

WEST WINDSOR TOWNSHIP PLANNING BOARD  
REGULAR MEETING  
December 11, 2019

The regular meeting of the Planning Board was called to order at 7:01pm on Wednesday, December 11, 2019 by Chairman O'Brian in Meeting Room A of the Municipal Building.

**STATEMENT OF ADEQUATE NOTICE**

Pursuant to the Sunshine Law, a notice of this meeting's date, time, location and agenda was mailed to the news media, posted on the township bulletin board and filed with the municipal clerk on December 5, 2019.

**ROLL CALL AND DECLARATION OF QUORUM**

Sue Appelget  
Linda Geevers  
Michael Huey  
Andrea Mandel  
Michael Karp  
Simon Pankove  
Hemant Marathe  
Chairman Gene O'Brien

**PUBLIC COMMENTS**

John Hinsdale, 38 Quaker Road

Mr. Hinsdale discussed Township Council's 9/3/19 Resolution 2019-R-0191 and highlighted the following concerns:

1. Lot 38, Block 2, was condemned under Section B, which may only be applied to commercial property.
2. Condemned gas station as unsafe, but gas station is still operating.
3. 7/24 meeting was held in violation of the Open Public Meetings Act, and there are still no minutes
4. The resolution indicated two property owners, but Mr. Hinsdale reported that public records reveal nine owners.
5. The Plainsboro gas station owner did not use his real name.
6. Lot 79, Block 5, was purchased by an LLC which is not licensed as an out of state LLC.

Mr. Hinsdale provided his concerns in writing to the Board. Chairman O'Brien suggested that Mr. Muller review Mr. Hinsdale's complaints. Mr. Muller stated he would review them.

**CONSENT AGENDA:**

Minutes: October 23, 2019, November 6, 2019

**10/23/19**

Ms. Geevers pointed out a missing period on Page 3, sentence starting with "Regarding lighting..."

Ms. Appelget asked about handling a mistake that someone made while testifying. She stated that statements about not being able to widen South Post Road because of wetlands was inaccurate because the wetlands are only from the road to the sewer line. Mr. Surtees stated that this was a courtesy review, so the land owner is not obligated to make any changes. Mr. Surtees stated that the Planning Board can make suggestions, but the property owner is not obligated to change their plans. Mr. Surtees stated they could send a request to the Rowing Association regarding widening the road.

Chairman O'Brien asked if any board members were opposed to sending a letter asking to widen the road. As there were no objections, Chairman O'Brien stated a letter would be sent to the attorney representing the Rowing Association.

Ms. Appelget asked about Page 2, whether the CRC or the County is requesting to add the parking spots. She feels that it is not the CRC requesting to add the parking spots; the County is. Mr. Surtees stated that the CRC is paying for the improvements, not the County.

Chairman O'Brien asked about Page 3, "sanitary score numbers." Mr. Surtees stated that it should be "sanitary flow numbers."

Mr. Muller suggested the following changes be made on Page 3:

- "sanitary flow numbers," add "would be provided to SBSRA but do not have to be submitted to DEP."
- "Need to be protected by deer rub", should be "from deer rub."
- Paragraph 4, "open channel and a tinder bridge that crosses," should read "crosses it."
- "Exhibit A-1 Existing Conditions Plan" rather than "Condition."
- Page 2, next to last paragraph should read, "No objections to the witnesses being considered experts were made."
- Page 9, first paragraph, second line, change "going pick up," to "going to pick up."

Motion to accept 10/23/19 minutes made by Mr. Pankove, second by Ms. Geevers. Motion carried.

#### **11/06/19**

Mr. Muller stated that Page 5, Paragraph 4, oversight should be oversight. Mr. Muller also stated that on Page 6, Ms. Russell's name should not be in bold type.

Motion to accept 11/6/19 minutes made by Mr. Huey, second by Ms. Geevers. Motion carried. Ms. Appelget and Mr. Huey abstained as they were not at this meeting.

#### **CHAIRMAN'S COMMENTS**

Chairman O'Brien read a memo from Lorraine Jones regarding tax assessments for the Hyatt Place. Current assessment for the Hyatt Place Hotel is \$10,250,000, 2019 with a tax bill of \$284,130. It is assessed at \$170 per square foot. It is estimated that, if the hotel was converted to an assisted living facility, the estimated tax bill would be between \$332,000 and \$375,000.

#### **CONTINUATION OF MASTER PLAN**

ROM-1, Chairman O'Brien stated that changes made to this district concerning conversion of a hotel to assisted living facility would only pertain to the existing three hotels. Ms. Geevers asked about the potential for other properties in ROM-1 to convert to assisted living. Chairman O'Brien stated that anyone wanting to have assisted living in any other structure would have to make an application for a use variance.

Ms. Mandel stated her concern regarding putting this in the Master Plan. Mayor Marathe stated there are several properties in town that are not in compliance with the zoning law, and the Master Plan will help to make them more compliant. Mr. Muller stated that once the Master Plan is adopted, then ordinances can be created.

Ms. Geevers stated that the hotel is thriving and the guests use local facilities/restaurants. That is going to change if the hotel is converted to assisted living.

Mayor Marathe stated three more hotels are going to be built in the future. He stated that the basic fundamental question is, is there anything bad for the Township? He explained that the tax assessment increases, and the Township gets 10% more affordable units.

Ms. Mandel does not feel an assisted living facility in that location is good for the surrounding area.

Mr. Pankove stated that a Master Plan review happens once every ten years and he does not want to talk about potential applicants, but wants to get through land use with the vision of ten years into the future, which will include new land uses. He feels the Board needs to move on and get through the Master Plan and not deal with one property.

Chairman O'Brien agreed with Mr. Pankove, but added that the top of page 58 includes assisted living facilities as a permitted use. Chairman O'Brien asked Mr. Burgis why this recommendation was made.

Mr. Burgis said there are other locales where hotels are being converted to assisted living facilities. This provides flexibility for someone to redevelop their properties as times change within the next ten years.

Mr. Karp discussed several other applications to bring several more hotels to the area. He opined the property owner has a vision that more competition is coming and has decided that an assisted living facility makes sense. He also feels it is wise for the owner to make the decision when the hotel is doing well.

Mr. Huey stated that the hotel brings a lot of synergy to the Township regarding guests. It's difficult to measure the value the hotel brings to the Township in terms of guests using local services. He feels that the benefit of having a hotel may outweigh the additional tax revenue.

Mr. Moore, attorney for the Hyatt Place, stated that the Hyatt Place is still doing well, but business is slowing down.

Ms. Geevers stated that the increase in the tax isn't that significant, and although she understands that the population is aging, the surrounding businesses need the hotel.

Mayor Marathe stated, if new hotels come and this one closes, there will be no tax revenue. The assisted living facility will also get at least ten affordable units.

Chairman O'Brien asked for a motion to accept the recommendations and proposals for the 3.3.1 ROM-1 District.

Mr. Pankove made a motion to approve the language on pages 57 and 58 as indicated by the board planner, 2<sup>nd</sup> by Mr. Karp.

Regarding the 25% Affordable Housing set aside, Mr. Moore stated that 25% is not viable.

Mr. Burgis stated that the Township's Affordable Housing plan calls for a 25% set aside.

Mr. Karp asked if the 25% is an ordinance requirement. Mr. Burgis stated that historically West Windsor has had a 25% set aside regarding assisted living, but there have been lesser percentages.

Mr. Muller stated that part of the settlement was an ordinance adopted by the Township for any future rezoning the set-aside should be 25%, but Fair Share Housing Center believes it does not have to be 25% for Assisted Living Facilities.

Mr. Karp made a motion to amend the main motion to change the word "units" to "beds" and to change the set aside from 25% set aside to 15%, 2<sup>nd</sup> by Mayor Marathe.

Ms. Geevers asked how you can change the set aside if there is an ordinance. Mr. Burgis stated that the confusion is that the mandatory set aside ordinance talks about dwelling units per acre while assisted living facilities are beds per acre. The Fair Share Housing Center recognizes the distinction between dwelling units versus beds.

Mayor Marathe stated that is in the Township's interest to get as much Affordable Housing as they can. It is not a perfect science; if Township can get the extra units, they should get them. Mr. Karp stated that's why he proposed 15% as opposed to 25%, which is not viable.

Mr. Moore stated that the ordinance requires that any multifamily development has to have a 25% set aside. Mr. Moore asserted that an assisted living facility does not apply as it is not considered a multifamily development.

Mr. Huey asked if Fair Share Housing will recalibrate West Windsor's Affordable Housing requirement. Mr. Muller stated the Fair Share application number will remain the same, and this will give West Windsor a cushion.

Mr. Burgis stated that the Affordable Housing plan addresses the entirety of the Township's obligation without the hotel. These units can help meet the fourth-round obligation coming in the future.

Chairman O'Brien reiterated the amendment to the main motion to approve ROM-1 to amend the language in the motion to change the word "units" to "beds" and to reduce the Affordable Housing set aside requirement from 25% to a minimum of 15%. Board polled; amendment to main motion approved 6-2.

Motion to accept the language with amendments of "units" to "beds and "25%" to "15%" made by Mr. Pankove, 2<sup>nd</sup> by Mr. Karp. Board polled; motion approved 7 to 1.

Mr. Burgis continued to discuss the Land Use Draft Plan:

ROM-1A is a new land use category containing the new PSE&G substation and expansion. Mr. Surtees stated that PSE&G will still need to go before the Planning Board regarding any expansion.

ROM-2, pages 59-60. A significant portion of this property is within the Carnegie Center. Recommend changes to the boundary of the district similar to the ROM-1 District as it cuts through the middle of some properties. Second recommendation is to recognize that several properties near the south are single-family dwellings, and that single-family homes could be added as a permitted use to that district such that improvements for existing single-family homes would be less burdensome.

ROM-3, recommended to include self-storage and warehousing with a limited lot size of 25 acres for warehouse use. Regarding the 3<sup>rd</sup> Paragraph, 4<sup>th</sup> line of the ROM-3, Chairman O'Brien suggested adding a parenthetical of New Jersey Route 133 when Hightstown Bypass is referenced.

ROM-4, research office and limited manufacturing. Recommended to include self-storage and mini warehousing.

Mr. Burgis stated there is no ROM-5. It is now called PMN-1. There is a footnote on Page 62 indicating that there is no ROM-5.

ROM-6 (within Carnegie Center), same uses as ROM-1 as well as neighborhood retail, fitness, eating and drinking establishments. Ms. Geevers asked how neighborhood retail is defined. Mr. Burgis explained that it is retail surrounding the neighborhood. Mr. Huey asked why eating or drinking establishment are referenced as opposed to restaurant. Mr. Surtees stated there are other uses such as brew pubs.

ROM-7 is similar to the ROM-4 District. To encourage lot consolidation, it is recommended to permit banks, pharmaceutical stores, medical facilities, outpatient surgical facilities, convenience stores and gas stations, with a minimum lot size of 6 acres.

Ms. Geevers asked if that is a good place for a gas station. Mr. Surtees stated that he is currently speaking to a developer who is interested in purchasing all four properties and building an urgent care/outpatient service center. Ms. Geevers stated she is more comfortable with that use than a gas station.

Chairman O'Brien suggested removing gas stations from permitted uses for ROM-7. After discussion it was decided that the following phrase should be deleted from ROM-7 "and convenience stores with gasoline sales."

**PUBLIC COMMENTS REGARDING SECTION 3.3.1**

Jerry Foster – 14 Suffolk Lane

Mr. Foster stated that the Quakerbridge Road bridge, which is structurally deficient, is going to have to be replaced. When that happens, because it's going over the northeast corridor, it's going to be higher, which is going to cause the ramps to be extended in this area. The bridge must be higher because the high-speed rail is serving the Northeast Corridor. In the past this area was examined for a new train station. This area would be a great place for a new train station and would reduce traffic in West Windsor.

Chairman O'Brien asked about surface parking at train stations. Mr. Foster stated that deck parking could be used.

Ms. Mandel asked what the chances would be to get an express train at a new train station. Mr. Foster explained express train stops.

Mayor Marathe stated he has no problem with the idea, but doesn't feel like it's realistic in the next ten years.

Mr. Burgis stated that undertaking the building of a rail station could take 15 years, and there may be alternative sites better suited for a train station. He is not comfortable suggesting that a train station be incorporated without the necessary studies being done.

Chairman O'Brien stated that he appreciates Mr. Foster's ideas, but doesn't see it happening at this time.

**Conclusion of Public Comments for Section 3.3.1**

**SECTION 3.3.2, PAGE 65**

Mr. Burgis provided the following information regarding Section 3.32:

ROR - no changes being made to this category.

Chairman O'Brien pointed out that in the second paragraph, second line, it reads "except for limited manufacturing," but in the last paragraph, second line, it reads, "and limited manufacturing uses." Mr. Burgis stated "and limited manufacturing," can be deleted. The word "and" will be inserted before the word "office."

Chairman O'Brien also suggested in the next sentence, "recognize the importance of and support," adding the word "for" after the word "support." Mr. Burgis agreed.

Mr. Burgis continued:

R&D, no changes proposed.

RO-1, recommended to add self-storage, warehousing and indoor and outdoor recreational facilities.

**PUBLIC COMMENTS REGARDING SECTION 3.3.2**

Frank Petrino, Law Firm of Eckert Siemens

Mr. Petrino discussed the SRI site, which is mentioned in the R&D category on page 65. Mr. Petrino stated that there is a GDP that was approved in 2002 and is to remain in effect until 9/2022. SRI feels that the language in the Master Plan is not consistent with the GDP. The site is currently 254 acres, with multiple buildings, and a total area of 650,000 square feet.

Mr. Petrino stated that SRI is considering modifications to its GDP. There are portions of the existing R&D buildings that they are proposing to renovate and replace. SRI wants to work with the Township on adjusting the product mix for the development of the balance of the site. SRI has suggested language that is more consistent and continues the validity of GDP approval. He pointed out changes on page 65 and the top of 66, and page 90 as well. Mr. Petrino stated that the site is going to become very active in the near future with various development applications, and SRI wants the Board to be advised as to revisions SRI recommends for the Master Plan. SRI is concerned about language in the Master Plan that suggests that SRI's rights will be restricted as to what they can develop on their property.

Chairman O'Brien asked Mr. Petrino to provide information regarding SRI's proposed additions. Mr. Petrino referenced Page 90, "the intent is twofold to recognize the existing R&D District and the General Development Plan which was previously approved." SRI suggests adding the following, "Previously approved and remains valid and creates certain vested rights." He added that amendments will be submitted to the Board regarding the GDP.

Chairman O'Brien asked what is permitted in the GDP that the Master Plan language will not permit. Mr. Petrino stated that on page 65 the "no less than 30% of the floor area be low-traffic generating uses" requirement did not exist in 2002. He also pointed out the language in the last paragraph "to discourage", when used in the context of potentially attempting to modify or restrict the uses that are already approved in the GDP, is a concern.

Ms. Geever asked about "adjusting the product mix for development." Mr. Petrino stated under the GDP there are three uses proposed, i.e. R&D facilities, offices, and a 200,000 square foot hotel and conference center. He added other uses could be warehouses and mixed use, consisting of office and warehouse. Ms. Geever asked about residential housing, Mr. Petrino stated not now, but everything is on the table.

Mayor Marathe stated it makes no sense to change anything at this time. Mr. Petrino stated that the comments are inconsistent with SRI's development rights under the GDP.

Mr. Surtees stated that this language has been in the Master Plan since 2002. The GDP is grandfathered in as long as the approvals are valid. If the Planning Board doesn't want to extend those approvals in 2022, SRI loses that right and new zoning will take place. Mr. Surtees stated they have been meeting with two years with SRI.

Mr. Muller stated that under the statute, the vesting period of the GDP starts to run when there is final approval of the first section.

Mr. Surtees asked Mr. Muller for clarification that the GDP is good until final site plan approval on a phase. Mr. Muller stated that is correct.

Mr. Pankove stated he would leave what is already in there and if SRI wants to amend the GDP in the future, they can.

Chairman O'Brien stated that the Planning Board has the flexibility to amend the Land Use Element of the Master Plan and referenced the changes made to the existing Land Use Element in conjunction with the Affordable Housing compliance plan earlier in the year.

Mr. Petrino replied to Chairman O'Brien, advising him that the comment regarding amending the Land Use Element of the Master Plan gives SRI great comfort.

### **SECTION 3.3.3**

Mr. Burgis provided the following information regarding Section 3.3.3:

B-1 Zone, no changes proposed. Mr. Huey pointed out an error in the second paragraph, last sentence "in order protect" should be "in order to protect."

Chairman O'Brien asked about adding "but with some on the easterly portion" to the end of the first paragraph. Mr. Burgis stated that could be done.

B-1A, page 68. This is a new zone proposed for existing portion of the R-1/C District at the intersection of Edinburgh and Old Trenton Roads. It is located in a residential zone. Currently it is non-conforming and this will make it conforming. Identify small scale stores and shops, eating and drinking establishments.

B-1B is also a new zone on the southerly side of Edinburg Road zoned for residential, but developed with a mix of non-residential uses. Chairman O'Brien pointed out 5<sup>th</sup> line from bottom, "Intent of this land use category and corresponding district," the word "is," should follow "district." It was agreed the last sentence would be revised to read, "Parking and signage should also be designed to mitigate vehicular intrusion to the surrounding properties."

B-2, Chairman O'Brien pointed out it should be westerly not northeasterly. Mr. Burgis explained this section has been expanded to two new areas, at the intersection of Route 1 and Meadow Road, and small portion of the current ROM-1 and ROM-2 districts as it would make the uses in closer conformance.

Mr. Muller stated "Farbor" should be "Farber".

Chairman O'Brien asked about the B-2 District at the intersection of Old Trenton and Dorchester Roads, commenting that it is a very small piece of land and he is wondering if all the additional uses are necessary, more specifically a gas station as there is one nearby. Mr. Surtees stated that the gas station nearby will be closing soon and converting to another use. Chairman O'Brien stated to leave it as is.



Chairman O'Brien pointed out Page 71, the largest paragraph, 5<sup>th</sup> line, "Rote 1" should be "Route 1."

Chairman O'Brien suggested adding mortuaries in the B-2 district as there are none in West Windsor. Mr. Pankove stated there needs to be adequate parking for a mortuary. Mr. Surtees stated no one has ever requested a mortuary. Mr. Pankove also brought up adding cemeteries. Mr. Burgis stated that if they are going to permit it, it should be freestanding.

Mayor Marathe made a motion to add mortuaries in the B-2 district, 2nd by Ms. Appelget. Motion carried. Ms. Geevers abstained.

Mr. Burgis continued:

B-2A is a new zone at the intersection of Princeton-Hightstown Road and Rabbit Mill Road consisting of small scale stores and shops, offices, banks, fast food with drive-throughs, medical offices, and car washes.

B-3, no changes proposed. Chairman O'Brien pointed out this district is in the westerly part of the Township.

B-4, no changes proposed. Chairman O'Brien pointed out that "square feet" needs to be added after 20,000 in the third paragraph, 5<sup>th</sup> line.

### **PUBLIC COMMENTS REGARDING 3.3.3**

No public comments

Mr. Burgis continued:

P-1, no changes proposed.

P-2 does not exist. There is a footnote reflecting same.

P-3, it is recommended to expand the boundary to the west. There is already an office building and a daycare center there.

P-4 is a new land use category, General Services Overlay, consisting of portions of the existing R-20 and R-30 zones. This allows for conversion of dwellings into offices.

P-5 is a new land use category. There are many lots relatively smaller in size which can't support the type of development in the ROM-1 land use category.

PHROO is a new overlay land use category located along either side of Princeton-Hightstown Road between Sherbrooke Drive and Clarksville Road. This would preserve the underlying residential zoning while allowing for lot consolidation and economic development.

Chairman O'Brien recommended "requirement" be changed to "require" in the large middle paragraph.

**PUBLIC COMMENTS REGARDING SECTION 3.3.4**

No public comments.

Mr. Burgis continued with Section 3.3.5

Section 3.3.5, Planned Commercial District. Mr. Burgis encourages the redevelopment of the Atlantic Realty Tract (formerly Howard Hughes). The intent is to encourage non-residential uses and to minimize undue strain on Township community facilities. It is recommended to permit research, testing, analytical and product development, a wide variety of office types, hotels and conferences centers.

Chairman O'Brien and Ms. Geevers asked Mr. Burgis about the next to last paragraph on page 81. Mr. Burgis stated that that paragraph recommends that not more than 150,000 square feet of retail space be allowed. Big box retail and strip developments are discouraged.

Chairman O'Brien inquired as to why the limit was put on this tract. Mr. Burgis stated it was recommended by Mr. Powell, the financial consultant to help draft the Economic Development element of the Master Plan. Chairman O'Brien also asked about the proposed roadway from U.S. Route 1, crossing Clarksville Road, to the intersection of Quakerbridge Road and Avalon Way. Mr. Surtees stated Avalon Way is in Lawrence Township; the traffic light near Costco is Avalon Way. This roadway would alleviate traffic load on Quakerbridge Road from new development within this district.

**PUBLIC COMMENTS REGARDING SECTION 3.3.5**

Alison Miller – 41 Windsor Drive

Ms. Miller referenced the last page which mentions a path going along Quakerbridge Road that could link the canal with Mercer County Park. She stated that this was suggested by the Howard Hughes corporation, but she feels it is completely out of the question. Ms. Miller feels putting this in the Master Plan is a mistake, and she feels there are better uses for open space. She requested that the last sentence on Page 83 be deleted.

Ms. Geevers asked if Ms. Miller was suggesting that the Township pay for this. Ms. Miller stated no, she does not expect the Township to pay for it.

Mr. Burgis stated it was included as a way to link open space features, but it is not mandatory. Chairman O'Brien stated that as he looks at the map, he does not see how the connections could be made. Mr. Surtees stated this would be an opportunity for potential links in the future as redevelopment occurs. Chairman O'Brien asked why this wasn't discussed with the Open Space and Recreation Plan. Mr. Surtees stated it's more of a bike path and a pedestrian walkway, not open space.

Mayor Marathe stated that when the application comes in, they could approve it if it makes sense. Mr. Surtees stated that it should be put into the Master Plan; and, if it doesn't make sense when it comes in for review, then it's out.

Jerry Foster, 14 Suffolk Lane

Mr. Foster stated that the County has a draft bicycle plan which includes this path. The path would need to be included in the other sections of the zoning.

Alison Miller, 41 Windsor Drive

Ms. Miller stated that the verbiage should be changed to say pedestrian path and not open space.

Virginia Manzari, 28 Berkshire Drive

Ms. Manzari thinks it's not wise to put a bike path in the middle of Quakerbridge Road and it is going to be very difficult to link the paths up. Mr. Surtees stated they are talking about a small pedestrian bicycle link running parallel to Quakerbridge Road.

It was agreed to remove the text after "Boulevard" on the third line through "march" on the fourth line, starting a new sentence thereafter. In that sentence replace "passive recreation" with "bicycle-pedestrian path that would be a part of a."

Master Plan review to be continued at the next meeting on 12/18.

With no further business for this meeting, it was adjourn at 10:10 by Chair O'Brien.

Respectfully submitted,

Rita Bergen  
Recording Secretary