

**MONTGOMERY TOWNSHIP PLANNING BOARD  
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY  
REGULAR MEETING  
MARCH 18, 2013**

Chairman Some called the meeting to order at 7:30 p.m. and read the opening statement that adequate notice of the meeting had been posted and sent to the officially designated newspapers.

**BOARD MEMBERS PRESENT:** Chairman Some; Vice Chairman Matthews; Mr. Conforti; Ms. Davis; Ms. Dyer; Mayor Trzaska; Mr. Wilson; Mr. DeRochi, Alternate #2; Mr. Madrid, Advisor

**ALSO PRESENT:** Francis P. Linnus, Esq., Board Attorney; Jason Cline, Board Engineer; Ms. Coppola, Board Planner; Mr. Bartolone, Board Landscape Architect; Ms. Savron, Secretary

**I. PUBLIC COMMENT – 5 MINUTES PER PERSON**

Jessie Havens, Ludlow Avenue, appeared on behalf of Heritage Trail Somerset County Culture and Heritage Commission and Preservation New Jersey. Ms. Havens invited the Board to attend the Historic Preservation Conference on Saturday April 27, 2013. The conference is to give the Board a chance to learn about what is new in historic preservation.

Vice Chairman Matthews felt it was appropriate to start the meetings with a salute to the flag. The Board voted unanimously to start the meetings with a salute to the flag. Mr. Wilson will bring it up at the Zoning Board meeting.

**II. RESOLUTIONS**

**Case PB-01-13                                    Applicant: East Country Development Associates**  
Block 16002 Lot 9  
Amended Preliminary and Final Major Subdivision

A motion to memorialize the resolution was made by Mayor Trzaska, which was seconded by Mr. Conforti. This was carried on the following roll call vote:

Ayes: Conforti, Davis, DeRochi, Dyer, Trzaska and Wilson  
Nays: None

**III. APPLICATIONS**

**Case PB-09-12                                    Applicant: JER/Herring Orchard, LLC**  
Block 28001 Lot 5.01  
Preliminary and Final Major Subdivision and Site Plan  
Expiration Date – 6/30/13  
Affidavit of Notification and Publication Required

Notice was found to be in order. Richard Schatzman, Esquire, Michael Ford, PE and Michael Donovan, AIA represented the applicant.

Mr. Schatzman gave an overview of the ordinance for this district, the affordable housing agreement and the latest COAH regulations. The applicant is requesting approval for 152 residential units; 112 market and 40 affordable. Each of the townhouses will be on a fee simple lot. The COAH are rental units. A waiver is being requested for the number of shade trees to be installed, a partial waiver from providing a sidewalk and whether the basin can be used as part of the compensation for the stream corridor. A temporary variance is needed to put parking of the model units across the street from the units. The applicant is dedicating the right-of-way for the Master Plan Road and will be installing a sign in that area to inform the potential homeowners of the road per the agreement with the Township Committee. The preliminary approval will be vested for a period of ten (10) years. The development as proposed follows the August 31, 2012 updated conceptual plan referenced in the ordinance designed for this project. A pathway system and tot lot will be provided as required by ordinance.

Michael Ford, Van Cleef Engineering, was sworn in. Mr. Ford referenced the sales map and gave an overview of the location of the site. He described the circulation and layout of the development. There is one access point to the development on Orchard Road. There are three (3) new roads servicing the townhouses and an access driveway to a parking lot for the two apartment buildings containing the 40 COAH units. There is an emergency access point from the end of the apartment parking lot to Orchard Road and a second emergency access from the apartment parking lot to the adjacent office parking access driveway. The internal roads through the townhouse portion of the project will be 24' wide and there will be no on street parallel parking on either side. There are designated areas for perpendicular parking provided along the roads. Title 39 jurisdiction will be provided. If importing or exporting of soil is required, the developer will come back to the Board for approval. The existing detention basin will be converted to a bio-retention basin. The stormwater management meets all the regulations of the Township, the Delaware Raritan Canal Commission (DRCC) and any other

governmental agency. The lighting has been reduced as requested by the Board professionals. There is lighting at intersections, at sharp bends in the road and in the apartment parking area and walkways. The lighting was eliminated in straight areas in front of townhouses where it was not necessary. The Homeowners Association (HOA) will own and maintain the lights but the Township will be responsible for paying for the lighting of the roads. The Township is not required to pay for lighting that the applicant wishes to put in above and beyond the Township standard or in the parking lot area. All the roads and infrastructure will be owned and maintained by the Homeowners Association. The project will be serviced by public water and sewer. The sewer plan includes an onsite pump station. The onsite pump station will pump sewage from this project to the existing force main on the project to the Tapestry at Montgomery project and eventually to the NPDC sewage treatment plant. The pump station and the sewage issues will be worked out with the Township Engineer. There is adequate parking for the project through the apartment parking lots, the perpendicular parking provided along the streets and as part of the townhouse units. Seventy-three (73) townhouse units will have two car garages and thirty-nine (39) will have single car garages. DEP approval and verification for the onsite wetlands, flood hazard area, stream corridor and steep slopes have been shown on the plans. There will be an intrusion into the Township stream corridor but there is no intrusion into the wetlands, wetland buffers, the flood plain with the exception of the force main that crosses Bedens Brook to get to the existing force main to the south. The DEP permits for the force main crossing have been obtained with regards to the environmental aspects. The applicant still needs the TWA for the overall sanitary sewer facilities. There are no hydric soils. The applicant is providing for a compensation area for the minor intrusions near where the pump station is being regraded at the rear of the units on the westerly portion of the property. A conservation easement around that stream corridor, excluding the detention basin will be provided. The area to the west of the lands in the northwest corner of the property to be dedicated to the Township for the Master Plan Road will be placed in a conservation easement. The townhouse units will have curbside pickup of garbage and recycling by an independent private hauler. The apartment complex has a trash enclosure centrally located between the two buildings in the parking area to be picked up by a private hauler. The applicant has worked with Mr. Bartolone on the landscaping plan. The overall open space on the site is 68% where 40% is required. Substantial buffers along the easterly boundary between the residential and office are being provided. Mr. Bartolone supports the waiver from providing 14 trees per gross tract area. A split rail fence will be installed immediately behind the units that back up to the detention basin to provide for an additional demarcation between the rear of the units and the slopes of the basin. There is a small retaining wall between the access driveway to the apartment parking lot and the first townhouse building to the south that will require a fence. A tot lot is proposed in the area between the two apartment buildings. The play structures have been made larger to fit in the space that is allocated for the tot lot. As part of the prior minor subdivision approval a sidewalk was required along Orchard Road from the main residential access road to the existing bus shelter on Route 206. Sidewalks are proposed along the internal roads, surrounding the apartment buildings and there will be a pedestrian pathway that extends into the conservation easement area along the Bedens Brook. At the point the pathway is outside the noncritical area it will become a hard pathway. The pathway in the conservation area will be a natural pathway marked by signage. The decks on the townhouses will extend from the building 10' and will be 12' long. All elements of the deck will be pressure treated and allowed to weather naturally. They will not be stained or painted. The details will be on the construction plan and in the HOA documents. The maintenance of the decks will be spelled out in the HOA documents. The Master Plan Road dedication will be part of Phase I of the development. The final plat was originally submitted with all the fee simple townhouses being filed at one time. There was lengthy discussion with the Township Staff and Site Plan/Subdivision Committee about the sequence of construction and the connection fees for the sewer. It was suggested that the final plats be broken up to correspond with the phasing that the applicant wished to pay the sewer fees. The improvements of the project will be phased in accordance with the Ordinance provisions. The road in Phase I would be improved in front of the units in Phase I and the section of the road in the other phases would not be fully improved but would be improved with an adequate access way for emergency vehicles. Each phase will be bonded separately. The affordable apartments are in Phase I. There will be models and a sales center. The model building is on the south side of the first side driveway. The applicant will comply with the ordinance except for the on street parking. There will be a temporary off street parking across the road from the models. The road is only 24' wide and will not accommodate on street parking. The temporary parking is located in the Phase 3 portion of the project. It will be removed when the models are no longer necessary when Phase III is developed. The lighting and landscaping of that area are included in the construction drawings. The sales center will be in the model unit.

Mr. Schatzman and Mr. Ford discussed the professional's memos. Each apartment unit will be assigned one parking space within the apartment parking area which will be appropriately marked. There is a unit proposed that has English basements. This unit is being proposed to ensure there will be dry basements. The apartment parking lot and the apartment building will be on separate lots for financing reasons and staging of construction of the two buildings. The apartment buildings will be owned by the same entity. The HOA documents will prohibit staining or painting of the decks (they will need to be sealed). The applicant will work with the utility companies to try to avoid having outside meters and other mechanicals located in the front yard. The monument sign will be lit by a ground mounted LED floodlight. There will be one light on each side of the

wall centered and focused on the sign face. The details of the landscaping bed around the sign and light will be provided. The lamp for the bollard lights is up in the cap. The DRCC requires a conservation easement along the DRCC stream corridor. The fence on top of the tiered wall will not be chain link. It will be board on board or PVC and must have slats less than 4" apart so someone can't get through. There will be landscaping on the outside of the fence. The pump station fence will be chain link. The model building will contain only three of the four townhouse unit types. The tot lot is supposed to be for the apartments but the applicant can't prohibit people from using it. The final plats will be revised to show that the conservation easement allows public access. The conservation easements and dedication of the Master Plan Road will be provided as part of Phase I. The applicant does not want to provide fencing in the rear of the townhouse units other than what is shown on the plan. The fence is not necessary in these areas and is a cost that is not necessary for an inclusionary development. Whether the lighting on the pump station will be on motion sensor will be decided by the Township Engineer. A separate block and lot will be provided for the dedication of the Master Plan Road. The proposed project is consistent with the terms and conditions of the existing easements. The easements between Mr. Tuschak, the prior owner of the property, and Squibb will be sent to Mr. Linnus for his review.

Vice Chairman Matthews said he wanted it on the record that the Planning Board was concerned that there is not enough recreation for the number of families in the development. Ms. Davis agreed. Ms. Coppola explained that past concept plans, the ordinance for this property and COAH dictate the amount of recreation that is proposed. She noted that the townhouse units are fee simple and will have their own backyards. The HOA will have certain restrictions on what can be done on the property. The yards cannot be fenced in because the fire company wants access to the rear of the building.

Mr. DeRochi asked why the sidewalk was not going to be extended further along Orchard Road to serve more people to get to the bus stop. Mr. Schatzman said it was suggested but it will be too much money. Mr. Ford said there are also environmental constraints associated with the drainage feature and the Master Plan Road.

Ms. Davis asked what phase the Orchard Road improvements will occur. Mr. Schatzman said they would be done in the first phase.

Michael R. Donovan (address inaudible), was sworn in. Mr. Donovan said the affordable units are comprised of two buildings, both twenty units. They are 3-story with wood frame construction. The buildings will be fully sprinklered. In each building there will be 6 ground floor units that will have all the required clear floor space and will be fully adaptable. The upper units are two story units with the living space on the second floor and bedrooms on the third floor. A breezeway pass through has been added to mitigate the distance to the boulevard side of the building. They will seek NJ Energy Efficient Homes – Tier 1. The materials will be comprised of siding and stone to match the for sale units. They match in character in the roof slopes, colors and window configuration. As requested all slopes are 5-12 or greater. There are eight (8) one (1) bedroom, twenty-four (24) two (2) bedroom and eight (8) three (3) bedroom units. All the first floor units meet COAH's requirements for accessibility including the interior circulation. There is no step up to those units from the outside and the applicant does not have to deposit funds to adapt the units.

The for-sale townhouse units will be fee simple. All have three (3) bedrooms and two and a half (2.5) baths. Each building is comprised of mostly six (6) townhomes in a row. A majority of the units will have garages. Nine (9) will be comprised of an English basement because of the high water table. This adds about six (6) risers to get to the first floor level. There was concern that there would be too much exposure of concrete in the rear and side of the dwellings and the applicant has agreed to provide siding so the exposure will be typical of a full basement. The siding will go down to about 8" above grade. The materials will match the apartments. All the units will meet the height requirements. There is an overhang on both the eve and gable end so the building setback is to the foundation, not the overhang. Some of the end units may have chimneys that will not extend more than two feet (2'). Two (2) of the model units have lofts in addition to the three (3) bedrooms. There will be a deed restriction against conversion or use of lofts and basements for bedrooms. The five (5) unit building elevations will be revised to show basement windows partly above and partial below grade in window wells. A rear window will be provided in each basement. The air conditioner compressor for the Albright model will be located further away from the rear basement window.

The architectural plans show stairs from the decks of the standard (full) and English basements units but not from the walk-out basement units. The full walk out basement provides access to the rear of the unit through the basement. Ms. Coppola said her concern for the walk-out basements is that the kitchen is on the second floor and if someone wants to access the yard area they will have to go through the house, down the stairs, through the basement and out the door to get to the yard. There will be requests from some people with walk out basements to have steps going down from the deck to the yard area. The applicant feels that a 10' x 12' or 120 square foot deck is sufficient outdoor area so the staircase is not proposed. If the homeowner wants to pay

for the staircase on the walkout units then the builder will install the staircase. The HOA documents will allow a homeowner to add a staircase at their expense.

If changes to the architectural floor plans affect site plan issues, the plans shall be submitted to the Board's professional staff to assure that the site plan and the Planning Board approval is not compromised. Landscaping will be provided around the sign lighting.

The Board granted relief from providing compensation at a 2:1 ratio because the site is a tight site and is an inclusionary development.

The sewer and the pump station review will be done by the Township Engineer. Mr. Ford, Ms. Coppola and Mr. Cline need to work together on the three (3) final plats to make some very minor revisions. The HOA documents will be reviewed and approved by the Township Attorney and Board Planner.

Mr. Schatzman reviewed the memos issued by the Board of Health, Shade Tree Committee, John Rea, Public Safety, Fire Company No. 2, Open Space Committee and Environmental Commission. The applicant will work with Mr. Bartolone with regard to the shade trees to be planted. They will not provide solar panels nor rain barrels.

Chairman Some opened the meeting to the public. There was no public comment. The public hearing portion of the meeting was unanimously closed.

Ms. Davis asked what the proposed selling price will be. Mr. Schatzman said they will be \$375,000 to \$450,000.

Mr. Wilson asked how the force main will cross Bedens Brook to Tapestry. Mr. Ford said it will cross under the brook in accordance with DEP's preferred method. Mr. Wilson asked about the enforcement of the restriction against additional bedrooms. Ms. Savron said it will be reviewed when a building permit is submitted for any interior alterations. It is also caught many times after the fact when it was converted without permits. Mr. Wilson asked why all the public improvements are not being completed as part of Phase I. Ms. Coppola said that the ordinance permits the improvements to be phased.

Mr. Linnus summarized that this is an application for preliminary and final major subdivision and site plan approval. The property is in the SSIZ zone and is subject to the Affordable Housing Regulations. Some of the conditions are: the sewer pump station will be approved by the Township Engineer, the project is subject to a number of outside jurisdictions including the Planned Real Estate Planned Development Act, public offering statements, DCA approval, conservation easement, the tot lot, the project is phased and the professionals will perform further review of the phasing, the sign on the Master Plan Road and Mr. Linnus will review the non-exclusive easement. The comments in the professionals memos that the applicant agreed to will also be conditions. The applicant has a ten (10) year vesting pursuant to the Affordable Housing Agreement.

A motion to approve the application subject to the conditions was made by Mr. Conforti, which was seconded by Ms. Dyer. The following roll call vote was taken:

Ayes: Conforti, Davis, DeRochi, Dyer, Matthews, Trzaska, Wilson and Some

Nays: None

#### **IV. MINUTES**

##### **January 7, 2013 – Regular Meeting**

A motion to approve the minutes was made by Ms. Davis, which was seconded by Mr. Conforti. This was carried on the following roll call vote:

Ayes: Conforti, Davis, DeRochi, Dyer, Matthews, Trzaska, Wilson and Some

Nays: None

##### **February 4, 2013 – Regular Meeting**

A motion to approve the minutes was made by Ms. Davis, which was seconded by Mr. Conforti. This was carried on the following roll call vote:

Ayes: Conforti, Davis, DeRochi, Dyer, Trzaska and Wilson

Nays: None

There being no further business to come before the Board, the meeting was adjourned at 9:40 p.m.