



**MILLSTONE TOWNSHIP PLANNING BOARD
MINUTES
March 13, 2024**

The Millstone Township Planning Board regular meeting was called to order by Chairman Newman on Wednesday, March 13, 2024 7:30 p.m. at the Municipal Meeting Room, 215 Millstone Road, Millstone Township, NJ 08535. Notice of this meeting was provided in accordance with the Open Public Meetings Law.

Ms. Sims read the Open Public Meetings Act Statement.

There was a salute to the Flag.

Roll call for the below members was called:

Present: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Beck, Mr. Lambros, Mr. Pepe and Ms. Sinha.

Absent: Mr. Kotby, Mr. Parrino and 1 vacant seat (Alt. II).

Attending: Michael Steib, Esq., Board Attorney; Matt Shafai, PE, PP, Board Engineer; McKinley Mertz, AICP, PP, Board Planner; Angela Buonantuono, Board Court Reporter; Danielle B. Sims, Board Secretary.

PUBLIC COMMENTS:

Chairman Newman opened the meeting up to members of the public for comments on matters not before the Board.

Mayor Al Ferro appeared and thanked the Board members for their continued service to the Township.

With no other members of the public coming forward, Chairman Newman closed the public comments session.

MINUTES:

Minutes from February 22, 2024

Chairman Newman asked the Board if they had any comments on the minutes that were prepared. With no comments from the Board, Mr. Pado made a motion to adopt the Minutes from the February 22, 2024 Planning Board Meeting, which was seconded by C/W Zabroski. The Minutes were adopted on a roll call vote: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Beck, Mr. Lambros and Mr. Pepe.

RESOLUTION(S):

37 Burnt Tavern, LLC

Block 57, Lot 17.04 (Consolidated Lots 17.02 & 17.03) – 37 & 41 Burnt Tavern Road

Approval of Modification of Conditions of Preliminary Major Site Plan Application # P21-16-A

Chairman Newman made a motion to memorialize the resolution of approval to modify the conditions of the approval; which was seconded by Mr. Pado, and on a roll call vote, this resolution was adopted with the following in favor: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Beck and Mr. Pepe; those against: Mr. Lambros. Approved, 6-1.



APPLICATION(S) BEFORE THE BOARD:

REQUEST TO RECONSIDER AND REOPEN THE APPLICATION

Hexa Builders, LLC

Block 9, Lot 7 – 711 Perrineville Road

Final Major Site Plan Application # P21-05

Proposal to develop a 36.5-acre property in the R-MF (Multi-Family) Zoning District with 122 market-rate townhouses across 16 buildings and 48 affordable units within two three-story apartment buildings with associated site improvements. Preliminary Site Plan Approval was granted on 1/11/23. On January 19, 2024, the Planning Board voted (8-0) to deny the application, the resolution was not yet adopted. The applicant has submitted a request to reconsider and reopen the application to allow the applicant to proceed to address the conditions of the preliminary site plan approval and return to the Board for a continued hearing for final site plan approval at a future date. An extension of time to adopt the resolution of denial is granted while the Board considers the request for reconsideration.

Attorney Steib indicated this was heard in January 2024 and the Board did not feel comfortable with acting on the application with the numerous outstanding conditions of preliminary approval. At the hearing, the applicant had requested that the Board come to a vote and determined they could not approve the final application with all of the outstanding items. The applicant has since requested that the Board reconsider adopting the resolution of denial and instead give them an opportunity to address the conditions of the preliminary approval and to reopen the application. The applicant would have to represent the application at a later date.

The applicant would agree to an extension of time to act through a time that the applicant has determined that they are ready to re-appear before the Board.

Attorney Steib reviewed the effect of a positive and a negative vote on the request.

Chairman Newman made a motion to reopen the matter so that the applicant can address the preliminary approval conditions and allow the applicant to come back to the Board, with an extension of time to act on the application for Final Approval. This motion was seconded by Mr. Ziner. On a roll call vote in favor: Chairman Newman, Vice-Chairman Pado, C/M Ziner, C/W Zabrosky, Mr. Beck, Mr. Lambros and Ms. Sinha; those against: Mr. Pepe. Approved, 7-1.

JLE, LLC

Block 20, Lot 3.13 – 5300 State Highway 33

Preliminary and Final Major Site Plan Application # P21-03

Proposal to demolish the existing retail golf facility and construct a 282,252 s.f. warehouse/office building with four (4) separate office spaces in the corners (2,400 s.f. per office = 9,600 s.f. office total), 96 loading bays, four (4) loading ramps and four (4) compactor bays, with associated site improvements on an approximately 43-acre property in the PCD Zoning District. Variance relief is required. The Board took jurisdiction on 10/12/22 and carried to 11/9/22, and 12/14/22, but adjourned. Applicant re-noticed for 4/12/23, carried to 5/10/23, 7/12/23, 8/9/23, 10/11/23, 11/8/23 and 12/13/23 without further notice. New notice for 2/22/24, carried to 3/13/24 without further notice. Extension of Time to Act through 4/30/24.

Kenneth Pape, Esq. appeared on behalf of the applicant.

Board Attorney Steib noted that the Board carried this application from the February 22, 2024 Planning Board meeting without any further notice and the Board maintains jurisdiction.



Attorney Steib reviewed the additional exhibits that were submitted since the last hearing and read them into the record:

APPLICANT'S EXHIBITS	
A-1	Jurisdictional Notice (Proof of Service) for 10-12-22
A-1a	Jurisdictional Notice (Proof of Service) for 4-12-23
A-1b	Jurisdictional Notice (Proof of Service) for 2-22-24
A-2	Application, Checklists and Administrative Forms
A-3	Correspondence
A-4	Outside Agency Approvals
A-5	Extensions of Time to Act by 7/31/22, 8/30/22, 9/30/22 & 10/31/22
A-6	Deeds and Easements
A-7	Will Serve confirmations
A-8	Fiscal Impact Report, prepared by Art Bernard & Assoc., LLC, dated 10/26/21
A-9	Threatened and Endangered Species Report, prepared by DuBois & Associates, dated November 2021
A-10	Traffic Impact Analysis, prepared by McDonough & Rea Associates, Inc, dated 7/27/21
A-11	Statement of Environmental Impact & Assessment, prepared by MidAtlantic Engineering Partners, dated 7/22/21
A-12	Groundwater Mounding Report, prepared by MidAtlantic Engineering Partners, dated 4/15/21
A-13	Operation & Maintenance Manual, prepared by MidAtlantic Engineering Partners, dated 4/18/22
A-14	Stormwater Management Report, prepared by MidAtlantic Engineering Partners, revised 4/18/22
A-15	Limited Site Investigation Letter Report, prepared by MidAtlantic Engineering Partners, dated 11/4/21
A-16	Preliminary Assessment/Phase I Environmental, prepared by MidAtlantic Engineering Partners, dated 10/14/21
A-17	Truck Turning Plan prepared by MidAtlantic Engineering Partners, revised 7/22/21
A-18	Architectural Plans prepared by Perez + Rodasti Assoc., 2 sheets, dated 9/8/21
A-19	Aerial Image, prepared by MidAtlantic Engineering Partners, dated 7/22/21
A-20	Earthworks Plan, prepared by MidAtlantic Engineering Partners, dtd 7/22/21
A-21	Site Plan, prepared by MidAtlantic Engineering Partners, 28 sheets, dated 7/22/21
A-22	Response Memos to Bd. Eng., Bd. Planner & Shade Tree, prepared by MidAtlantic Engineering Partners, dated 7/25/22
A-23	Tree Survey Plan, prepared by MidAtlantic Engineering Partners, 1 sheet, dated 4/21/22
A-24	Earthworks Plan, prepared by MidAtlantic, one sheet, revised 7/25/22
A-25	Site Plan, prepared by MidAtlantic Engineering Partners, 29 sheets, revised 7-25-22
A-26	Notice of Application for Flood Hazard Area and FWW, prepared by MidAtlantic, dated 8/26/22
A-27	Request to adjourn & Extension of Time to Act through 12/30/22
A-28	Extension of Time to Act through 12/31/22 and 1/30/23
A-29	Existing Site Aerial Image dated 10/12/22
A-30	Site Rendering dated 10/12/22
A-31	50-scale site rendering dated 10/12/22
A-32	Site Rendering – Basin Locations (stormwater) dated 10/12/22
A-33	NJ-33 Cross Section dated 12/14/22
A-34	Arrowhead Way Cross-Section dated 12/14/22

*Certified reviewed the recording/transcript and reviewed the Exhibits and is eligible to vote



A-35	Turning Template Plan, 3 sheets, prepared by MidAtlantic, dated 7/22/21
A-36	JLE Site Plan revised 8/25/22
A-37	Extension of Time to Act through 2/28/2023
A-38	Request to adjourn 1/11/23 hearing to 2/8/23, K.Pape, Esq.
A-39	Response Memo, prepared by MidAtlantic, dated 3/22/23 and Transmittal prepared by K. Pape, dated 3/23/23
A-40	Traffic Impact Analysis, prepared by McDonough & Rea, 1 page, dated 3/14/23
A-41	Groundwater Mounding Report, prepared by MidAtlantic, rvsd 3/21/23
A-42	Stormwater Management Report, prepared by MidAtlantic, rvsd. 3/21/23
A-43	Site Plan, 28 sheets, prepared by MidAtlantic, rvsd. 3/21/23
A-44	Email 2/2/23 from K.Pape, Extension of Time to Act through 4/30/23
A-45	Architectural Floor Plans, Elevations and Monument Sign Detail, prepared by Perez + Rodasti, two (2) sheets, dated 3/30/23
A-46	Renderings of proposed view from Rt. 33 (pg. 1) and rear (page 2)
A-47	Rendered Site Plan dated 4/6/23
A-48	Acoustic Exhibit – With Barrier for 4/12/23
A-49	Acoustic Exhibit – No Barrier for 4/12/23
A-50	Email 4/13/23 - Extension of Time to Act through 6/30/2023
A-51	Freehold Soil Conservation District review revisions dated 4/17/23
A-52	Cross Section View – Arrowhead Way, rcvd. 5/10/23
A-53	Cross Section View – Indian Path, rcvd 5/10/23
A-54	Cross Section Key for Indian Path, prepared by MidAtlantic, dated 5/10/23
A-55	Acoustic Exhibit – 12' Modified Barrier Configuration for 5/10/23
A-56	Email 4/13/23 - Extension of Time to Act through 6/30/2023
A-57	Typical Sounds Chart, prepared by Russell Acoustics, LLC, undated
A-58	FSCD Certification dated 5/5/23
A-59	FSCD Notice NJPDES Permit Required dated 5/5/23
A-60	Transmittal for Threatened & Endangered Species Report, prepared by K. Pape, dated 6/14/23
A-61	Threatened & Endangered Species Report, DuBois Environmental, rvsd 6-9/23
A-62	Email 6/5/23 – Request to Carry/Extension of Time to Act through 8/31/2023
A-63	DRCC Review – Request for Adtl Info. Dated 7/6/23
A-64	Response Memo, prepared by MidAtlantic, dated 7-12-23
A-65	Dam Operations & Maintenance Manual, prepared by MidAtlantic, dtd. 7/12/23
A-66	Earthworks Plan, prepared by MidAtlantic, one sheet, revised 6/14/23
A-67	Site Plan, 28 sheets, prepared by MidAtlantic, rvsd. 7/12/23
A-68	Overall Site Rendering, 1 sheet, prepared by MidAtlantic, dated 8/3/23
A-69	Email 8/10/23 – Extension of Time to Act through 11/1/23
A-70	DRCC Report 8/29/23
A-71	Response Memo, prepared by MidAtlantic, dated 9/26/23
A-72	Sound Attenuation Plan, prepared by Russell Acoustics, rvsd. 9/18/23
A-73	Stormwater Management Report, prepared by MidAtlantic, rvsd. 9/18/23
A-74	Site Plan, 28 sheets, prepared by MidAtlantic, rvsd. 9/18/23
A-75	Overall Site Rendering, 1 sheet, prepared by MidAtlantic, dated 8/3/23
A-76	Building Exterior Sample Board, prepared by Perez + Rodasti, rcvd 10/11/23
A-77	Email 10/12/23 – Extension of Time to Act through 12/31/23
A-78	Extension of Time to Act through 2/29/24
A-79	Berm & Sound Barrier Exhibit, one (1) sheet, prepared by MidAtlantic Engineering Partners, dated 2/9/24
A-80	AIL Sound Wall Product Guide
A-81	Acoustical Analysis Executive Summary, prepared by Ostergaard Acoustical Associates, dated 2/23/24
A-82	Extension of Time to Act through 3/31/24

*Certified reviewed the recording/transcript and reviewed the Exhibits and is eligible to vote



A-83	Berm & Sound Barrier Exhibit, one (1) sheet, prepared by MidAtlantic Engineering Partners, dated 3/13/24
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BOARD'S EXHIBITS	
PB-1	Completeness Determination dated 10/20/21
PB-2(a)	Engineer's Review dated 6/14/22
PB-2(b)	Engineer's Review dated 4/4/23
PB-2(c)	Engineer's Review dated 10/6/23
PB-3(a)	Planner's Review dated 6/15/22
PB-3(b)	Planner's Review dated 8/17/22
PB-3(c)	Planner's Review dated 4/4/23
PB-3(d)	Planner's Review dated 10/10/23
PB-3(e)	Planner's Review dated 3/6/23
PB-4(a)	Environmental Commission review dated 12/5/21
PB-4(b)	Environmental Commission review dated 9/13/22
PB-4(c)	Environmental Commission review dated 4/4/23
PB-4(d)	Environmental Commission review dated 6/20/23
PB-4(e)	Environmental Commission review dated 10/5/23
PB-5(a)	Shade Tree review dated 5/20/22
PB-5(b)	Shade Tree review dated 8/16/22
PB-5(c)	Shade Tree review dated 4/28/23
PB-5(d)	Shade Tree review dated 8/16/23
PB-5(e)	Shade Tree review dated 10/18/23
PB-6	Fire Official review dated 8/5/22
PB-6b	Fire Official review dated 3/29/23
PB-7	Tax Assessor's review dated 11/1/22 WITHDRAWN
PB-8	Acoustic Engineer's review dated 11/16/23
PB-8(b)	Acoustic Engineer's review dated 3/4/24

The following witnesses were sworn in or remained under oath:

- Matt Shafai, PE, PP – Board Engineer
- McKinley Mertz, PP, AICP – Board Planner
- Matthew Murello, PE – Board Sound Engineer
- Luis Zuegner, PE – Applicant's Engineer
- Benjamin Mueller – Sound Engineer (replacing Norman Dotti)
- Jay Troutman, PE – Applicant's Traffic Engineer (did not testify)
- Dr. Raymond Walker – Environmental Specialist (did not testify)
- Steve Rodasti – Applicant's Architect (did not testify)
- Alison Coffin – Applicant's Planner (did not testify)
- Ming Kong, Applicant (did not testify)

Mr. Ken Pape explained that prior to the last expected hearing, the applicant was made aware that their sound expert had let their engineer's license lapse and was not longer an engineer in good standing. They have since engaged a new sound expert, who has prepared a report and exhibits.

Mr. Pape introduced Mr. Kong, the owner of the property, stating that he appeared before the Zoning Board for a use variance to open the golf course in 1997. Mr. Kong is the contract purchaser of the two homes that the Board was concerned about. He is committed to purchasing the homes that are located in the HC (highway commercial) zone, and would demolish the non-conforming use. These lots are not a part of this application; however, he wanted to point out that they are committed to purchasing the homes. The Board cannot consider this as they are not part of the application and cannot impose conditions on property not part of an application.

*Certified reviewed the recording/transcript and reviewed the Exhibits and is eligible to vote



Mr. Louis Zuegner, engineer to the applicant, appeared and is still under oath. Mr. Zuegner introduced new Exhibit A-83, a revised Berm and Sound Barrier display and described the proposed sound walls shown on plan. They would be neutral in color and can be textured. He explained that they will have landscaping in front of them, including Halka type 10'-16' evergreens. There are substantial berms proposed along the residential areas to the northwest corner. The boarding house will be buffered by the proposed sound walls.

Chairman Newman opened this witness to the public.

Mr. Brian Scott of 19 Arrowhead Way appeared and was sworn in. He was not sure that the Board accepted the applicant meeting the sound requirements on Arrowhead Way. He asked if there will be a sound wall abutting the residential area near Arrowhead Way. Mr. Pape stated that there is no sound wall proposed in this area, the sound buffering is proposed to use berming and landscaping. Mr. Scott asked of the current wood line along the residential area on Arrowhead Way. Mr. Pape stated that whatever is currently there, will be removed in order to build the new proposed berms. They are not able to touch any trees on property owned by others. Mr. Scott stated that the trees are very scarce and asked about the proposed plantings. Mr. Zuegner noted that the proposed berms in this area will be approximately 15' in height with plantings on top of it. Mr. Scott is concerned that the plantings will not be substantial enough. He confirmed that the two houses currently on Dugan's Corner Rd. remain residential

Mr. Anthony Cipriano of 21 Arrowhead Way appeared and was sworn in. He asked about what he would see from his property, immediately adjacent to the lot. Mr. Pape offered to supplement the plantings on Mr. Cipriano's property and has committed to do so. He suggested that they can work out any details with the Board's professionals.

Mr. Mike Oliu of 7 Indian Path appeared and was sworn in. He asked if there was consideration given in regards to the sound effects on Indian Hill Rd. He stated that he hears Route 33 constantly from his home.

Mr. Lambros inquired if the height of the walls would be taller than the proposed building. The Board inquired about the wind loads of the wall. Mr. Zuegner stated it would depend on the height of the wall. Mr. Zuegner stated that the proposed sound walls are similar to a fence, about 10" thick and made out of a composite material.

Planner Mertz stated that she would treat this more of an accessory structure, which is permitted to be 16' in height. Accessory structures are required to be 15' from lot lines, so the applicant would need a variance for the proposed 10' setback. Engineer Shafai confirmed that the height is measured from the existing ground height, not the proposed ground height.

Matthew Murello, PE, was sworn in. He was hired by the Board as a licensed professional engineer in the field of acoustics for 31 years. The Board accepted his credentials as a licensed professional in the field of acoustical engineering. He suggested that the applicant prepare an updated cut-sheet with the new berm height and sound walls.

Mr. Zuegner stated there is an 8' section of a fence in the front yard. Planner Mertz stated that they are treating the area in the front, which is 8' in height, as a "fence" and would require a variance for the 8' fence height in this front yard area.

Vice-Chairman Pado stated that he has experienced sound coming from these types of "sound walls." Mr. Murello stated while he has not used this particular product, he has recommended similar products in the past. A wall with holes would allow sound to pass through the holes and not be as effective as a solid wall.



Mr. Benjamin Mueller was sworn in and provided his credentials as a licensed professional engineer and accepted his credentials. He confirmed that everything that he has reviewed and all findings are of his own and did not use the findings of the applicant's previous witness.

Mr. Mueller explained how the sound levels are measured and what the levels mean. The Board inquired how outside effects may change the sound levels, such as wind and weather. Mr. Mueller explained that there are standards that they would have to meet. The DEP has guidelines for enforcement for sound levels. The noise code is put into place as a result of a complaint. What they are doing tonight is looking at "prospective compliance". The Board inquired about the additional noise during construction. Construction is limited to the allowable daytime hours and some towns further restrict weekend hours.

Mr. Murello suggested that it may be a good idea to conduct an existing sound test to evaluate what the current sound levels are around the site. Mr. Mueller reminded the Board that he would be measuring the levels of a vacant property. This may help the Board have a relevance of numbers.

C/W Ziner is concerned that many of the area on the model plan are very near the 50 db(a)'s. Mr. Mueller stated that there are potential remediation measures they can use, but he is very confident in his models. He has used maximum levels to prepare his models. Sound is logarithmic, he stated. The day code is a substantial change, 15 db(a)'s, from the nighttime noise codes.

Mr. Mueller reviewed the findings of his report, Exhibit A-81. The Driving Truck Sound Emissions model contained in the report takes into account the noise source of the moving trucks. Elements may have an effect on the propagation of sound, but not with the distances of the proposed site. There is no ambient outside noise included in the models, only from the proposed site. He explained that the truck traffic entering and exiting the site would be similar to the permitted traffic existing along State Hwy. 33.

The Board took a five-minute recess.

Upon returned into session, Mr. Mueller continued his explanation of the models in his report, Exhibit A-81, which included all the variables. Mr. Murello reviewed his findings with the Board. He believes the proposed noise is a comparable noise to that of State Highway 33. Mr. Mueller reviewed the different types of backup alarms.

Mr. Murello explained that at some point a sound wall at greater height would not become any more effective. He recommends that a post construction evaluation be done at both the property lines and at the structures. Mr. Mueller said they would find value in getting an ambient sound evaluation to determine the baseline of noise. Once the barriers are up and the berms are built, if the applicant is in violation of the sound, they may need to revised the business or other remediation. In his experience, a planted berm offers more of a sound barrier than a sound wall. Chairman Newman suggested that the applicant's sound consultant work with the Board's consultant to come up with means to address any violation of the noise regulations. Mr. Pape suggested that an adjustment of operations is what they would adjust if they need to address any violation of noise.

Mr. Mueller indicated that this may be a good time to pause. The Board took note of the time and acknowledged that due to the late hour, it may be a good time to wrap up the current discussion. Chairman Newman opened the witness to the public for the purpose of asking questions that may be evaluated and responses provided at a subsequent meeting.

Anthony Cipriano, 21 Arrowhead Way, still under oath, appeared. He asked why the applicant has not proposed a smaller footprint to not require variance relief and then they may be able to exceed the standard instead of just "meeting" the standards.



Mike Aliu of 7 Indian Path, still under oath, appeared. He asked what the penalty would be if the applicant is not meeting the sound standards. It would need to be reported to the Code Enforcement Officer.

Brian Scott of 19 Arrowhead Way, still under oath, appeared. He inquired if the db(a) levels were measured at the property lines or the house. He would like to know what time do they evaluate day vs. night. He also asked what level db(a) is a backup alarm.

There were no other members of the public that came forward and Chairman Newman closed the public questions of this witness for the night. The public will have another opportunity to speak at the continued hearing.

Due to the lateness of the evening, the Board offered to continue this matter at a later date. The applicant was not available for the April Planning Board meeting. Attorney Steib announced that the matter would be carried without any further notice to the May 8, 2024 Planning Board meeting at 7:30 pm to be held in the same location.

NEW/OLD BUSINESS:

None.

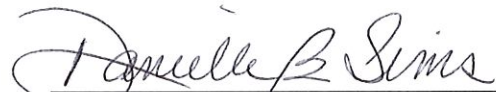
BOARD DISCUSSION/CORRESPONDENCE:

None.

Executive ADJOURNMENT:

With no further business and with all in favor, Chairman Newman closed the meeting.

Respectfully submitted,


Danielle B. Sims, Board Secretary