

DRAFT MINUTES

The July 9, 2007 meeting of the Planning Board of the Township of Chatham was called to order at approximately 7:30 p.m. by Chairperson Joel Jacobson. The Open Public Meetings Act Statement was read into the record. The agenda for the meeting included discussions, Suarez/72 Southern Estates, LLC and RexCorp/Giralda Farms.

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Roll Call

Board members present included Mr. Jacobson, Mr. Brower, Mr. Browne, Mr. Caprioglio, Mrs. Chambers, Mr. Cohn, Mr. Hartford, Mrs. Kenny and Mr. Hurring. Board professionals present included attorney Mr. Robertson, engineer Mr. Ruschke and planner Mr. Banisch.

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Discussions

Hickory Tree Shopping Center

Mr. Jacobson said Board members had raised an issue about the approvals for the Hickory Tree Shopping Center and asked Mr. Ruschke to summarize the issue. Mr. Ruschke stated there were two outstanding issues: the perimeter light fixtures and a parking space with curbing. Mr. Ruschke stated that the lighting fixtures described on the plans were no longer available and similar fixtures providing the same light intensity and shielding as the prior light fixtures were installed without notification being provided. The parking space (for Mr. Davino) was neither added nor eliminated, but a dedicated space. The only modification was the additional curbing that was added to isolate the parking spot for the owner. Mr. Ruschke felt the field changes were minor and there was no need for amendments to the site

plan. After discussion, the Board agreed that neither issue had an effect on the circulation or parking and were therefore not Planning Board issues.

### Procedural Issues

Mr. Jacobson indicated there were a number of procedural issues to review. First, Mr. Jacobson addressed completeness and stated Mr. Ruschke was responsible for the completeness determination of an application. Mr. Jacobson continued that Ms. Tsimboukis, Planning Board Manager, had developed a list of commissions and departments (Police Department, Tree Commission, Environmental Commission and the Fire Department) to whom the application needed to be sent. Mr. Jacobson stated there needed to be enough time for the commissions and departments to review the applications and prepare a comment letter.

Regarding proof of service, Mr. Jacobson indicated that Mr. Robertson would handle this aspect of the application hearing process.

Regarding conservation easements, it was agreed that the Department of Public Works and the Environmental Commission needed to be informed of the locations of easements and Mr. Ruschke will research standards for the monuments used to mark the borders of the easements. It was discussed that a taller monument might be more visible over time. Mr. Jacobson stated that there is a need to make sure the easements are executed and recorded.

Regarding the application package, Mr. Cohn reported that the revised package is nearing completion. Mr. Cohn stated he would finish his work and send it to Mr. Ruschke, Mr. Banisch and possibly township attorney Mr. Woodward. Mr. Jacobson advised Mr. Cohn that if he had suggestions for changes to the checklist, he should outline them for consideration.

Mr. Hartford asked about COAH regulations as pertains to a development on Shunpike Road; Mr. Robertson indicated the property owner had a deadline to record the minor subdivision deed and had

requested a number for the affordable housing growth share contribution. At about that time, Mr. Robertson continued the appellate division had invalidated the growth share ordinance concept. The developer came before the Planning Board and asked for a modification of the condition of approval which required the payment of the growth share contribution prior to recording the deed. It was impossible for the developer to pay as there was no valid ordinance on the books. Mr. Robertson stated that there was an amendment of the condition of the Resolution that said that the affordable housing fee shall be paid, whatever is in effect at that time, prior to the issuance of a certificate of occupancy. If there was no ordinance in effect, there is nothing to collect. Mr. Hartford said he recalled discussion of the Township introducing an interim type of ordinance. Mr. Hartford will follow up with the Township Committee.

There was discussion about the lights at Fairmount Country Club. Mr. Ruschke stated the memo in the Board's packet was to keep them up to date.

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### Applications

#### Suarez/721 Southern Estates LLC

Attorney Barry Osmun was present on behalf of the applicant and noted the correct name on the application was 721 Southern Estates, LLC.

Mr. Ruschke had a minor change to the draft resolution pertaining to storm water. Mr. Osmun had two requests: one regarding monitoring of the storm water system and one referencing the maintenance of the drainage for future owners. After discussion, the Board decided to leave the draft resolution intact in reference to those issues.

Following extensive discussion about steep slopes, storm water management and trees on the site, Mr. Browne moved the Resolution as discussed and Mr. Brower seconded. At roll call vote, Mr.

Jacobson, Mr. Brower, Mr. Browne, Mr. Caprioglio, Mrs. Chambers, Mr. Cohn, Mrs. Kenny and Mr. Hurring voted in favor and Mr. Hartford voted against.

RexCorp/Giralda Farms

Attorney Richard Schkolnick was present on behalf of the applicant for a continuation of the hearing for preliminary and final site plan approval to install a sanitary sewer pump station and related facilities. Mr. Schkolnick stated there had been a site visit on June 23, 2007 and a new exhibit had been marked that day as Exhibit A3.

Mr. Cohn, Mrs. Kenny, Mrs. Chambers, Mr. Caprioglio, Mr. Browne, Mr. Brower, Mr. Hartford and Mr. Jacobson attended the site visit and made comments relative to the visit.

Mr. Schkolnick distributed a handout with the "Treadwell change" and marked it Exhibit A4 (dated July 9, 2007).

There was a discussion of the notice required to be sent to neighbors within 200'. Mr. Robertson stated that the notice provided by the applicant met the requirements. It was suggested by Mr. Robertson that a courtesy list could be created for hearings on further development; Mr. Schkolnick was amenable.

Mr. Fleming, the applicant's planner and engineer, reviewed sheet C-23. According to Mr. Fleming, this sheet showed the sanitary sewer line going to two potential office locations. Mr. Fleming stated that with all the environmental constraints on the site, there were two areas that would accommodate Class A office development in keeping with the sewer agreement. Mr. Fleming continued that the pumping station made sense if service can be provided to the two building areas by gravity. Mr. Fleming stated the reason the location selected was appropriate was because gravity connections were possible between the two building areas within the Chatham portion of the campus through gaps in the wetlands/buffer areas to the proposed pumping station. Mr. Fleming stated the gravity sewers were

shown to the two pads and were part of the current application. The actual buildings would be a separate application. Mr. Schkolnick asked to mark Sheet C-23, entitled *Conceptual Sanitary Sewer for Office Development*, as Exhibit A5, dated July 9, 2007.

Mr. Hartford asked if the pumping station could be relocated closer to the potential office buildings (to the north), in an effort to limit disturbance; Mr. Ruschke stated that gravity dictates a practical location for the pumping station.

Mr. Jacobson asked Mr. Robertson to summarize the history and context of this development application. Mr. Robertson stated a portion of the property was located in Madison and 165 acres in Chatham Township. In 1980, there was a Resolution adopted by the Planning Board that approved various site improvements on the Chatham portion of the property, although related to the Giralda Farms property in Madison. There were a number of other resolutions with some site improvements that have taken place. Most significant, the application before the Board has to do with a sewer reservation agreement initiated in 1994 with the Township and Prudential which provided for the reservation of sewer capacity associated with a development of 1,000,000 sq. ft. of office space on the Chatham Township portion. In 1999, the agreement was superseded by a subsequent agreement which established the means by which the property could be developed. The 1999 agreement provides for the reservation of 75,000 gallons per day sewage treatment capacity at the Tanglewood Lane facility. The number was based upon an agreed upon amount of office space development with 750,000 sq. ft which was what the property was zoned for at the time, and continues to be so. The agreement does provide for the method of development and it required this developer to make a series of annual payments which totaled \$1,500,000 since 1999. The applicant has completed the payments in full.

In addition, there were other agreements between the Township and developer including the payment of sewer connection fees based upon a schedule; there was an agreement to make a

contribution of \$1,000,000 to Chatham Township for two monitoring stations, and any excess to be contributed to the Township Open Space Trust Fund. There is also an agreement for the applicant to make a contribution for affordable housing and to a contribution to a parcel of land (Lots 8 and 9.04, Block 141) which would be deed restricted for open space and conservation purposes. In the 1994 agreement, it was provided that Chatham would not change the zoning as it affected the property; that condition was somewhat modified in 1999, but it remained clear that the developer retained the right to challenge any modification to the zoning ordinance from the 1995 agreement. Mr. Robertson concluded that these agreements seem to have arisen from Mt. Laurel litigation. Mr. Robertson stated the Board should keep in mind that there is a long history to this application and that there is a sewer reservation agreement.

Mr. Fleming addressed the Board's observations from the site walk, with the assistance of a PowerPoint presentation of Exhibit A4. In response to a question about system failure, Mr. Fleming stated there is always redundancy in the pump station design; there are alternating pumps, each with the capacity to handle the peak inflow to the tank itself. Mr. Fleming stated that there were high water alarms and requirements for operation that monitor the pump. If there is a problem with the force main, the pump house is closed down.

In response to a question from the Board about redirection of flow, Mr. Schkolnick stated that this was a complex legal question. Mr. Fleming outlined the engineering aspects of the concept and Mr. Schkolnick outlined the legal and regulatory issues. While Mr. Schkolnick stated the applicant might consider the feasibility of this, Mr. Jacobson stated the Planning Board was required to review the application on hand.

Members of the public made comments relative to the discussion. Following additional discussion, the hearing was continued to July 23, 2007.

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There being no further business, the July 9, 2007 meeting of the Planning Board of the Township of Chatham was adjourned.

Respectfully submitted,

Katherine T. Hollerith  
Recording Secretary