

FLEMINGTON BOROUGH  
PLANNING/ZONING BOARD MEETING  
38 PARK AVENUE, FLEMINGTON, NJ 08822  
HELD IN PERSON AND VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM  
TUESDAY, MAY 24, 2022 – 7:00 PM

MINUTES

The meeting was called to order at 7:00 PM by Mr. Doshna.

**Present:** Mayor Driver remotely, Mr. Doshna, Mr. Parker, Mrs. Engelhardt remotely (in person at 7:25pm), Mr. Cook, Mr. Budney, Ms. Weitzman remotely, Mr. Hill remotely, Mr. Levitt, Attorney Kaczynski, Engineer Clerico, Planner McManus, Traffic Engineer Rea - remotely

**Excused:** Mr. Campion, Ms. Giffen

1. **Public Comments:** None
2. **Mayor Comments:** Mayor Driver discussed that Council was working on the redevelopment agreement for Liberty Village
3. **Council Comments:** None.
4. **HPC Comments:** The HPC resolution for 5 East Main St. was distributed.
5. **Approval of minutes for the May 10, 2022 regular meeting.**

Motion to approve the minutes was made by: Cook, seconded by: Hill

Mr. Doshna discussed a correction on the minutes.

Ayes: Doshna, Cook, Budney, Weitzman, Hill

Nays: (None)

Abstain: Engelhardt, Driver, Parker, Levitt

Motion passed: 5-0-4

Mayor Driver, Mr. Parker, Mr. Doshna, Mrs. Engelhardt and Mr. Cook were recused from the next item which was a Use D Variance and did not participate.

7:10 pm Mr. Budney chaired the meeting.

6. **Completeness: Family Promise of Hunterdon County, Inc.** – Block 19, Lots 7 and 8

Mr. Clerico discussed his completeness report dated May 21, 2022 noting that there was not an official checklist for a Use Variance where he wanted to make sure the Board had enough materials to make a decision and discussed that since there were no exterior improvements proposed the application did not trigger a site plan.

The applicant's attorney, Steven Gruenberg, appeared and thanked the Board for reviewing the application quickly as there was an urgent need for the applicant to proceed and agreed to provide any supplemental documents and planning testimony at the public hearing noting that no exterior improvements were proposed. Mr. Gruenberg requested that with no checklist for a use variance the Board deem the application complete and would request from formal a site plan.

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Mr. Budney asked if there was enough material submitted for a minor site plan since there was a checklist for that noting that the application could be delayed if a site plan was determined to be necessary. Mr. Gruenberg acknowledged the risk.

Motion to deem the application complete was made by: Levitt, seconded by, Weitzman.

Ayes: Budney, Weitzman, Hill, Levitt

Nays: (None)

Abstain: (None)

Motion passed: 4-0-0

The public hearing was scheduled for June 14, 2022 at 7:00 p.m. Mr. Budney noted that another public hearing may be continued to the that date and this application may need to be carried to the second meeting in June. Mr. Gruenberg agreed to notice for the June 14 regular meeting.

7:25 pm Mayor Driver, Mr. Parker, Mr. Doshna, Mrs. Englehardt and Mr. Cook returned to the meeting. Mr. Doshna chaired.

**7. Public Hearing: Captiva Main Street, LLC – Block 5 Lots 1 & 2 – Continued from March 8 & 22 and April 12, 2022.**

Ms. Kaczynski entered the updated Planning report dated May 23, 2022 as PB-4 and the Engineering report dated May 21, 2022 as PB-5.

Attorney for the applicant, Sean McGowan, appeared and discussed the continued testimony from the engineer.

Engineer for the applicant, Eric Hough, appeared still under oath and discussed the revisions made to the plans including widening the center aisle; widening the sidewalks to 6 feet to meet RSIS standards; additional walks provided from the surface parking to both building A and building B and along the access aisle; crosswalks provide for buildings.

Exhibit A-9: a colorized engineering plan was entered. Mr. Hough agreed to shift some parking spaces identified in Mr. Clerico's report which were perpendicular to building A closer to Hopewell Avenue or to provide wheel stops. Mr. Hough discussed that the plan had been revised to remove most of the compact space where 1 would remain due to the length of the wall noting that he would provide a turning template to demonstrate that the space would be safe adding that the parking spaces would be assigned under the buildings and only accessible by the tenants who would be familiar with the layout. The detention basin was moved to the south – soil testing had been performed in this new area. An additional 8 street trees were proposed along Walter Foran Blvd; 1 ornamental tree was added to each surface parking area to provide shade; 3 evergreen trees added in front of the trash enclosure for

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building B. The lighting was modified to decrease the intensity to further comply with the ordinance and while maintain safety for pedestrians which would still require relief from the maximum footcandles at the property line. An additional 8 EV charging station were proposed for a total of 29. Mr. Hough discussed the Fire Marshal comment to not place the EV charging station under the buildings noting that this was a recommendation where there was no restrictions to having the EV station located in a garage and that it made sense to spread them out among the surface and garage areas. Mr. McGowan had researched the issue and found guidance from the DCA and State on fire emergency response training but did not find a restriction to placing the EV stations in a garage noting that everyone will have the same issues around the State. Mr. Hough discussed the ideal EV breakdown would be 12 in each building, 3 in building A surface and 2 in building B surface parking areas. The curb radius access onto Hopewell Avenue was changed from 5 feet to 10 feet. Mr. Hough discussed the Borough sewer department letter had no issue with capacity, but NJDEP would need to approve the proposed pumps noting that all outside agency approvals would be required.

Mr. Clerico noted that the additional landscaping would be planted over the basin, Mr. Hough agreed to relocate. Mr. Clerico discussed that the widened sidewalks were partially compliant and would need to meet ADA standards; recommended the perpendicular parking spaces be moved instead of wheel stops; the remaining compact space would need relief from RSIS standards; the plans would need details of each handicap ramp; would need to either move the sidewalk along Walter Foran or move a utility pole; Mr. Hough agreed. Mr. Clerico discussed that the basin behind building B would need some kind of vehicle access for maintenance and fire safety. Mr. Hough stated that there was no stabilized access way to building B due to NJDEP restrictions and wetlands, suggesting that they could go through the garage with an emergency access gate noting that all fire safety design construction issues would be addressed at the time of permitting. Mr. Clerico remarked that going through the building would affect the parking total which would trigger a variance. Mr. Hough suggested that the parking could be scheduled to not occupy those spaces during maintenance or apply to the NJDEP. Details of the retaining walls including type and material; additional details on the drainage area maps; consistency in labeling of soil testing and materials found on the site; additional comments on the O&E Manual including the location of the drains in the garage was agreed to be provided. Mr. Clerico clarified that the Borough would not own the sewer pumps which would be the responsibility of the property owner noting that Borough engineer indicated that the sewer pumps may not be the solution and may not be approved by the NJDEP. Construction details would be provided; any approval would require all outside agency approvals. Mr. Clerico recommended spreading out the EV parking spaces.

John Rea, appeared for traffic engineer Troutman, recommended the 2 perpendicular parking spaces be shifted to protect vehicles near building A and that some EV spaces should be located in the garages. Mr. Doshna discussed that where the applicant must comply with all codes recommendations in the reports to the Board could be weighed. Mr. Rea discussed that the Board could grant a de minimis exception instead of getting a permit from DOT adding that the intersection traffic light timing was under the jurisdiction of the County. Mr. Hough discussed that the recommendations to optimize the signal timing was from the recommendations of the County.

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Ms. McManus asked if there was adequate unassigned parking spaces for visitors and if there were extra EV spaces and recommended that the applicant make sure that all designated spaces were utilized and still have parking for visitors. Mr. McGowan agreed to work out the language in the resolution and noting that all signage would either be in compliance with the ordinance or will have to come back to the Board. Ms. McManus asked if a crosswalk would be provided at Walter Foran Blvd. which was under the County jurisdiction and recommended that the Board make a condition that the applicant apply to the County for the crosswalk with curb cuts. Mr. McGowan agreed. Ms. McManus agreed with EV charging stations in the garage; no further comment regarding lighting where the applicant made significant changes noting that they still will need relief; suggested that naturalized planting infill be proposed to fill empty spaces; applicant agreed to provide landscaping to the satisfaction of Ms. McManus.

Ms. Kaczynski discussed parking spaces assigned to the tenants and the concern for the amount of EV stations as tenants change to an electric vehicle. Mr. McGowan agreed to work on the language and noted that move EV stations could be added as people transition.

Mr. Budney discussed the NJDEP approvals for flood hazard and wetlands and asked if there would be any vegetation disturbance or construction in the flood zone. Mr. Hough was not aware of any adding that he will need to verify the flood elevation with the NJDEP.

Ms. Weitzman was what level of charging stations were proposed. Mr. Hough would get that answer.

Mr. Hill noted that flood elevations may have changed from recent storms. Mr. Hough agreed and would verify and would get all the required permits.

There were no questions from the public.

The applicant's architect, Jose Carballo, appeared still under oath and discussed the tower element where the original height required a 'D' variance which under the redevelopment plan the Board would not have the jurisdiction to grant and the applicant would need to amend the redevelopment plan so the tower height was reduced to comply to the plan. However, based on comments from the Board at the last meeting to raise the tower element to try to meet the goal of the redevelopment plan the plans now propose the tower height of building A of 54'-11" for the maximum height of a 'c' variance that the Board could grant, building B would be the same height of 54'-11" but does not require a variance. The floor drains in the garage will connect to the stormwater management system and will be shown on the plans and the plans will comply with all building codes. Mr. Carballo discussed that the elimination of the parking behind building B eliminated the Fire Marshal comment for access to the rear parking area. The Fire Marshal report dated July 12, 2021 was marked as Exhibit PB-7 the Fire Marshal letter dated already marked as A-7 was read by Ms. Kaczynski.

Mrs. Engelhardt discussed the tower height and asked if both buildings need to have tower height increased and asked if they would compete with the buildings along Hopewell Avenue. Mr. Carballo discussed that the building should have symmetry and that they were bookends. Mr. Parker recommended the symmetry and asked if lowering the building B tower a little would still give the same

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feeling sister elements with the same architectural treatment. The Board discussed. Mr. Carballo agreed to reduce the tower element for building B by 4'-11".

Ms. Weitzman asked if there was any video surveillance. Mr. Carballo discussed that there would be video for maintenance.

Mrs. Engelhardt discussed the floor plan with the vestibule and the clearance with the 6 foot wide sidewalk. Mr. Carballo agreed to pull the doors in at all entrances.

There were no questions from the public.

9:11 pm the Board recessed

9:21 pm the meeting resumed. All returned except Mr. Hill who rejoined at 9:22 pm.

The applicant's planner, John Barree, appeared and gave his credentials as a licensed planner in New Jersey and was accepted as same. Mr. Barree gave his planning testimony where the project met the objectives of the redevelopment plan and Borough goals listed in the plan and the Master Plan with architectural compatibility with an industrial feel, permitted uses and density just the permitted maximum with the only deviation being the tower element height on building A. Mr. Barree opined that the 'c' variance for the tower height was within the jurisdiction of the Board to grant to meet the redevelopment objectives and satisfied purpose 'i' as a desirable visual object within historic guidelines and also satisfied purposes 'a', and 'e' with no negative impact or detriment to the public good or zoning plan. Mr. Barree listed the designed waivers for a RSIS di minimis waiver for curb radius; 1 compact 8 ft wide parking space where 9 ft was required. Conditions would include providing a turning template; management of the garage spaces by the owner' di minimis drive aisle width in the location of the compact space where the wall creates a narrow aisle. Lighting intensity was lowered to be more in compliance with the ordinance and still provide safety with no negative impacts where the redevelopment plan was in compliance with the Master Plan.

Mr. Budney asked how the design of the project compliments the architectural elements in the Borough. Mr. Carballo discussed.

Mayor Driver asked why not amend the redevelopment plan. Unknown.

The Board discussed how to proceed given the lateness the Board may no finish their deliberations, list all of the conditions and come to vote tonight. After some discussion the applicant reserved the right to present further documents and testimony if issues arise during Board deliberations.

Mayor Driver discussed that there was no redevelopment agreement between the applicant and the Borough or any contact in over a year and was concerned that the plan was before the Board prior to a redevelopment agreement. The Board discussed.

There were no public comments or testimony.

Motion to close the public hearing was made by Cook, seconded by Budney.

Ayes: Driver, Parker, Doshna, Engelhardt, Cook, Budney, Weitzman, Hill, Levitt

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Abstain: (None)  
Motion passed: 9-0-0

Ms. McManus discussed that the Master Plan Reexamination report lists the elements and objectives specific to this site which were consistent with the plans.

Mr. Clerico commented that the applicant will need to handle the exterior access in the case that they cannot obtain a DEP permit they will have to come back to the Board.

Mr. Cook listed that relief including 'c' variance for tower height building A; curb radius; compact car space; aisle width; lighting design waiver noting that the redevelopment plan had a public hearing before and was approved by Council and that now the Board would judge the site plan against the redevelopment plan.

Mrs. Engelhardt discussed the preparation of the redevelopment plan which was a public process during which the Hopewell Avenue residents voiced concerns for the height and style of the project and opined that the proposed plan was essentially the same as what the redevelopment committee negotiated with the applicant adding that the vote before the Board was if this site plan was in line with the approved redevelopment plan. Mrs. Engelhardt discussed that EV charging stations were allowed in parking garages; had concerns for the assigned spaces which the building manager could designate; suggested time limits on surface EV charging spots to 2 hours; suggested a maintenance gate in the building garage where the owner can manage tenants to move vehicles for access and not lose parking spaces; elevation would have helped with the height of the towers and recommended 2-3 foot clearance for all access doors.

Mr. Cook asked if there was guidance for hours of the gym on the corner and use of the outdoor space. Mr. Doshna discussed that the outdoor space would be regulated to normal Borough ordinances. Mayor Driver discussed that this could be done by the redeveloper agreement. Ms. McManus did not recommend that they regulate residential amenity space. Ms. Weitzman suggested that not all of the EV station be hourly and to add surveillance. Mayor Driver was concerned that there were items in the site plan that the redevelopment agreement would address. Mr. Doshna recommended that some EV stations be located in the garage; discussed that the stormwater and flood plain management was critical where the applicant may have to come back; was all good with the planning piece where the criteria was met to grant the relief requested. Mr. Doshna discussed that he would like to not vote tonight to allow time to list all of the conditions and language for a resolution.

Mr. McGowan agreed to extend the time for the Board to act to August 9, 2022 adding that this was the first time that he heard the heightened concerns from the Mayor.

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Mr. Doshna announced that the public hearing on this matter would be continued to the June 14, 2022 regular meeting and that no further notice would be provided.

**8. Chair Items:**

Next meetings: June 14, 2022 – Continuation of the public hearing for the Captiva Main Street, LLC application. Public hearing for Family Promise of Hunterdon County, Inc. Mr. Parker could not attend the June 14 meeting.

Mr. Doshna discussed that the FCP was coordinating walk audits in portions of town on June 14 & 16.

Other projects that were being prepared included Amended site plan for Courthouse Square; 37 Mine Street; 144 Main Street; old Country Griddle site. Ms. McManus updated the Board on the Master Plan. Ms. Kaczynski discussed upcoming legislature on Development by Right which would affect the old vacant buildings and the ability of the State to regulate the uses.

**9. Bills:**

Motion to audit the bills was made by: Engelhardt, seconded by Cook.

Ayes: Driver, Parker, Doshna, Engelhardt, Cook, Budney, Weitzman, Hill, Levitt

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

**10. Professional Reports: None**

**11. Executive Session:** None needed.

**12. Adjournment:**

At 10:45 pm. Motion to adjourn was made by: Hill, seconded by: Cook. All were in favor.

Respectfully submitted:

Eileen Parks, Planning Board Secretary