 8:52 p.m.

Mr. Bruce Whitaker of McDonnell & Whitaker, L.L.C of Ramsey, NJ appeared on behalf of the Applicant. Mr. Whitaker provided an overview of the application, explaining that the property is located in a GI-80 Zone and that the Applicant is seeking Preliminary and Final Site Plan Approval along with approval for the Soil Movement Permit Application. Mr. Whitaker discussed the changes in how warehousing operates and the impact on required parking. Mr. Whitaker pointed out the unusual conditions on the property and how the

proposed use would effectively use this irregular lot. Mr. Whitaker discussed the variances and waivers the Applicant is seeking regarding the lot depth, front-yard setback, minimum parking lot setback, curb return radii and the parking requirement.

Mr. Scandariato stated that notice was reviewed and in order, notice was properly served.

Mr. Robert McNerney of 70 Lehmann St in Mahwah, NJ was sworn in, provided his professional qualifications and was accepted as a Commercial Real Estate Expert. Mr. McNerney explained that he was involved in the development of the plans for this unusual lot. Mr. Whitaker presented a list of similar sites that Mr. McNerney was involved with and managed as Exhibit A-1. Mr. McNerney discussed the various locations and the parking that was used for properties similar to the proposed warehouse. Mr. McNerney indicated that the required parking would be much less than the Township's code requirement. Mr. McNerney explained how the warehousing business has changed with E-Commerce, and that both office space and parking requirements are not the same from a business process perspective. Mr. McNerney commented that the location of this property would lend itself to this E-Commerce use. Mr. McNerney estimated a maximum of 15 employees with hours of operation between 7:00 a.m. to 5:00-6:00 p.m., Monday through Friday. No outdoor storage is proposed. There is no specific tenant but Mr. McNerney affirmed that he expected a tenant to be an E-commerce use. With this use, Mr. McNerney anticipated 1-3 tractor trailers inbound each day with no visitors or members of the public. Mr. McNerney discussed the signage and explained that the Applicant was changing the proposed signage to one sign with conforming lettering. Mr. McNerney testified that lighting would conform to Township requirements.

Mr. Crean questioned the hours of operation and Mr. McNerney testified that the hours of operation could expand to 24/7 depending on the tenant. McNerney testified that tractor trailer deliveries would most likely occur between 7:00 a.m.-10:00 a.m.

Mr. Kelly and Mr. McNerney discussed the truck circulation flow. Mr. McNerney testified that there would be 5-10 smaller delivery trucks that would bring product out of the warehouse. Mr. Kelly discussed the tenant application process and that it does not automatically come back before the Planning Board, unless it was a condition of approval.

Mr. Crean questioned the number of Tenants. The Application requests two tenants. Mr. McNerney discussed that this was only to keep that possibility open if a two-tenant scenario came to be. He testified that the Applicant is seeking one tenant.

There was discussion about the usage of the loading docks that are inside the warehouse. Mr. McNerney testified that delivery trucks were typically not owned by the tenant or parked at the warehouse sites.

There was discussion about the different plan submissions that were made and Mr. Whitaker clarified that the Applicant was proposing 16 parking spots. Ms. Lawlor explained that the current code requirements for parking can be excessive for current uses. Ms. Lawlor stated that the ratio's depicted on Exhibit A-1 are similar to the requirements in other comparable towns. There was additional conversation about the parking requirements and whether or not

parking would be allowed in the easements on the property. The Applicant agreed to add future parking if required.

A motion to open the meeting to the public was made by Mr. Van Duren and seconded by Mr. LoIacono. All voted in favor.

No one wishing to be heard, a motion to close the meeting to the public was made by Mr. Ervin and seconded by Mayor Roth. All voted in favor.

Mr. Whitaker presented Exhibit A-2 documenting Rockland Electric granting the Right of Way Easement for the property. Mr. Whitaker also presented Exhibit A-3 documenting PSE&G granting the Right of Way Easement for the property

Mr. Brian Shortino of Bertin Engineering at 66 Glen Ave, Glen Rock, NJ approached, provided his credentials and was accepted as an expert witness in Civil Engineering. Mr. Shortino presented Exhibit A-4 as the Preliminary and Final Site Plans that were submitted with the application. Mr. Shortino testified that the proposed plans were dated December 13, 2018 with no revisions, proposing 16 parking spaces. Mr. Shortino used the site plan to point out and describe the existing surrounding conditions and easements. Mr. Shortino testified to the irregular shape of the property. The proposed 31,824 square feet of warehouse and office space was described. Exhibit A-5 was presented as a colored site plan with landscape rendering, dated June 24, 2019. Mr. Shortino used Exhibit A-5 to describe the proposed landscaping and review the truck circulation. Mr. Shortino pointed out the 3 internal loading bays and stated that the trailers would be left within the confines of the building to be unloaded. Mr. Shortino pointed out the 16 parking spaces on the plan and he reviewed the emergency vehicle circulation on Exhibit A-4, sheet C2.6. Mr. Shortino stated that an additional 9 spaces could be added under the overhead wires. He described the drainage plan and stated that the Applicant will comply with Items 25 - 34 in Mr. Kelly's report dated June 21, 2019 regarding the Stormwater Management. Mr. Shortino discussed the proposed lighting and stated that the Applicant agrees to review the lighting with the Township Engineer within 6 months after completion and make any needed modifications. Mr. Shortino testified that the Applicant was trying to keep as much of the wooded area along Industrial Avenue while adding some plantings. Mr. Shortino stated that the easements would be left in their natural state and some planting would be added in the parking areas. Mr. Shortino stated that the garbage container is surrounded on three sides with natural buffers. Mr. Shortino discussed the three-foot wall in the parking lot and that it would meet all Engineering requirements.

Mr. Shortino stated that the lot depth variance is an existing condition that is not being created or exacerbated by the application. He testified that because of the curve in the front property line, a small part of the building encroaches into the front-yard setback but most of the building complies. Similarly, Mr. Shortino explained that only the first couple of parking spots encroach in the parking setback. Regarding the curb return radii waiver, Mr. Shortino testified that the proposed radii are sufficient to allow vehicles to circulate safely. He also testified that the waiver regarding the slopes would allow them to minimize how much was disturbed in the easement area. Mr. Shortino reviewed the proposed Soil Movement

Application.

Mr. Shortino testified that the Applicant would comply with the Items 1, 3, 4 and 5 in the Township Fire Official's May 10, 2019 application review report and letter. Mr. Shortino agreed to review access possibilities further and meet with Mr. Roe to discuss what access is required along the entire perimeter of the building.

There was discussion about the locations of the ADA parking spaces and bathrooms. The Applicant agreed to contribute to the sidewalk fund and install a flag pole. The Applicant agreed to provide a Tree Plan. Mr. Kelly discussed the need for an updated status regarding the wetland delineation. The Applicant agreed to comply with all items listed in Mr. Kelly's report.

A motion to open the meeting to the public was made by Mr. Donigian and seconded by Mr. Van Duren. All voted in favor.

No one wishing to be heard, a motion to close the meeting to the public was made by Mr. Ervin and seconded by Mayor Roth. All voted in favor.

Additional discussion regarding parking specified that 25 spaces would be provided and the Applicant agrees to provide further additional parking if the Township deems it necessary in the future. The application was continued to the next meeting so that the Applicant could meet with the Fire Official to resolve access concerns and provide updated plans with the 25 parking spaces. Mr. Scandariato was asked to review the utility easement to affirm the Applicant's ability to provide parking in the easement.

A motion to carry the Application to the July 8, 2019 meeting was made by Mr. Mr. LoIacono and seconded by Mayor Roth. All voted in favor. Mr. Crean stated that the application would be carried to the July 8, 2019 meeting with no further notice required.

VIII. WORK SESSION:

- A) NEW BUSINESS: Heard earlier in the meeting.
- B) OLD BUSINESS:
Mr. Donigian asked about the progress with the Ordinance reviews for the Township.
Ms. Lawlor explained that the subcommittee had just met for the first time.
- C) COMMITTEE REPORTS: None

IX. ADJOURNMENT:

A motion to adjourn the meeting at 10:16 p.m. was made by Mr. Donigian and seconded by Mr. Van Duren. All voted in favor.

These minutes were prepared by Mary Jo Wood, Planning Board Secretary. The minutes were provided to the Planning Board on August 21, 2019 for approval at the Regular Meeting to be held August 26, 2019.