

**MINUTES OF REMOTE REGULAR PLANNING BOARD  
MEETING HELD ON THURSDAY, JANUARY 21, 2021**

Chairman Blewett called to order the regular remote (**Zoom**) meeting of the Board and announced the meeting was duly advertised in compliance with the Open Public Meetings Act by notice sent to the Daily Record, Suburban Trends and posted on the bulletin board and website at Borough hall.

**PRESENT: BLEWETT, FLORENTINO, GEMIAN, KAUFMAN, TAORMINA AND TERRERO**

**ALSO PRESENT: PETRESKI, ENGINEER AND NEISS, COUNSEL**

**ABSENT: KOLDYK, MARINO AND RUNFELDT**

Chairman Blewett stated the first item on the agenda is the approval of the December 17<sup>th</sup>, 2020 minutes.

Ms. Ward stated they were just completed and proof read, so they will be in the next packet.

Chairman Blewett stated you can email them to us.

Ms. Ward stated sure.

Chairman Blewett stated we will carry that item until the next meeting.

The second item on the agenda is waiver request to Amended Preliminary & Final Major Site Plan #367A and Amended Grading Permit #G19-05A by Meridia Urban Renewal, Lincoln Park, LLC, on property known as Block 3.05 Lot 305.1 on the municipal tax map also known as 115 Main Street. I do know that we have Allyson here and I think one more individual.

Ms. Kasetta stated I do have our engineer and there is someone else on with my name strangely and I'm not sure who it is, but I am assuming it is someone from our team.

Chairman Blewett stated I see someone called AR12.

Ms. Kasetta stated that is two of our engineers.

Chairman Blewett stated and Joe Gurkovich.

Ms. Kasetta stated I think we can proceed with the panelists we have now and then if there are any questions and we need to bring anyone else, we can do that.

Chairman Blewett stated okay.

Ms. Kasetta stated good evening Mr. Chairman and member of the Board, Allyson Kasetta from the firm of Prime & Tuvel appearing on behalf of the applicant. As the chairman said, this is the property at 115 Main Street, Block 3.5, Lot 305.2. As the Board I'm sure will recall, back in April the applicant received Preliminary & Final Major Site Plan approval and a Grading Permit for the construction of a residential development containing 175 units and a management unit.

What we are seeking now is an amended site plan approval to eliminate the previously approved above ground parking garage and essentially reconfigure the parking accordingly around the site. Not proposing a change to the residential building itself or the number of units or any of that.

We received a letter from Joan dated December 15<sup>th</sup> with some notes from the Board Engineer about a couple of administrative items that still needed to be submitted. Then on January 7<sup>th</sup> we responded and submitted those outstanding items which I think addressed those issues.

We requested a handful of submission waivers on technical items. I'm not sure the Board would like me to go through them, but I will note that they are essentially identical to the ones that we requested and received waivers for the last time.

Then we also received a letter from the Board Engineer dated January 11<sup>th</sup> that contained some

more technical comments that we will need to address prior to or during the hearing. Our engineer has already been in touch with Mr. Boorady and I believe next week is having a meeting with him to go over those comments and discuss any necessary revisions to the plans, so that is kind of where we stand.

Chairman Blewett asked Alex if he had any comments related to the application.

Mr. Petreski stated I generally agree with her statements. We are looking to get an updated site plans based on those technical review comments that we sent out, hopefully before we attend the public meeting.

Chairman Blewett asked is that your intent Allyson.

Mr. Kasetta stated yes. I believe next week our engineers will be meeting with Mr. Boorady and Mr. Petreski possibly and I have two people from Stonefield if you would like to hear from them, or if you are willing to accept my stipulation that is fine too.

Chairman Blewett asked her to describe a little bit about the parking and why it has been changed.

Mr. Kasetta stated I'd rather defer to the engineers on that because I think they can give you a better explanation on that. Arthur Kuyan from Stonefield I see just unmuted himself and would you please give the Board a quick explanation of what we are proposing and why?

Mr. Kuyan stated essentially the main reason for the design was after we took a look at some of the soil import and export numbers it got rather high, so we were looking in a way to balance the site, and with the addition of the structured parking underground it actually helped balance the site from an earthwork import and export.

Ms. Kasetta asked Fitz can you just tell them what we are doing with the parking spaces that would have been in the above ground garage where they are going instead.

Mr. Kuyan stated so we are essentially expanding on structured parking use where previously the structured parking lied within the exact footprint of the building, it now extends further into some of the drive isle so you are going to have a larger underground structure parking that is bigger than actually the first floor of the building. It will help alleviate some of the circulation concerns as well as provide for what we believe a better operationally functioning site.

Ms. Kasetta thanked him.

Mr. Florentino asked will the amount of the parking space remain the same or less or more.

Mr. Kuyan stated the amount of parking space will remain the same.

Chairman Blewett stated there were some considerations for bicycle storage and does that change at all?

Ms. Kasetta stated I don't believe so because I believe that was a condition of the approval that was granted by the Board.

Chairman Blewett stated okay.

Mr. Petreski stated based on my review of the drawings there is still bicycle storage underground similar, if not the same location, a similar location as the previous site plan.

Mr. Kuyan stated I would just want to add, that the new design does give us the opportunity to have the previous stormwater management practices which was a firm majority underground piping and actually have an above ground stormwater feature too which lies more in line with the new DEP regulations as well.

Mr. Gemian asked I know you might not have the details of this, but can you give us a general understanding of the kind of the ratio of the above ground parking and the underground parking

I think I heard someone say that the underground parking was going to extend beyond the perimeter of the building is that correct?

Mr. Kuyan stated yes it will. It will extend beyond the perimeter into our site, so it will be surface drive isles and parking and you will actually have the underground (inaudible – mike cut out).

Mr. Gemian stated most of the parking spaces will be underground not above ground.

Mr. Petreski stated there are approximately 201 parking spaces underground and 130 or so above ground.

Mr. Kuyan stated it's about two thirds/one third split, two thirds underground and one third above ground.

Chairman Blewett asked any other discussion from the Board.

Mr. Kaufman stated I have a general question, Mr. Chairman. I believe at one of the prior meetings and this is more project specific, and Arthur you can tell me if this is even doable or appropriate, but I believe there was a requirement for the property to be kept up and for them to obey our local ordinances as far as property upkeep and it has not been done. Over the summer the grass was more than two feet high, the snow is never shoveled on the sidewalks and for a company that wants to come in and be "good neighbors" they are not showing anything to that affect. I'm curious if we can table this waiver for this application until the property is properly kept according to the ordinances of the town.

Mr. Neiss stated so if you are directing that to me, I will have to answer you in the following manner. Unfortunately the Board is not a mechanism by which the town enforces its ordinance that really is a property maintenance issue. I am a little surprised that you're reporting this, however, because I don't have the resolution in front of me, but I think that was a concern that was raised at the time that the applicant was before us last time out. I would just ask Allyson if it were possible for you to confirm or check into these concerns and figure out what is going on on that front.

Ms. Kasetta stated I certainly will.

Mr. Kaufman stated I know that Sal has contacted somebody, and I know Tom reached out to somebody and part of the grass was cut closer to Main Street but the back of the property is wild. The area down by the other project location, weeds are growing all over the place, and you know again with the snow removal on the sidewalk it is never done and then it ices up and it is impossible to walk there.

Ms. Ward stated Sal has gone after them numerous times.

Mr. Kaufman stated right. They might do it when Sal or Tom asks, but then they don't do it again and then they come and ask for waivers, variances and everything and I'm fed up. I understand that we as a Planning Board can't, but Gary I would like the Council to take this up and kind of force a hand. I know we are obligated by the agreement to get this done and I am not looking to hold anything up on that sense, but if they are not being good neighbors now, I'm not sure when they are going to start being good neighbors.

Mr. Gemian stated I certainly will take this up with the Council at the next meeting.

Mr. Kaufman thanked Gary.

Mr. Gemian stated you're welcome.

Chairman Blewett thanked Josh. Any further discussion on this application? Okay is there an action by the Board that we want to take?

Mr. Gemian stated I guess I'm a little confused, Mr. Chairman, about what is being asked of the Board. It seems to me that there is a major meeting about to unfold between the engineer and the developer, so what exactly are we being asked to do with this waiver this evening. I'm a little

confused what the task is? Are we approving the waiver is that what we are being asked to do?

Mr. Neiss stated either Alex or I can answer your question Gary.

Chairman Blewett stated Arthur why don't you give it a shot.

Mr. Neiss stated in order for an applicant to proceed before the Board, the applicant must present obviously a full application that consists of a number of different items that the ordinance requires them to submit. What is before you tonight is that applicant's request that those items, called checklist items, certain of those items be waived either because they are not necessary for the application or they don't make sense for this application. Those application waivers were considered I guess by the Board Engineer and Alex I guess you can take it from here.

Mr. Petreski stated there are approximately 11 waivers that we noted in our review of the application.

Mr. Gemian asked are those the checkmarks in the no column.

Mr. Petreski stated well basically those are the circles basically by the numbers.

Mr. Gemian stated okay.

Mr. Petreski stated so those circles represent items that need to be fulfilled. I counted there are 4 checklists here, they are essentially the same checklist. So each one is the same between the applications so there are 11 total and 9 complete checklist waivers and two partial waivers. I can run through them quickly. They generally have to do with the DEP permitting, building mounted sign and items outside the footprint of the subject property but within 200 feet.

Mr. Gemian stated let me ask the question differently because you are clarifying it already. Would it be safe to assume that those items that are circled here in the request to be waived would not be affected by the meeting between the developer and our engineer at next week's meeting, is that safe to assume?

Mr. Petreski stated yes that is correct.

Mr. Gemian stated so under that basis then I withdraw my question.

Chairman Blewett stated but they do need to be addressed before the applicant comes in before the Board again.

Mr. Gemian stated got it.

Chairman Blewett asked Alex if he had any concerns about any of those and the fact that they couldn't be resolved. I know you have a meeting next week.

Mr. Petreski stated these waivers are the same waivers that were granted under the previous application, Application #367. Like Item #4 is compliance with the flood damage prevention regulation. The Borough is pursuing the LOMR and so that won't be necessary if the LOMR is granted.

Mr. Florentino asked what is a LOMR.

Mr. Petreski stated it is a letter of map amendment issued by FEMA which would take this property outside of a flood hazard area.

Mr. Florentino stated okay.

Mr. Petreski stated Items 5 and 6 are similar. Five is the stream encroachment permit and if the LOMR is issued the stream encroachment permit or flood hazard area permit would not be required. So we are recommending a waiver be granted and the applicant is aware that the LOMR needs to be issued in order for them to start construction.

Chairman Blewett stated that would be a condition of approval.

Mr. Petreski stated yes.

Mr. Neiss stated the Wexford project they can't move forward because the LOMR has not yet been approved. We are talking about February for that and keep your fingers crossed.

Ms. Kasetta stated can I just jump in for one second. I can very briefly explain something that might clarify things for anyone who still has questions. The completeness determination as Alex was describing relates to submission items that we have not provided and we have provided an explanation for why those items were not submitted. The difference between that and the meeting between the engineers that is going to happen next week, is that meeting is for the purpose of discussing Mr. Boorady's technical comments and things that are shown on the plan that he feels needs some revisions before the Board can evaluate the merits of the application, so they are sort of two separate concepts. On the one hand whether the application is complete based on what we've submitted and on the other, whether it is ready for a public hearing based on what is on those plans that we did submit so maybe that clears it up a little bit.

Chairman Blewett stated well it does with the exception that we don't have Mr. Boorady's full report on the completeness review.

Mr. Ward stated that report was not submitted to you only sent to the applicant's professional. Tom said to hold it as he wasn't ready to submit it to the Board members yet.

Mr. Kaufman stated it seems to me a little premature to vote on a waiver request without the engineer's report no?

Ms. Ward stated you have the report for the waivers and that is what we are discussing tonight.

Chairman Blewett stated we have the acknowledgment of what the waivers or what the concerns are which would be the items circled.

Mr. Kaufman stated right but there is no actual report from him.

Chairman Blewett stated no. But Alex is here to testify to any concerns that we may have and Alex are there any?

Mr. Petreski stated at the moment for completeness for these waivers, specifically we don't have any concerns our office. We have expressed concerns in the technical report but for the sake of these waivers as Allyson explained, it is two separate things.

Ms. Ward stated if you approve the waivers, the application is still incomplete.

Chairman Blewett stated right and that has to be presented at the public hearing. Each one of those have to be resolved.

Mr. Neiss stated I haven't studied these waivers but they may not be necessary for the application to be deemed substantially complete.

Mr. Gemian stated that is the issue in my mind, I don't know the answer to that whether it is yes or no but that is exactly the point Arthur, so that was the genesis of my first question. If we act on this waiver, are we essentially saying that these items are indeed waived in perpetuity irrespective of future planning meetings between the developer and the town? That is where my confusion came in.

Mr. Neiss stated what you would be waiving is what lawyers call de minimis and they don't amount to very much. Since your engineer has already indicated that he has no engineering objection to these waivers, you are still going to get a full blown shot at the application when it comes before you.

Mr. Gemian stated that satisfied my question, thank you.

Chairman Blewett stated but Arthur to your earlier comment, each one of these waiver items has to be satisfied in one way either as condition of approval, or a determination by the Board that it is de minimis essentially.

Mr. Neiss stated and therefore waived.

Chairman Blewett stated right.

Mr. Kaufman stated so if we approve this application for the waivers, then it is waived and they don't need to come back at the public hearing with it and we can't make it a condition of approval.

Mr. Neiss stated no. These waiver are just checklist waivers, in other words, and I'll just use a crazy example. Let's assume your ordinance says that they have to submit with their application 3 details of a sewer and they are not putting any sewers on their property, therefore they are not going to submit details of a sewer and they are asking you to waive that requirement under the ordinance.

Mr. Kaufman stated because that is not applicable.

Mr. Neiss stated because it is not applicable. The Board Engineer determines that waiving a particular item on the checklist is de minimis and doesn't really amount to very much. Again since you will have the full blown site plan before you, the waivers that you will grant tonight if you decide you want to do that don't amount to anything. It is just a question of whether or not the applicant can proceed and submit a full blown site plan that is basically it. They don't have all their ducks, but they have sufficient numbers of ducks in a row that the waivers they are requesting are de minimis.

Mr. Terrero asked what if let's say we get the full complete submittal and we see something to be necessary and it was considered de minimis before, then in the full set we've already waived it and we have no right to go back and say that is something that is needed.

Chairman Blewett stated it is only a waiver for completeness right. Arthur correct me if I'm wrong, it doesn't establish an opinion of the Board for the final review of the application at least in my mind, is that a fair assessment Arthur?

Mr. Neiss stated absolutely correct Chuck.

Ms. Ward stated if you grant a completeness waiver, you can request that information if need, but if you grant a full waiver that's different. If you grant a partial waiver, you can get that information if needed too, right Arthur?

Mr. Neiss stated yes. But these items, again I haven't studied them, but your Board Engineer is basically saying that there is no engineering objection to allowing the applicant not to submit or to waive these items because it is not going to amount to anything. In other words, we are not putting ourselves behind any eight ball if we grant the waivers.

Ms. Kasetta stated also I want to state again, that these are virtually the exact same waivers that the Board granted the last time. The Board in April felt that it has sufficient information to make a decision on the merits of the application so I don't think it would be any different this time around.

Mr. Neiss stated I think what I'm getting Allyson is that the Board is concerned about some of the, I'm just proposing, but the Board has concerns about the conduct of the applicant in terms of the town and I think the Board is looking at each item and will look at each item that comes before it for review with a very focused eye. The sense I'm getting tonight is, that is what the Board is saying, we are going to look at this application very, very carefully what was granted before or not is not really a relevant consideration at least that is my impression.

Mr. Gemian stated Allyson this is being presented now in the context of a major, major site revision, whereas the experience you just alluded to was at the preliminary stages of the project, so it is not the same scenario okay. The concern that I have is you now have changed the

landscape and you basically said we are now going to be seeing a major, major site revision and before the site revision is even presented you are asking for a waiver. So maybe it is a nomenclature that everybody is hung up on because waiver implies that we are going to brush it aside. I'm satisfied with the explanation that we discussed, but I just want to comment directly on your last comment I don't think it is applicable.

Mr. Terrero stated I also think back in April we had more things in our hands before we --

Mr. Gemian stated exactly.

Ms. Kasetta stated maybe the solution would be to go through each submission waiver that we requested and defer to the Board Engineer as to whether he thinks there is a basis to grant it so that there is no confusion.

Mr. Petreski stated I'm more than comfortable going through the list. I can go through them quickly for every member.

Chairman Blewett stated right. Let's start.

Mr. Petreski stated okay. I'm going through the preliminary major site plan list and start with #4, compliance with requirements of the flood damage prevention regulations.

Chairman Blewett stated let's make sure we are all on the same page. The first page is the general checklist information.

Mr. Kaufman stated I believe it is page 5 in our packet.

Mr. Petreski stated yes.

Chairman Blewett stated I agree it looks like page 5.

Mr. Petreski stated okay #4 is compliance with the flood damage prevention regulations. So Chapter 17 of the Borough Ordinance dictates rules and ordinances for development within the boundaries of the Borough in regard to flood damage prevention. As we discussed, the Borough itself is pursuing a LOMR which would take this property outside of the flood hazard area which would negate the necessity for meeting this requirement as the proposed construction will be outside the flood hazard area, so it will be outside of the jurisdiction of that ordinance.

Chairman Blewett stated once again if that LOMR is not issued by DEP, then they need to comply with the Borough Ordinance.

Mr. Petreski stated yes. A conditional approval of the previous application and similarly the condition of approval if the application is approved, this application will require that the LOMR be issued and approved by NJDEP before the applicant can start construction. So if for any reason that LOMR is not issued or denied by FEMA, the applicant cannot start construction but will need to come back to the Planning Board and apply for a Flood Plain Encroachment Permit.

Mr. Kaufman asked is there a time limit and I don't know who can answer this questions or who needs to make this decision, but Arthur alluded that it might be February for FEMA to approve these revisions. But you know it has already been a number of months and how long do we wait before we say okay we have to, but the waiver for #4 does not apply anymore, assuming we grant that tonight. Anybody can answer how long we can wait?

Mr. Neiss asked do you have an eight ball at your house Josh.

Mr. Kaufman stated I'm sorry.

Mr. Neiss asked do you have an eight ball, you know the old eight balls you would shake it and come up as good as you are going to get at this point I'm afraid.

Mr. Kaufman asked so there is no legal limit here or agreed upon limit that that property can sit for two years until FEMA gets its act together and approves it.

Mr. Neiss stated that's it.

Mr. Kaufman stated that seems like a mistake but okay.

Mr. Gemian stated Josh your question had been a paramount question for sometime. The attorney for the redevelopment, Mr. Doyle, has mentioned some progress has been made, but no assurances has been given regarding the date of receipt for the letter of map revision but there has been considerable progress being made on that. So suffice is to say, that those that are close to the issue feel rather confident that it is going to be upon us, but again it is a federal agency and they don't give out any due dates and commitments regarding that, but those that have been involved –

Mr. Kaufman stated absolutely, but we are at their beck and call, at their mercy, but it just seems a little shortsighted on the agreement to not have a deadline to force or proceed at a certain point.

Mr. Gemian stated this letter of map revision I should say, has been alluded to by parties on both sides as a fait accompli because the definition of a flood plain no longer applies to this area. So under that definition everyone is saying there should be no issue because it is not in the flood area anymore under the new definition. Everyone is kind of shaking their head around that but you have to have that in writing from FEMA itself in order to have the ink sort of on the paper saying that and that is what we are waiting for.

Mr. Kaufman stated and that I have zero problem with. If FEMA declares the site no longer in the flood plain, then the waiver can be granted because they don't have to adhere to the ordinance. My concern is how long FEMA has already taken with the promise on the horizon of them at least giving us a letter which FEMA is kind of busy right now with Covid and everything like that, so who knows when this is going to happen and we are still sitting with vacant land waiting for this to happen. I'm looking for a deadline that says, December 20, 2021 it is time to go and adhere to you know Chapter 17, Article X or whatever.

Mr. Gemian stated that is precisely what everyone is feeling Josh, you are right on the money with that but we are just waiting for it.

Mr. Kaufman stated but that was not thought of when the planner made the agreement with the developer and now there is nothing we can do about that. I get that it is nothing the Planning Board can do at all but it is just that now we are waiting for FEMA to get their act together.

Mr. Gemian stated Mr. Chairman, what I would suggest and maybe Arthur can take the lead on this, is to have Mr. Doyle address this issue with the Planning Board, along with Mr. Neiss, and let us know what their comfort level is around it and where do they see this issue at, sort of a status report of where this issue is at. Josh is raising a very, like a said, he is articulating what everyone feels and I think we owe it to ourselves to get an update as to where we are on this more concretely.

Mr. Neiss stated I'm not sure having Doug Doyle come before you even next month to tell you what his best guess is because it isn't going to do anything because he doesn't know and it is really in the hands of the bureau at FEMA to do it. While he may hope that they will act on it, I'm not so sure that he has any greater insight. If you want, I will reach out to him and see if I can get any information from him. I am happy to do that and report back, but you know it really is in the deep well of FEMA and it will come out when it decides it is going to come out.

Mr. Kaufman stated I don't think having Doug come to the next meeting is going to give us anything except him opining the same thing. My frustration is that we are handcuffed by FEMA waiting to get their act together without any deadline to make a decision on adhering to that ordinance or not.

Mr. Gemian stated this is the last thing I'll say, and Josh I don't know if this will give you any kind of comfort on it, but it has given the Council somewhat of a narrow comfort level. You know the deal that we are engrossed in for the past three to four years is tethered to the fair share housing issue and we have a commitment, and we are one of three parties that have entered into a contractual arrangement and agreed upon contractually the due diligence of each of the



members and to that agreement complying with what they agreed to. Part of this has to do with the number of apartments that both of these developments will give to the fair housing law. So you know we are trying to bring to FEMA's attention the other federal arm of this and say that you know you are really holding up the other end of our commitment to federal fair share housing by not giving us this letter. On the one hand we've agreed to do what you've asked us to do on the fair share housing and on the other hand you are not giving us the letter we need to get this thing going.

Chairman Blewett stated yeah but that's not really the issue right?

Mr. Gemian stated I'm really just letting Josh know it is a very tangled web Josh and that's why I (inaudible) to the attorneys on this because I'm just a layman like you are on this issue looking from afar.

Chairman Blewett stated the reality is everyone is waiting for this letter because it impacts the design of the locations and the facilities, and that's the crux of it. Unfortunately I don't argue, we have a judgment that has to be settled in some way and this is part of it. You know again we can walk through all these waivers but at the end of the day it still has to happen, and the reality is these waivers either have to be satisfied in compliance with the codes of Lincoln Park, or we need to acknowledge, I hate the word de minimis, that they are not relevant to this application. So personally I'm not sure there is a lot of debate here, but I can understand everyone's concern about you know forcing this to move forward. I hate to see that lot at the corner where Wexford was and it has been there forever or it seems like it, and it might be there the rest of my life if the LOMR doesn't come out unless somebody decides to say, alright we are going to build to the stormwater, whatever we want to do to the existing flood elevation and we'll make it work but that is not what is happening here. So you know again, let's walk through these and if there are any objections, you'll have to vote at the end of this discussion, but I don't know that it is going to move us forward to kind of debate each one of these honestly because we've debated them before. It all focuses on this revision to the FEMA map.

Mr. Neiss stated the Municipal Land Use Law has a number of provisions that say, an applicant who has been granted some form of relief can apply back to the Board if governmental approvals are not forthcoming and if it is beyond the control of the applicant, so they can come back and request extensions of time as well.

Mr. Kaufman stated is it beyond of the control of the applicant that the LOMR hasn't been issued when they could apply, but there is another way to do it, build to the stormwater retention and the ordinance and the flood plain laws.

Mr. Neiss stated I'm not sure how I can answer that question for you Josh. I will just say, that wasn't really in the cards this was as the council liaison has said, this was an agreement that was entered into, a three way agreement and so it was already a done deal that way.

Mr. Kaufman asked with the agreement was the LOMR a condition of the agreement.

Mr. Neiss stated I think so they can't build.

Chairman Blewett stated I thought they agreed to build if the LOMR wasn't in place right? I mean the other option is to walk away.

Mr. Kaufman stated they can't build, they can't get permits from the DEP and adhere to the stormwater ordinance requirements and everything like that?

Chairman Blewett stated I'm saying they could.

Mr. Kaufman stated right.

Chairman Blewett stated and I believe, at least what I recall was that we can build to those specifications but everybody is waiting for the LOMR to be issued because that does change the design considerations.

Mr. Kaufman stated right. But to Arthur's statement, they are not held up because of the

government they are held up because of the choice to wait for the LOMR, but there is an option to build now. So we can grant these waivers and FEMA could say oh it is another two years and good luck everybody, and when they come back to apply for an extension of the waivers we could say no at that point build to the current standards because LOMR is not coming out any time soon. Is that synopsis correct?

Mr. Neiss stated another factor here Josh, the Planning Board entered a resolution approving the site plan for the Wexford project as it did with the upper Main project that gives the applicant a very strong degree of protection. In other words, what they presented to the Board was what they were going to build and they have the right to assert that, so whether LOMR comes in or not, whatever the case might be, they have that right to perceive using the resolution or using the approval they got from the Planning Board.

Mr. Terrero stated I thought for the Wexford unit it was shown to have vents for water penetration, to build for water penetration up to a certain height, so I think the unit at the Wexford was something they didn't have to wait for the LOMR to be approved to be built, if I'm not mistaken, when they did the presentation of the Wexford Inn.

Mr. Kuyan stated yeah if I could jump in here. The Wexford project would not be able to meet the NJDEP regulations for dry access, therefore we wouldn't be able to get the flood hazard area individual permit without that LOMR.

Chairman Blewett stated so what is before us today is a proposal for completeness waivers that allows the applicant to bring the revised application in front of us, correct Arthur?

Mr. Neiss stated yes.

Chairman Blewett stated I'm going to Alex for this, it doesn't change any of the previous waivers that we've agreed to for them to bring the application before us.

Mr. Petreski asked Chuck to rephrase that because I'm not sure I understand your question.

Chairman Blewett stated I'm just trying to make the point that the fact that they are going to come in with a redesign of this larger property on Main Street, what they are putting in front of us today does not change the waivers that we've already agreed to with the application.

Mr. Petreski stated no it doesn't.

Chairman Blewett stated right. It just allows them to bring the application to us sooner, unless we want to go one by one and say yes or no here.

Mr. Gemian asked Mr. Chairman if I may, if that is the case, then what is the urgency of approving this now. If it is inconsequential and not changing anything, why are they asking for the waivers now?

Ms. Kasetta asked may I respond to that.

Chairman Blewett stated sure Allyson go ahead.

Ms. Kasetta stated under the Municipal Land Use Law the Board has a certain amount of time from which the application is filed in order to deem it complete. Once that determination is made the Board's time to act on the merit of the application begins and so that is the point of this completeness hearing is for the Board to make a decision on whether the application is complete so it can move forward for the scheduling of the hearing and action by the Board. The law says that a completeness determination is based on the fact of whether an applicant has submitted everything required by the checklist. Not to get back into this debate, but this is the difference between the checklist waivers that we are talking about tonight and the technical comments that the engineers for the applicant are going to meet with the Board Engineer on because those relate to what's on the plan, whereas the checklist waivers that we are requesting relate only to whether or not we have submitted one item or another and it all relates to the Board's time period to act on the application that is the overarching point of deeming the incomplete.

Mr. Gemian stated thank you for that explanation.

Ms. Kasetta stated you're welcome.

Chairman Blewett stated if we pass that deadline, then the application can come before the Board no matter what correct?

Ms. Kasetta stated if the Board does not act on completeness within the time period allotted for that, the applicant then can make a claim that it is automatically deemed complete.

Mr. Kaufman stated with the waivers that you are requesting.

Ms. Kasetta stated I believe so yes. In reviewing requests for waivers, the Board has to either grant them or ask the applicant for more information within that time period.

Chairman Blewett stated okay. Where does everyone sit on this from a Board perspective?

Mr. Taormina asked how many waivers are we looking for tonight. I see a list here and it looks like two things are checked unless I'm reading it wrong.

Mr. Petreski stated my count was 11 things on the list.

Mr. Taormina stated I was definitely reading it wrong. In two seconds where are they? You are asking for a waiver of certification of taxes from the Borough is that right?

Ms. Kasetta stated no, we submitted that.

Mr. Taormina stated okay so that shouldn't be circled right?

Ms. Kasetta stated right. So you are looking for the checklist for general information and at the time when we initially filed the application, we didn't have a current certification and we also didn't have a current list of property owners. Those we submitted on January 7<sup>th</sup> so we have not requested waivers for any of those. The ones that Alex was referring to are on the preliminary and final major site plan checklist.

Mr. Taormina asked Alex what exactly are they asking for tonight that we can do or not do.

Mr. Petreski stated it is waivers from the Borough's flood plain regulations, DEP flood plain permit, building mounted signs, utilities within 200 feet of the property (partial waivers for that) and then the information beyond the subject property.

Chairman Blewett stated Alex, Arthur has a question.

Mr. Neiss stated sorry to interrupt. What they are asking for are waivers from the submission of these document.

Mr. Petreski stated yes.

Mr. Neiss stated it is not that they are asking for waivers of those, it is waivers for submission tonight okay.

Mr. Petreski stated yes waivers of submission of building mounted signs and non-building mounted signs, and the applicant is aware that they would have to come back to the Board if they want to attach any building mounted signs or non-building mounted signs if they are granted this waiver.

Then there is the two partial waivers but I'll just mention them again. It is for right-of-way width of improvements, water courses, railroad, bridges and rock outcroppings and other natural features beyond the subject property so outside of the footprint of the building of the property both within 200 feet. We only need to see the information within the subject property and within the frontage or directly adjacent to the property. We feel that we have that information and that

is why we don't have an objection to granting that waiver; similarly for utilities to the extent that they are going to be modified. The checklist as for all the utilities within 200 feet of the subject property when in reality we only need the utilities within the subject property and in the frontage of the subject property just to understand what we are connecting to. We need the water connection, sewer connection and electrical utilities and those all have been shown on the plan.

I spent about 4 or 5 days reviewing the drawings and I don't have an objection to granting these waivers and I felt I had the information that I needed to do my review. There is also show limits of NJDEP approved LOI, including delineation of wetlands and buffers. There are wetlands and buffers on the property and the applicant has applied for a fresh water wetlands permit, GP #7 and being granted that wetlands approval will be made a condition of approval of the application regardless of whether a waiver for submission of it is granted now. No matter what it is a condition of approval and they will not be able to proceed without that fresh water wetlands permit and that is why we have no engineering objection to granting that submission waiver. I think I have gone through all of them.

Mr. Gemian stated Alex, since you are already on those three items, of the 11 items Item S, T, U those have references into NJDEP and are any of these 3 tied to the LOMR in anyway?

Mr. Petreski stated yes. The LOMR will essentially take these lines and move them off the property.

Mr. Gemian stated okay.

Mr. Petreski stated as they are now, these lines touch the northern tip of the property and the applicant would be required to apply for NJDEP Individual Permit in order to construct a multi-family-residential building in a flood hazard area, but the LOMR will take those flood hazard area lines and take them off the property completely and the applicant would not be required by NJDEP to get that individual permit.

Mr. Gemian asked would it be safe to assume, could we delete S, T and U from the preliminary waiving list if they are tied to the LOMR.

Mr. Taormina stated if we never get the LOMR, what do we do with S, T, and U then?

Chairman Blewett stated they need to comply with it.

Mr. Petreski stated they need to comply. So they are asking for these conditional waivers under the condition that if they are granted approval, they have to have the LOMR before they can start construction. Now if the LOMR doesn't come in or if FEMA denies it, then they will never be able to build and they will have to come back to the Board and apply for a flood plain encroachment permit and simultaneously also apply for the NJDEP individual permit.

Chairman Blewett stated and then their engineer they are building such.

Mr. Petreski stated yes.

Mr. Gemian stated I just want to say, as your liaison to the Council, I am somewhat satisfied with what I've heard in the discussion so I'm going to vote in favor of the waiver as a result of being satisfied.

Chairman Blewett stated let me just ask if there is any discussion by the Board. Is there a motion to approve these completeness waivers?

Mr. Taormina stated motion to approve them.

Chairman Blewett asked for a second.

Mr. Florentino seconds.

**Roll call:**

**Yes: Taormina, Florentino, Blewett, Gemian and Terrero**

**No: No**

**Abstain: Kaufman**

**Absent: None**

Ms. Ward stated waivers are granted.

Ms. Kasetta thanked the Board for their time tonight.

Chairman Blewett thanked them.

Ms. Kasetta stated we will coordinate with Joan moving forward.

Chairman Blewett stated yes, thank you.

Is there any other business which may arise?

Ms. Ward stated I have nothing.

Chairman Blewett asked anybody else. Motion to adjourn?

Mr. Terrero moved to adjourn.

Mr. Kaufman seconds.

Meeting adjourned 8:22 P.M.

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Joan Ward, Secretary

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Charles Blewett, Jr., Chairman