

**SPECIAL MEETING**

Special Meeting called to order by Chairman Foulon with a salute to the flag at 7:05 P.M.

**READING: Open Public Meeting Announcement**

This is Special Meeting of the Wanaque Planning Board and adequate notice has been given and it has been duly advertised by the placement of a notice in the Suburban Trends on June 26, 2016 and a notice thereof has been posted on the bulletin board in the Municipal Building in the Borough of Wanaque and a copy thereof has been on file with the Borough Clerk and posted on the Borough's website.

**ROLL CALL:** Chairman Gilbert Foulon, Vice Chairman Joseph Graceffo, Mayor Daniel Mahler, Councilman Dominick Cortellessa, Members Kevin Platt, Dale Spear, Michael Ryan and Dave Slater.

**PRESENT:** Attorney Steven Veltri

**ABSENT:** Members Marc Demetriou and Eugene Verba and Engineer Michael Cristaldi

**ORDINANCE #15-0-16 (RESOLUTION #103-0-16)**

**AN ORDINANCE ADOPTING A REDEVELOPMENT PLAN FOR THE PROPERTIES COMMONLY KNOWN AS BLOCK 200.02/LOTS 1 THROUGH 48 ON THE TAX MAP OF THE BOROUGH OF WANAQUE**

**Thomas Carroll, Borough Administrator of the Borough of Wanaque:**

The purpose of tonight's meeting is for the Planning Board to make its feelings known with regard to Ordinance 15-0-16 which implements the Redevelopment Plan for the Lakeside Manor property. Several weeks ago, the Board heard the details of the Plan and the Borough Council introduced this Ordinance, which will cement the zoning upon adoption on Monday night.

Mr. Benecke has provided us with a Second Draft of the Redevelopment Plan, with a few minor changes. One change was to better define the Underlying Zone, which is an R-40 Zone. Also, there were several places where Wanaque was referenced as a city or

**township, which have all been changed to Borough. The pagination has been changed and the table of contents has also been updated to reflect the correct pages. Those are the minor changes made to the Plan.**

**Once adopted on Monday night, this Plan will become official and the Council will move forward with adopting a Bond Ordinance for Redevelopment and also to introduce an Ordinance for the Financial Agreement between the Borough and the designated Redeveloper.**

**Vice Chairman Graceffo stated we had a lot of discussion at the last meeting and Mountain Lakes Drive right now is considered privately owned and is not owned by the Borough. Is that correct?**

**Mr. Carroll answered, right now, that is correct.**

**Vice Chairman Graceffo questioned, once this Ordinance is passed, who owns that road?**

**Mr. Carroll stated, through this process, the Borough will make this an official Borough Right Of Way.**

**Chairman Foulon questioned does this process provide the proper improvements to turn it over to the Borough?**

**Mr. Carroll stated yes it does. The sewer lines, gas lines and water lines will all be built to RSIS Standards. Part of the plan is to extend the sewer lines where necessary on Linda Road. The sewer laterals are already in place on Mountain Lakes Drive. I have been talking with the Redeveloper to pave the road sooner, rather than later. However, there is a lot of work that needs to be done with regards to the demolition of the buildings and the construction and we don't want to pave the road and have it chopped up. Moving forward, the Redeveloper, who has already been up on site and has met with myself and the water department people, will be doing some investigations, test holes and is planning on televising the sewer lines to verify that they are all still intact. Everything is moving along and we anticipate having this wrapped up by September 1<sup>st</sup>.**

**Chairman Foulon stated he has heard that the Redeveloper is a little skeptical now because he is afraid that some of the residents in the area might sue him, and might withdraw the application. Do we have an application?**

**Mr. Carroll answered we have the Redeveloper's attorney here that can speak to this more fully. We do have a Letter of Intent from the Redeveloper and every discussion that I have had with him up until last week is that everything is moving forward.**

**Chairman Foulon stated, what he doesn't like is that, if this Redeveloper pulls out, then where are we with the Ordinance and do we have to redesign another plan for another redeveloper?**

**Mr. Carroll stated this is the Redeveloper that we have before us and have worked many, many hours with him to get to this point, and he has worked many hours with the current property owner. We are at the point where, with the approval of the Ordinance, the Council introducing the two Ordinances in July, and adopting them in August, we will have done everything on the Borough side and, doing this in concert with the Redeveloper, he will then be able to go to the property owner and close on the property.**

**Doug Harris, Attorney for the Redeveloper, Greentree Development Group:**

Allaying any concerns the Board may have, my client absolutely wants to move forward with this project. We have spent a lot of time and money doing our due diligence working with the current property owner and the Borough to move this forward. Where our concerns stem from are from the comments that we heard from the public as to the condition of Mountain Lakes Drive, Linda Drive and the public's understanding of what we are trying to do and whether or not that is something they want to see happen. We understand that there is a history here between the Borough and the current property owner that we can't do anything to address other than purchase the property and develop it. The remainder property, the dam and the 128 single homes and the rest, that were previously approved a generation ago, is something that we are not going to speak to or really address, other than saying that the 47 townhouses that we are under contract for is something that we very much want to move forward with and develop. Hopefully, this will remove the residents' issues with what is happening on site. What is happening off site and Mountain Lakes Estates is a separate discussion.

Councilman Cortellessa, reading No. 4 on page 8 of the Plan, "Project Plans for the pertinent Redevelopment Project(s) shall be reviewed by the Planning Board but shall not be subject to additional site plan approval to the extent that the prior site plan approvals are in full force and effect." Is it just review, no approval by the Planning Board?

Attorney Harris stated he believes he can answer this, but the question is really more for Mr. Benecke. As I understand it, there is a site plan approval in place that we intend to build from. That site plan approval is a little bit out of date with the DEP permitting, meaning that some of the setbacks and stream encroachment, or the like, needs to be modified but the footprint of the units does not change. The basic intent is to follow the approved site plan. There may be some design waivers that would bring your approved site plan into compliance with the DEP's permitting. We will be before you with that design waiver since it really is not an amended site plan.

Attorney Veltri stated this is the difficulty when I looked at it. The two areas that I marked up were the paragraph that the Councilman just mentioned and on page 16, paragraph K.1 where again it just says the Project Plan will be reviewed by the Planning Board. The problem that I have with the word "review", and it is really up to the Board, but I am pointing it out to the Board, since normally when a site plan like this comes before the Board we review a project and we do more than review. We also want to be on the approval end. If the Board doesn't want to be on the approval end, then that is fine and leave it the way it is. I think that is what we do here; we don't only review a plan, because we can review it and someone else can say that is great but we are going to do what we want, good bye; we also approve plans. I think the word "approval" needs to be added. The other thing I want to be sure about, in the paragraph that the Councilman mentioned, yes we know there is a prior approval, but if that approval changes to any extent, you don't want a site plan review? If you do want a site plan review, that paragraph has to be changed or we have to recommend the change. When reviewing this Plan, those two items are what jumped out at me, but it really is up to the Board in terms of what type of control they want on redevelopment application.

**Mr. Carroll stated his understanding from Mr. Benecke is because of the Highlands issues and DEP issues the Redeveloper will come back to you for the review of the architectural and the appearance. The footprint is not changing other than a couple of buildings that are being required by DEP. Using the term, amended site plan, kicks up a significant number of red flags both with the DEP and the Highlands. That is why the footprint of the buildings cannot change except where DEP is requiring them and that are the buildings that backup to the pond.**

**Attorney Veltri stated he has no problem with that and I understand that. The problem I have is the way this is worded, because what it says “shall not be subject to additional site plan approval”, which basically tells this Board we are done.**

**Mr. Carroll stated this site is being governed by the approvals that were given by the Board in the Developers Agreement that was signed in 1999 or 2000.**

**Attorney Veltri is suggesting that we can leave “shall not be subject to additional site plan approval unless said prior site plan approval is modified”. If it is modified, then we want to review it and approve it.**

**Mr. Carroll agreed and commented I think that goes without saying.**

**Attorney Veltri stated but that is not the way it reads.**

**Attorney Harris would like the wording clarified in order to make sure we don't have any DEP issues.**

**Attorney Veltri stated the way it reads now on page 8, paragraph, 4 is it says “Project Plans for the pertinent Redevelopment Project(s) shall be reviewed”, and we are suggesting it reads, reviewed and approved by the Planning Board.**

**Attorney Harris questioned can it say reviewed and “accepted” by the Planning Board, since the word approved leads to approval of an amended site plan?**

**Attorney Veltri stated no it is approving your Project Plans because it says “Project Plans for the Redevelopment Project(s) shall be reviewed {and approved} by the Planning Board, “but shall not be subject to additional site plan approval” (and we agree with that). The part that I don't agree to is with the “prior site plan approvals are in full force and effect”. Yes, but what if you change them? That is why I want to change the paragraph “shall not be subject to additional site plan approval” and add unless the prior site plan approvals have been modified.**

**Attorney Harris stated if I built something other than what was already approved, I would have to come back before the Board for approval, but I would also have to go to the DEP for approval and Highlands for approval. So I am not going to change it.**

**Attorney Veltri stated than don't change it.**

**Attorney Harris stated they are going to make minor modifications or deviations as required by the DEP.**

**Attorney Veltri stated that is okay because if you come in for a deviation this agreement says we have jurisdiction to review and approve and I am okay with that. I am not okay with everything else because what is going to happen with this type of approval if we don't like what you are doing and you don't like what we are telling you, then we are going to end up in court arguing about these two paragraphs. That is what is going to happen. It is okay if the Board says knowing tonight that we don't care if we have approval authority,**

we will just review and leave it to the Redeveloper and the Mayor & Council. That is fine with me and at least we read it.

Attorney Harris stated you already had approval power back when the site plan was approved other than the deviations that are required by the DEP in order to build that site plan we want to build.

Attorney Veltri stated you can have it; just don't change what we approved, except for the deviations.

Attorney Harris believes we are saying the same thing, but we are trying to word it correctly.

Attorney Veltri stated what is going to happen is we are going to end up in court and ultimately the first argument by the Redeveloper is him saying they had no jurisdiction anyway. Says right here it was only for review and not approval so I don't know why we are here. That is the argument I would make. That along with the K. provision on page 16, which again says just review and doesn't say anything about approval. Again, they are minor changes, but it is not up to me since I am not a voting member. However, this is the way it reads and the Board now has to tell us how they want it to read.

Mayor Mahler stated I believe it has to say approval because what if your client backs out and we are then stuck with the current owner.

Attorney Harris stated, if we back out, the current owner does not step into our shoes as a Redeveloper. The Redeveloper is Greentree period. If we disappear there is no successor in interest to the Redeveloper. You would have to designate another redeveloper; it wouldn't go to the current property owner, as far as I understand the redevelopment law. I understand your concerns and I am okay with them. What I don't want to have happen is that we do this and we go before this Board and then deviations are not approved and then where are we?

Attorney Veltri stated the deviations are going to be scrutinized in accordance with the terms of the agreement anyway. There is a paragraph regarding deviations and tells you what your proofs are. Ultimately, we don't know what the deviations are going to be and you have in this agreement your blueprint in terms of what you have to show the Board, if you want to deviate. If you deviate, and they don't like the deviation, then they are not going to approve it. If they think the deviation is reasonable, then they will approve it.

Attorney Harris stated the deviations don't address any concerns the Redeveloper has; they address DEP concerns. Basically, they make the project buildable. It is not a Greentree decision; we are not making the lots bigger, we are not changing the design. We are only satisfying DEP permitting concerns to allow the project to be built.

Attorney Veltri stated the deviation paragraph is on page 14, paragraph D., and it really speaks for itself in terms of what needs to be done, which is the other reason why I think the word "approval" has to be put in those two paragraphs that we are talking about because it really doesn't make sense to give us powers to grant deviations, but not approve the Project Plan.

Attorney Harris stated he agrees and understands what is being said. I believe Mr. Benecke will answer this better, but my concern is that this redevelopment plan will then be adopted, which will trigger an issue with Highlands or DEP, by accepting another "approval" by this Board that then triggers the release of the site plan approval that they have accepted. That is my only concern. I have no issues whatsoever with coming back

before this Board with the deviations or with the site plan and saying this is what we are doing and give us your approval. What I am concern with is what that would mean?

Mr. Carroll spoke to Mr. Benecke and “review and approve” is not a problem. The concern with the redevelopment is to how things work and I just wanted to double check. Attorney Veltri believes we are all speaking the same language and I didn’t think he would have a problem. Hopefully, we are all going to be in the same room again when the application is presented and there won’t be any conflicts.

Vice Chairman Graceffo believes the two paragraphs are conflicting. In one breath you are saying this is a site plan, no changes, but then if there is a deviation, you have the right to review and approve. In two different sections you got one saying the site plan has to be approved as is and on another page you have any deviation needs to be reviewed.

Mayor Mahler understands the only thing we are going to get from the Redeveloper is just a redesign of the buildings on the same footprint, and it is up to us to agree to like the new design or not.

Vice Chairman Graceffo commented that we are not looking at the size of the building, the square footage, setbacks, or any other those items, just the aesthetics.

The new wording for page 8, 4. Use And Bulk Regulations:

4) Project Plans for the pertinent Redevelopment Project(s) shall be reviewed and approved by the Planning Board but shall not be subject to additional site plan approval unless the prior site plan has been substantially changed other than for deviation requests as set forth in 8D. on page 14 of the Agreement, to the extent the prior site plan approvals are in full force and effect.

The new wording for page 16, subparagraph K. paragraph 1):

The last sentence in K. 1) shall now read:

This shall be accomplished by and through the submission of a Project Plan for review and approval by the Wanaque Planning Board.

All were in agreement with these changes.

**MOTION TO OPEN THE PUBLIC DISCUSSION: made by Vice Chairman Graceffo, seconded by Councilman Cortellessa. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellessa, Members Platt, Spear, Ryan and Slater.**

Chairman Foulon opened the meeting to the public and anyone in the audience wishing to address the Planning Board on this Ordinance, and only this Ordinance, please step forward and state your name and address.

Let the record show no one came forward.

**MOTION TO CLOSE THE PUBLIC DISCUSSION: made by Councilman Cortellessa, seconded by Vice Chairman Graceffo. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellessa, Members Platt, Spear, Ryan and Slater.**

**MOTION TO APPROVE AND FORWARD TO THE MAYOR & COUNCIL OUR APPROVAL OF ORDINANCE #15-0-16 AS AMENDED AT THIS MEETING: made by Member Ryan, seconded by Member Vice Chairman Graceffo. Voting yes were Chairman Foulon, Vice Chairman Graceffo, Mayor Mahler, Councilman Cortellessa, Members Platt, Spear, Ryan and Slater. Motion Carried**

**MOTION TO ADJOURN AT 7:35 P.M.: Motion made by Member Slater, seconded by Vice Chairman Graceffo and carried by a voice vote.**

---

**Jennifer A. Fiorito  
Planning Board Secretary**