

**TOWNSHIP OF FRANKLIN  
PLANNING BOARD  
COUNTY OF SOMERSET, NEW JERSEY**

**REGULAR MEETING  
June 1, 2016**

The regular meeting of the Township of Franklin Planning Board was held at 475 DeMott Lane, Somerset, New Jersey and was called to order by Chairman Orsini at 7:30 p.m. The Sunshine Law was read, the Pledge of Allegiance said and the roll was taken as follows:

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**PRESENT:** Councilman Chase, Carl Hauck, Alex Kharazi, Cecile MacIvor, Robert Mettler, Robert Thomas, Jennifer Rangnow and Chairman Orsini

**ABSENT:** Mustapha Mansaray and Godwin Omolola

**ALSO PRESENT:** Board Attorney, Mr. James Clarkin, Mr. Mark Healey, Director of Planning and Vincent Dominach, Senior Zoning Officer

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**MINUTES:**

- **Regular Meeting – March 16, 2016**

Vice Chair MacIvor made a motion to approve the Minutes as submitted. Mr. Mettler seconded the motion and the roll was called as follows:

**FOR:** Councilman Chase, Vice Chair MacIvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow and Chairman Orsini

**AGAINST:** None

**RESOLUTIONS:**

- **Hamilton Street Management / PLN-15-00017**

Vice Chair MacIvor made a motion to approve the Resolution as submitted. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Vice Chair MacIvor, Mr. Mettler, Mr. Thomas and Ms. Rangnow

AGAINST: None

**DISCUSSION:**

***Vouchers:***

- **Clarkin & Vignuolo, P.C. – June Retainer - \$833.33**

Vice Chair MacIvor made a motion to approve the Vouchers as submitted. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Vice Chair MacIvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow and Chairman Orsini

AGAINST: None

***Discussion:***

- **1 Woodturtle Court**

Mr. Dominach stated that the property was part of a subdivision that was approved years ago. He went on to discuss that when the area got subdivision approval, almost all of the properties had conservation easements, not because they had wetlands on the property, but to have open space. He noted that several years ago, the Applicant came in to put in a pool and just last year they got an approval to put in a solar array. When it was originally reviewed, there was not a solid line depicting where the conservation easement was, but it was revealed in the As-Built that their fence and some of the solar array and pergola were within the conservation easement.

Mr. Dominach noted that there were two options; either the Township can make them remove all of the items within the conservation easement or an alternative option that the Board Attorney would explain.

Mr. Clarkin stated that the first step would be to identify if the area that had been intruded upon had any special resource value. Mr. Clarkin stated that, according to Mr. Dominach, the intrusion was just into a general conservation area and not in an area of any wetlands. That being the case, Mr. Clarkin suggested, to protect the Township's interest, that they do a calculation of the square footage that had been intruded upon and give the Township an equal value of square footage somewhere contiguous on the property.

Mr. Dominach spoke to the owner of the property and told them that he was coming that evening to make a presentation. A discussion ensued among the Board regarding what portion of the property made the most sense to then include into the conservation easement as a trade-off. Mr. Healey suggested that they give the Township the land and also replace the number of trees that had been removed from the property. He also suggested that the disturbance barely touched the stream corridor on the property.

Mr. Clarkin explained that if the Board was inclined to agree to his suggestion, then the Applicant was going to have to amend and record a new easement. Mr. Dominach indicated that the owner was aware of all obligations, depending upon which choice the Board makes.

Mr. Clarkin indicated that he didn't think the Board needed to take any action that evening, but that he would like to get a new metes and bounds description, showing on the map where the new conservation area would be located, calculate the number of trees lost, get an agreement that the owner would replace the same number of trees lost and put all that information before the Board and list it as a discussion item so the Board could vote on a motion at that time.

***Extension of Time:***

- **Jay Laxmi Vishnu, LLC / PLN-09-00007**

Ms. Catherine Copp, Esq., Attorney employed with the law offices of Peter U. Lanfrit, LLC, appeared before the Board on behalf of the Applicant, Jay Laxmi Vishnu, LLC.

Ms. Copp explained that they were there that evening to request a one-year extension of time on a Site Plan approval they received back in 2009. She indicated that the Applicant was now considering changing hotel chains, and that they would submit a new Application as there would likely be site changes involved in that. She went on further to state that if they do not change to a different hotel chain, they would like to move forward with the previously approved site plan.

Vice Chair Maclvor made a motion to approve the Extension of Time for one year, from July 1, 2016 to July 1, 2017. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Vice Chair Maclvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow and Chairman Orsini

AGAINST: None

- **413 Somerset Street Associates, LLC / PLN-10-00011**

Mr. Peter H. Klouser, Esq., employed with the law firm of Heilbrunn Pape, appeared before the Board on behalf of the Applicant, 413 Somerset Street Associates, LLC. Mr. Klouser indicated that they had received Preliminary and Final Site Plan approval to rehab an existing abandoned use that was considered a pre-existing, non-conforming use back in January, 2011. He then indicated that they had worked diligently to receive all outside approvals and were ready to move forward, but that their approval would be expiring at the end of June and was asking for a one-year Extension of Approval.

Vice Chair Maclvor made a motion to approve the Extension of Time for one year, from July 1, 2016 to July 1, 2017. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Vice Chair Maclvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow and Chairman Orsini

AGAINST: None

**PUBLIC COMMENTS:**

Mr. Mettler made a motion to open the meeting to general public comments. The Vice Chair seconded the motion and all were in favor.

Seeing no one coming forward, Mr. Mettler made a motion to close the public portion of the meeting. Vice Chair Maclvor seconded the motion and all were in favor.

## HEARINGS:

- **745 HAMILTON STREET, LLC / PLN-15-00011**

Site Plan with Variances and Major Subdivision, Hamilton Street, Dewald Avenue and Martin Street, Somerset; Blocks 223/224, Lots 22-31/1-12 & 28-33, in the HBD Zone - **CARRIED TO JULY 20, 2016 – with no further notification required.**

**DL 06/15/2016**

- **HAMILTON STREET MANAGEMENT, LLC / PLN-15-00017**

Francis P. Linnus, Esq., Attorney, appeared before the Board on behalf of the Applicant, Hamilton Street Management, LLC. Mr. Linnus indicated that they had concluded their presentation at the March 16, 2016 Planning Board meeting for a Site Plan in which the Applicant was proposing a mixed use building at 695-697 Hamilton Street, Somerset; Block 219, Lots 2.04 & 1.01, in the HBD Zone - **CARRIED FROM MAY 04, 2016– with no further notification required.**

Mr. Linnus explained that they were there for Preliminary and Final Site Plan approval, with one variance for impervious coverage, which was testified to at the previous meeting. He went to further explain that they were planning to construct a 4-story mixed use structure consisting of about 25,952 sq. ft. of retail space on the first floor and 60 1-bedroom and 2-bedroom apartments as well as one studio apartment, for a total of 61 residential units. Mr. Linnus noted that they were back before the Board that evening because at the conclusion of the March 16, 2016 hearing, the Board asked the Applicant to supply more information regarding storm water management to the Township Engineer. He stated that they submitted the additional information to the Township Engineer, and although there was no written report, he understood that the storm water management system was found to be generally acceptable.

Mr. Dominach interjected that the Applicant had been working very diligently with getting information to the Engineering Dept. He testified that both the Township Engineer and the Assistant Township Engineer have reviewed the plans and stated that Mr. Linnus' testimony that their plan substantially complied was accurate. He did note that the Engineering Dept. did find some minor things that they have to deal with, but that it was not something that would affect the Site Plan. Mr. Dominach added that the Township Engineer had no issue with the Planning Board acting favorably on the Application at this time. He added that the Applicant was presently actively working toward complete compliance.

Mr. Mettler then opened a discussion regarding another matter that he said Mr. Dominach stated had been satisfied. He was talking about not having the most up-to-date building plans. Mr. Dominach indicated that the new plans had been submitted to

the Township and that Board members could get those updated plans from the Planning/Zoning office.

Chairman Orsini asked Mr. Dominach to provide a copy to the Board members of the written report from the Township Engineer's office when it became available. Mr. Dominach agreed to do so.

Mr. Healey added that the plans that the Board members did receive were substantially the same as the revised plans, which had to be tweaked in response to staff comments. A discussion ensued among the Board regarding the request to step back the building to allow for additional outdoor space in front of the building. Mr. Healey stated that the Applicant's architect presented the new Site Plans at the last hearing as well as a number of colorized exhibits, giving the Board a very good idea of what was being proposed. Chairman Orsini also mentioned that the electronic version of the plans had been sent out, so the hope was that Board members would start to use in the future as well.

Mr. Linnus also stated that they did revisit the Parking Plan and testified that their parking plan was compliant. He also added that Ms. Dolan, the Traffic Engineer, submitted a supplemental Traffic Statement, as requested by the Board.

Mr. Mettler made a motion to open the hearing to the public for questions and comments. Vice Chair Maclvor seconded the motion and all were in favor. Seeing no one coming forward, Mr. Mettler made a motion to close the hearing to the public. Vice Chair Maclvor seconded the motion and all were in favor.

Vice Chair Maclvor made a motion to approve the Application, with Variance, and the stipulation that they satisfy the Township Engineer. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Vice Chair Maclvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow and Chairman Orsini

AGAINST: None

Mr. Clarkin, Board Attorney, stated that the Resolution for the **HAMILTON STREET MANAGEMENT, LLC**, Application was given a review by the Township staff and also been given a review by the Applicant's Attorney and its final form was reviewed and approved by the law offices of Clarkin and Vignuolo. Mr. Vignuolo testified that the Resolution accurately reflects what was discussed in the first hearing and accurately reflects the changes in the storm water management system.

Mr. Healey also stated that when the Board Attorney prepares the Resolutions, they base them upon the minutes for the hearings. He added that the Board just approved the March 16, 2016 minutes earlier in the evening and mentioned that the minutes were

not verbatim, but were very detailed in nature. Mr. Healey then went through the minutes and mentioned that they might want to include the two conditions that the Applicant had agreed to at the hearing, i.e., no medical laboratory facility or similar use shall be permitted and medical uses occupying the building shall not be allowed to operate on Saturdays or Sundays. Mr. Clarkin also stated that the Resolutions were also based upon attorney notes taken at the hearing and don't solely rely just upon the minutes.

Vice Chair Maclvor made a motion to approve the Resolution as submitted. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Vice Chair Maclvor, Mr. Mettler, Mr. Thomas, Ms. Rangnow and Chairman Orsini

AGAINST: None

## **COMMITTEE REPORTS**

No reports were discussed.

## **WORKSESSION/NEW BUSINESS:**

- **Stream Corridor Ordinance**

Mr. Healey indicated that the proposed ordinance was a wish list that Councilman Chase as well as the Environmental Commission has wanted to take care of for many years. The Councilman stated that the Stream Corridor Ordinance that they had on file had an enormous loop hole in that it first said the corridor would be 300 ft. from streams would be the required buffer and then it said that if there were any wetlands had been determined along the stream, then the buffer was only 50 ft. from the edge of the wetlands. He then stated that if that occurred, the buffer was then only about 50 ft. from the stream. He also added that when Mr. Healey went and looked at the ordinance, he also thought it was unduly complicated and difficult to understand, so he spent the time to write a draft ordinance for the Board to review. Councilman Chase stated that they reduced most corridors along streams to 150 ft., although there was a requirement for 300 ft. from the Millstone River, the D&R Canal and C-1 streams designated by the State (6-Mile Run and its tributary). He talked about 9-Mile Run, which was a tributary and really does deserve protection in many places.

Mr. Healey explained that he felt the main "gist" of the ordinance was to prohibit further expansion or additional disturbance in areas that were currently undisturbed. He used Rutgers Plaza as an example because it has a stream running along the back of it and certainly a good portion of that site was within 150 ft. of the stream. He stated that that fact would give them reason to look at the area closer should any future work be done

there. He said that there was nothing they could do, besides Site Plan approval and other development approvals, if work were to be done in an area already disturbed. He added, though, that if they were going to re-grade the slope adjacent to the stream, put a retaining wall in and take down a number of trees, then that would be prohibited and they would have to seek a waiver from the Board, which would probably be very tough to obtain. Mr. Healey also said that there were some streams that ran through neighborhoods that would have the same restrictions. He also testified that they had added some review criteria

Mr. Healey indicated that Vice Chair MacIvor had an opportunity to review what was prepared and made some comments. He stated that the Vice Chair suggested there be language to dictate that developers stay outside of stream corridor areas, at least 300 ft. away from C-1 and 150 ft. from other streams, doing everything practicable in their design to stay away from these areas. Mr. Healey noted that the second comment from the Vice Chair was to make the language simpler, under Section 112-229, item 2, by basically asking for a grading plan. Finally, Mr. Healey stated that the draft ordinance had been reviewed by the Environmental Commission and the Council's Land Use Committee has also reviewed it and were satisfied.

Mr. Mettler made a motion to forward the draft ordinance to Council, with the amendments brought forward by Vice Chair MacIvor and discussed by the Planning Director. Vice Chair MacIvor seconded the motion and all were in favor.

#### **EXECUTIVE SESSION:**

The Board did not enter into an Executive Session that evening.

#### **ADJOURNMENT:**

Vice Chair MacIvor made a motion to adjourn the regular meeting at 8:08 p.m. Chairman Orsini seconded the motion and all were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
June 23, 2016