

March 16, 2009

A Work Session of the Allendale Planning Board was held in the Municipal Building on March 16, 2009. The meeting was called to order at 8:10 P.M. by Mr. Quinn, Chairman of the Board. The requirements of the Open Public Meetings Act were met by the required postings and notice to publications.

The following members answered roll call: Mr. Quinn, Mr. Fliegel, Mr. Gravina, Chief Herndon, Mayor Barra, Mr. Bernstein, Mr. Sirico and Ms. Sheehan. Mr. Tatosian, Mr. Yevchak and Mr. Zambratta were absent this evening.

### **WORK SESSION**

#### Minutes of Meeting of February 16 and 19, 2009

Mr. Quinn said that the minutes will be addressed at Thursday night's meeting.

#### Appointment of New Alternate Member

Mr. Quinn stated that this appointment will take place on Thursday.

#### Allendale Whitney LLC – Block 2101, Lots 1, 2, 3, 5, 6, 7, & 8 – Review of revised landscape plan and request for extension of time. Request for change in material for proposed sanitary sewer pipe and laterals

Mr. Gravina recused himself from this portion of the meeting. Scott Loventhal of Allendale Whitney, LLC, introduced himself along with Scott Koenig of Lapatka Associates who would be discussing changes to the landscaping plan. Mr. Loventhal stated that Allendale Whitney is the 150 unit multi-family development on Chestnut Street. They are looking for guidance from the Board regarding a modification to the landscape buffer along the rail line. A significant number of existing trees can be saved as opposed to the approved plan which proposed clear cutting to the railway right-of-way line.

Mr. Koenig referred to the approved landscaping plan and he identified the railroad tracks, the easterly property line, the approved 4' high board on board fence and the proposed trees to be removed. There are approximately 58 trees existing along the property line ranging in size from 6" in diameter to 24" in diameter and they range in height from 30' to 60'. The applicant is proposing to maintain 35 evergreen plantings in the gaps between the existing trees that were retained. Also added, around the bases of the canopy trees as well as in the gaps, will be a series of large sized native shrubs at a height of 3' to 4' which are expected to reach a height of between 6' to 12'. Mr. Koenig stated that 64 flowering shrubs are proposed to be planted in clusters to create a natural look.

Mr. Koenig stated that with this plan the 64 shrubs originally proposed have grown to 82 and 35 evergreen trees are proposed compared to the 58 approved existing trees for a total of 157 plants as opposed to the 82 plants previously proposed. There is no visual detriment with the additional trees and shrubs and this will be a more natural area with seasonal interest. It is beneficial to preserve the large tree canopy and there will also be significant screening in the yard areas.

Mr. Koenig was questioned about the types of shrubs. He said that the shrubs consist of viburnum, witch-hazel, red choke berry and summer sweet that will be interspersed. All of the shrubs are deciduous, flowering and native to the area with appreciable fall color. The existing trees are hardwoods including mostly maples and oaks. He stated that there has been a reduction of evergreens on the original plan from 82 to 35. Upon questioning, Mr. Koenig confirmed that in the winter there will only be 35 evergreens providing a buffer. The benefit of keeping the trees serves the development itself as well as any development to the east. He said he that he thought that a mixture and a more naturalized look is much more suitable to this area.

Mr. Koenig was asked if the haphazard placement of the plantings will result in gaps in the future because of the ways the plants will grow and the ability of sunlight to reach the plants. Mr. Koenig said that the more diversity you have the better the plants are protected for future sustainability and if planted too close together the trees will get taller with greater openings and die back towards the base because the trees are competing for the same light and air.

Cost was questioned and Mr. Loventhal stated that the plan was not analyzed from a cost perspective and he thinks the difference is negligible compared to what was proposed in the approved plan. They are hoping to create a much greater buffer than what was proposed. This will save existing trees as well as improving the noise buffer.

There was a question concerning the difference between the original berm height and what is proposed. Mr. Yakimik said that the original buffer that was proposed for the site consisted of a 1' to 2' high retaining wall along the entire right-of-way. The new proposal eliminates roughly 70% of the retaining wall, however, there will be a short section of the retaining wall at the northern end of the buffer approximately 2' to 4' in height. It was noted that the Whitney side is lower than the railroad. The 4' board on board fence will remain along with the landscaping as described by the applicant. Originally the fence was located on top of the retaining wall which went the entire length of the track.

Mr. Yakimik stated that the plan was reviewed by a Certified Landscape Architect in his firm. He identified two items of concern. The first is in connection with the success of large shrubs after planting in close proximity to large deciduous trees. He felt they would be competing for sunlight and moisture while developing along with the conifers. He pointed out that this would not be an all season buffer because there will be gaps during the winter. Mr. Yakimik referred to the Code, Section 270 156-H which specifically refers to a residential zone being buffered during all seasons. It lists requirements for the

buffer and it would appear that both proposals adhere to it except for the reasonable aspects of the buffer. One suggestion is to make the buffer slightly wider so that it doesn't destroy any of the root masses of the existing trees, however, he is not sure if this is possible due to access requirements around the building.

Mayor Barra asked whether or not a 2' retaining wall with a 4' fence above would provide some sort of a noise buffer to the residents and a shield for 12 months a year. He wondered if that was compromised by the present plan where there is no 2' wall and only a 4' fence. Mr. Yakimik said that the slight change in grade would provide a slightly better buffer regarding the sound of the train, however, the code is limited to a 4' high fence. The applicant indicated during the application process that they did not want to seek a variance for a fence in excess of 4'. The landscape architect stated that a 6' high fence would be more advantageous. The present proposal with the addition of the 2' retaining wall would kill the trees.

Mr. Loventhal said that he would welcome the Board's recommendation that an 8' fence be placed along the line and they would be willing to seek a variance because their goal is the safety and an effective buffer for the residents. The applicant also wants to enhance the natural buffer that already exists and in order to do that they are proposing the removal of the 2' wall which is actually non-existent in some areas. Mr. Loventhal pointed out that safety could be enhanced with an 8' fence and he added that residents will be able to hear the train regardless.

Mr. Koenig was asked to respond to the issue of the planting gaps. He acknowledged that there could be gaps in the winter, however, the benefit of the richness and variety of the existing trees and supplemental plantings outweighs what you would lose by not having that in the winter time when residents would not be out in the yard.

Mr. Yakimik was asked if there is a State recommendation regarding the height of fences adjacent to rail lines from a safety standpoint. Mr. Yakimik said that this fence is outside of the right of way of the railroad and it could be built to any height. The height would become an issue closer to Chestnut Street when adequate site distance comes into play. It was noted that a variance was granted for a 6' fence for Allendale Brook Estates for safety reasons.

Mayor Barra asked if there was a reason why evergreens couldn't be planted in the gaps for twelve month coverage and to block the railroads. Mr. Koenig pointed out tight clusters of existing trees in some of the gaps which prevent the planting of evergreens. The existing evergreens are relatively close with dense branches which result in some obstruction of view.

The possibility of a variance was discussed by the Board and Mr. Loventhal indicated that they would make application for a variance for a 6' or 8' fence when they return with the revised landscape plan. Mr. Bernstein suggested having Ed Snieckus, the Borough Planner, who is also a landscape architect, visit the site, look at these plans and make some recommendations to the Board. Mr. Yakimik reiterated that Section 270 156-H of

the code could be used as a design standard of a buffer and it specifically says the buffer should be provided during all seasons. He will discuss this with the Landscape Architect in his firm and present a full report to the Board. Mr. Bernstein stated that it is questionable as to whether the newly proposed plans would provide a year round buffer. Mr. Loventhal said he would like to wait to hear from Mr. Yakimik's review in writing. The applicant is not in a rush, however, by late spring or early summer they would like to establish this buffer and create the plantings. They could return for a public hearing at that time if the Board thinks a 6' fence, consistent with the adjacent development, would be a good idea.

Mr. Dunn referred to Section 170 156-H and said that if there is a violation, a variance would be necessary. He said that this cannot be treated as a design standard and he will review this section closely. Mr. Loventhal stated that they came before the Board tonight with an approved plan that the applicant can go forward and install. They thought the new proposal that would create a natural tree line along the rail would be beneficial, however, if the Board disagrees they will proceed with the approved plan.

Mr. Loventhal stated that the Developer's Agreement, signed on April 13, 2007, provides that the improvements shall be completed within a two year period from the date of execution of the agreement. This date will expire on April 13, 2009 and the agreement stated that the developer can seek a 24 month extension. Mr. Loventhal reported that the applicant has closed on title to the property and the tanks on the property have been removed. In late August of 2008, construction commenced including clearing of the property and earth work operations. Significant work ceased due to the weather and they are intending to begin site improvements in the spring. They are seeking a full two year extension due to the market conditions and although they have every intention of moving forward without any gap in construction the market will dictate the sale and construction of the units. Site improvements will continue for the better part of the next 18 to 24 months regardless of market conditions. They are here tonight to ensure that they are before the appropriate Board and to seek the Board's recommendation to the governing body to extend the Developer's Agreement.

Mr. Dunn said that at this point in time this issue of an extension is not the kind of extension referred to by the Municipal Land Use Act or the ordinance pertaining to time extension for completion of a preliminary or final subdivision or site plan. It is a contractual extension of the Developer's Agreement and, therefore, this is something that needs to be before the Mayor and Council because it is their contract. They may look to the Planning Board for a recommendation. Mr. Dunn stated that in the case of an extension they need to look at compliance or lack of compliance and there would not be a reason not to recommend this approval. Mr. Dunn did not think it would make any sense to make the time frame any less than 24 months.

Mr. Yakimik asked if the Developer could complete the improvements within one year. Mr. Loventhal stated that the improvements could not be made within one year. Mayor Barra asked if the conditions could be completed in twelve months if market conditions were not a consideration. Mr. Loventhal said that they would never be in a position to

top roads and complete final landscaping within a year on this project regardless of market conditions. It is not the correct sequence to finish all the improvements before construction commences. Mr. Loventhal stated that improvements will progress including a loop road and 80% of the road improvements and utilities under the road. Sidewalks wouldn't be installed if the building wasn't complete. Building will move at a pace partially based on marketing and partially on market conditions. Certain buildings must be completed in order to market the project but 150 units will not be built on spec. However, the base asphalt and curbing will be constructed for the entire loop road with the exception of the small stub street in the middle of the property within the two year period.

Mayor Barra suggested that they come back in one year and see where they are at that point and whether this is moving along at a pace that everyone is comfortable with. Mr. Loventhal said that this is at the discretion of the Board and Mr. Dunn reminded everyone that this is up to the Mayor and Council who will consider a recommendation of the Board. Mr. Dunn said that they understand that things are different for the applicant than they were a year ago but they are also different for the Borough. There have been regulation changes such as the Mount Laurel requirements and housing requirements. Everyone has felt the impact of the change in the economy and there are concerns about the impact of the third tier regulations on the Borough.

Mr. Dunn said that Board must consider whether there is some inherent problem with the development that would make this extension inappropriate, however, he said that there doesn't seem to be. This extension will be placed on the agenda for Thursday night and Mr. Loventhal will ask to be heard by the Mayor and Council at their next regularly scheduled meeting based on the Board's recommendation.

Regarding the proposed sanitary sewer pipes and the laterals, Mr. Loventhal said they are recommending and are requesting a change of materials relating to the pipe. There have been discussions regarding these modifications between Mr. Yakimik and their Director of Construction. Mr. Yakimik said he had prepared a memo to the Water and Sewer Committee, the Mayor and Council and the Planning Board regarding these changes. The changes in the sanitary sewer pipe cover mainline pipes and the laterals for the entire development. The original application proposed ductile iron pipe, Class 52, Cement-Line and Tar-Coated. The developer wishes to substitute the approved pipe with a C 900 Polyvinyl Chloride (PVC) pipe. After consulting with the Director of Operations for the Water & Sewer Department Mr. Yakimik is recommending the following:

1. The Borough not accept this request to use PVC pipe because this pipe is intended to be used for pressure applications such as water distribution. He is concerned that the outside diameter of the pipe will have difficulty fitting standard concrete sanitary sewer manholes and will not provide an effective seal against infiltration.
2. If the developer insists on using PVC pipe he recommends SDR-35 PVC which is the industry standard for gravity sewers for this application. This is an acceptable substitution if installed properly. He outlined provisions that

the Developer must accept prior to the commencement of construction such as revised details and notes on approved site plans to reflect the use of this PVC pipe.

Mayor Barra reported that the Sewer Committee Members met with Mr. Yakimik and have agreed that the SDR-35 PVC pipe is acceptable. Mr. Loventhal stated that this was acceptable and this is the next sequence of construction that will commence.

5. Allendale Associates – Site Plan Amendment, 25 Commerce Drive and 90 Boroline Rd., Block 702, Lots 15 and 16 – Proposed installation of traffic control signage and speed humps

Andrew Kohut, applicant's attorney introduced himself on behalf of the applicant. The applicant proposes traffic calming devices to be installed at 90 Boroline Road and 25 Commerce Street. David Sudacki, engineer of Lapatka Associates, prepared the plan for amended site plan approval and revisions have been made at the recommendation of the Borough Engineer.

Mr. Sudacki referred to a drawing entitled "Sketch: Traffic Calming Design and Signage for Allendale Associates", Block 702, Lots 15 & 16, dated September 5, 2007, revised March 3, 2009. The site on Lot 16 contains one, one story building accessed by two, two way driveways located on Commerce Drive. There are two way drive aisles on the north, south and westerly sides of the building with 90 degree parking on either side. There are loading spaces located on the southern side of the building and a dead end drive aisle. Mr. Sudacki stated that Lot 15 is located adjacent to Lot 16 with a similar layout. The only difference is that the site is accessed by two, two driveways on the easterly side of the property from Boroline Road and there is no dead end aisle on this site. Mr. Sudacki stated that both buildings contain a common tenant and as a result a cross walk was added with a set of stairs connecting the buildings.

Mr. Sudacki stated that the applicant is proposing traffic calming devices to reduce the speed of onsite vehicles, improve pedestrian safety and upgrade the overall pedestrian environment. They propose standard striping at each of the entrances with subtle yellow lines and three additional stop signs. Speed limit signs of 10 mph would be added at each of the entrances to the site and throughout the site as well. A speed bump was described on Lot 16 at the southwest corner and four speed bumps are proposed on Lot 15 on the northerly side before the crosswalk area, the westerly side and the southerly side. Mr. Sudacki said that only one speed bump is proposed because of the dead end aisle on Lot 16, however, Lot 15 is more of a through lot in both directions which is the reason for four speed bumps. Mr. Sudacki noted that pedestrian crossing signs are also proposed in the vicinity of the crosswalk area to alert drivers and these traffic calming devices will improve the pedestrian environment.

Mr. Sudacki described the speed bumps as 36" wide and 2 ¼" in height. They will be clearly marked in addition to having clearly painted stripes. The bumps are made out of recycled rubber and are secured to the road. Mr. Sudacki was asked about the spacing the

speed bump closer to the walkway and he said that 400 ft. apart is recommended as the most effective spacing. He said that the bump could be moved but he would have to confirm this with the applicant. The speed bump could be beyond the turns and the sign would have to be placed accordingly which could result in the loss of one parking space. Mr. Sudacki noted that the signage and striping conforms to the Manual on Uniform Traffic Control Devices (MUTCD), however, the MUTCD does not have jurisdiction over speed bumps. Mr. Sudacki stated that a parking space has been stripped off for placement of a sign noting the speed bump. These are standard metal signs

It was suggested that Todd Griffith, the Traffic Officer, review the plan and make a recommendation. Mr. Kohut agreed to this and added that the goal of this plan is to decrease the speed of the cars. Handicapped parking spaces are located at the closest door entrances. He pointed out that the landlord is proposing these traffic calming devices at the request of the tenant. There is much more traffic circulating around Lot 16 due to the loading dock.

Mr. Yakimik recalled that the applicant was before the Board about a year ago and at that time a memo was prepared that noted the differences between a speed bump, speed hump and a speed table. The applicant has chosen to use a speed bump which is actually noted as a speed hump on the plan. All three concepts are comprised of a sloped rise from the pavement with a flat surface that slopes back down again. The difference between the three is the length of the level surface once a vehicle comes up from the rise and goes back down. A speed bump has no minimal flat surface and causes the vehicle to rise suddenly and sharply. This device is no longer permitted on public roads because it has the greatest probability of having the vehicle lose control.

Mr. Yakimik stated that a speed hump is most commonly used and has a flat surface with a depth of 12 to 14' which is a more gradual change in elevation for a vehicle going at a significant amount of speed. A speed table is a longer level surface generally used in crosswalks.

Because the proposal involves speed bumps Mr. Yakimik said there is a concern that a vehicle may lose control causing it to run into a parked vehicle. A large car can be driven over a speed bump or hump at faster speed than a small car, therefore, the device will be more successful at slowing a small car. These speed bumps or humps will slow the access of emergency vehicles up to 5 to 10 seconds per each installation.

Mr. Yakimik noted that all five locations have warning signs, however, only several locations have warning signs in both directions. He mentioned that Chief Herndon had pointed out that some of the sign locations are in pavement and not at a curved island which is a potential safety issue. He is concerned about the proximity of the speed bump for Lot 15 at the lower right corner. It is possible, during rush hour, that this speed bump will cause traffic to back up to Boroline Road because cars are being significantly stopped at this location which is 145' from Boroline Road. Mr. Yakimik questioned three "no parking between signs" signs located along the southerly curb line at the bottom

of Lot 15 because of the parking spaces designated there. There are also three parking spaces on the opposite side that are signed for “no parking or standing”.

Mr. Sudacki said that when entering Lot 15 there are warning signs of additional speed bumps ahead throughout the site. There would have been a loss of some parking spaces if there had been signs posted in both directions. Mr. Kohut said they will look into the possibility of installing more signs. Mr. Sudacki advised that he has been to the site several times and he did not observe so much traffic that would result in the stacking of eight vehicles. He stated that the “no parking between signs” signs may be due to loading areas. Mr. Sudacki clarified that the proposal is actually for speed bumps even though the plan notes them as speed humps and he will make the necessary revisions.

Mr. Sudacki was questioned on the placement of the speed bumps and he stated that the placement was based on a discussion between the owner, the engineer and the tenant. The tenant felt that these location were best based on what was observed at the location. He said that they will review the location of the one speed bump in question to see if there is any leeway and will report back at Thursday’s hearing.

Mr. Dunn stated that this is a regular site plan application and they should proceed with a hearing regarding the changes and a resolution.

6. Discussion regarding Construction Code referrals and minor site plan procedures

Mr. Quinn stated that Mr. Dunn has presented materials and requested a discussion concerning how to deal with the applications referred by the Construction Code Official for review. After a brief explanation, Mr. Dunn recommended a minor site plan procedure that covers changes in use or occupancy where there is no real construction, extension of municipal facilities, roads or things of that nature. It can be treated similar to a minor subdivision without a full public hearing, full topography and engineering requirements and the associated costs and expense to both the applicant and the Borough. When this process of dealing with use permits was first discussed late in 2007, an ordinance (147-7A) was recommended to the Mayor and Council containing some of these provisions, however, the Land Use Committee implemented it into the Zoning Permit procedure. These items continue to be referred to the Planning Board by the Construction Code Official and it is appropriate for the Planning Board to deal with the items in a more formal fashion that wasn’t needed when they had the use permit ordinance.

Mr. Bernstein stated that the Land Use Committee has discussed taking Mr. Dunn’s recommendation and they recommend enacting a procedure for minor site plan approval to fill this gap. He said that he will work with Mr. Dunn and David Bole, the Borough Attorney, to make a recommendation to the Land Use Committee.

Mr. Dunn has put together samples from other towns which he will forward to Mr. Bernstein. He pointed out that Closter gives the opportunity for review by the Planning Board while leaving the application in the hands of the Construction Code official. This seems to be in the spirit of what they have been trying to do in Allendale over the past

year. Mayor Barra said that the next Land Use Committee meeting is April 14<sup>th</sup> and Mr. Dunn said he will put something together for that date.

Mayor Barra suggested using the same ordinance that is used in Midland Park since John Wittekind is also the Construction Code Official there. Mr. Bernstein said that he prefers the wording of the ordinance used in Closter because it gets to the issues of circulation and landscaping even though it is lengthy. Mr. Dunn pointed out that in Closter you never know how an application is going to be treated and it is necessary to prepare plans as if it was based on a site plan review which is not what they want in Allendale. Mr. Bernstein reviewed stating that Mr. Dunn will draft the ordinance after discussion with the Land Use Committee and then bring it back to the Planning Board before it goes to the Mayor and Council for discussion.

Mr. Yakimik remarked that he endorses the direction of the Board in this matter.

7. Discussion – Escrow account – 475 Franklin, LLC

Mr. Dunn stated that a suit is pending, however, there is also an appeal pending to the Bergen County Board of Construction Appeals which hear appeals on local engineering and professional fees. It is scheduled for March 26<sup>th</sup> and his concern is that no one has been paid even though an insufficient escrow was posted. The applicant instructed that the escrow not be used until all of the appeals were resolved.

Mayor Barra stated that there has been no appeal of Mr. Rocciola's bill to the Mayor and Council. Mr. Dunn stated that if Mr. Kaufman doesn't respond within the time frame allowed he would assume there is no appeal and he is required to pay the bill. Mayor Barra said that the bill is dated January 31<sup>st</sup> and there is a letter that Rocciola Engineering sent on Feb. 23<sup>rd</sup> to Paul Kaufman. The bill goes back to November 12<sup>th</sup> when the application was denied. Mr. Dunn stated that if February 23<sup>rd</sup> is the first time that Mr. Kaufman got these invoices his time period doesn't start until then. He needs to write an appeal letter to the Mayor and Council. Mayor Barra said that Mr. Kaufman has previously appealed to the Mayor and Council who wrote an opinion which he took and appealed to Hackensack. Mayor Barra said he didn't know if there is enough money in the escrow to make all the payments if there is no appeal filed. He will check into this with the CFO tomorrow.

Chief Herndon made a motion to adjourn the meeting; seconded by Mr. Fliegel. The meeting was adjourned at 10:35 P.M.

Respectfully submitted,

Melinda Dorl