

TOWNSHIP OF OCEAN
PLANNING BOARD
REGULAR MEETING
April 2, 2009

Meeting began at 7:30 PM

The meeting of the Ocean Township Planning Board was held on the above date and time; Chairman Anepete presided and called the meeting to order.

Pledge of Allegiance

STATEMENT: Pursuant to the provisions of the New Jersey Open Public Meetings Act, sending copies of the notice of the meeting properly provided adequate notice of the meeting to the Times-Beacon and the Atlantic City Press. Notice was posted on the bulletin board in the Administration Building.

ROLL CALL

Members Present:	Vince Anepete	Ronald Negra	Dennis Tredy
	Ralph Avellino	Richard Reilly	Lee Eagles
	James Eckert	Rita Sweeney	Craig James

Members Absent: Robert Knowles and Gordon VonSchmidt

Chairman Anepete asked for a motion to approve the minutes of the March 5, 2009 Regular meeting. Mr. Avellino made a motion to approve the minutes. Mrs. Sweeney seconded the motion. All in favor: (aye) Avellino, Sweeney, Negra, Reilly, Tredy, James, Anepete.

Chairman Anepete asked for a motion to approve the vouchers. Mr. Avellino made a motion to approve the vouchers. Mr. Eckert seconded the motion. All in favor: (aye) Avellino, Eckert, Negra, Reilly, Sweeney, Tredy, Eagles, James, Anepete.

Chairman Anepete stated that the correspondence is available in the board office for review at any time.

BOARD COMMENTS

Seeing none.

OLD BUSINESS

Resolution No 09-09-PB, Tardibuono, Block 98, Lot 5, Docket No. 04-08-PB, Minor Subdivision.

Mr. Yost advised the board that since two votes were taken at the March 5, 2009 meeting with regard to this application, one on the subdivision, and one on the variance issue, separate votes should be taken even though both are included under the one resolution.

Chairman Anepete asked for a motion to approve the subdivision portion of the resolution. Mr. Reilly made a motion to approve. Mr. Negra seconded the motion. Roll Call: (ayes) Reilly, Negra, Avellino, Sweeney, Tredy, James, Anepete.

Chairman Anepete asked for a motion to approve the variance portion of the resolution. Mr. Negra made a motion to approve. Mr. Reilly seconded the motion. Roll Call: (ayes) Negra, Reilly, Sweeney, Anepete.

NEW BUSINESS

Lennar Corporation, Greenbriar – Section 8, Block 278-396, Preliminary Major Subdivision, Docket 05-08-PB

Mr. Yost addressed a preliminary matter regarding the four members of the board who live in Greenbriar. Mr. Yost spoke about conflicts of interest. Mr. Yost advised the four members of the board that they should stand down if they live within 200' of Section 8, if any aspect of Section 8 deals immediately with their property, if there has been any commentary or they have been approached by any neighbors regarding information outside the record, and if they have any predisposition or inclination other than to act based upon what is on the record. Mr. Yost advised Deputy Mayor Reilly that he should step down as he may have to vote on the Committee level as a Committeeman. Mr. Reilly, under the advice of Mr. Yost, stepped down. Mr. Eckert felt that since he has in the past stepped down on every Greenbriar application, he felt to be consistent with the record he would also step down. Mr. Eagles felt he did not fall into any of the categories Mr. Yost had mentioned and remained on the board. Mr. Negra felt he did not fall into any of the categories Mr. Yost had mentioned and remained on the board. Mr. Yost asked Mr. Bruno, Attorney for the Applicant, if he had any objection regarding the two remaining members and he did not.

Mr. Michael Bruno, Attorney for the Applicant spoke. The application is for a Preliminary Major Subdivision for Section 8 of the Oceanaire Community. Mr. Bruno spoke regarding the Redevelopment Plan/Redevelopment Agreement that the Governing Body adopted. The plan is dated March 25, 2004. Mr. Bruno acknowledged Robert Calabro and Anthony Mignone of Lennar, and Chuck Boyles the Site Engineer all present.

Mr. Yost swore in Charles Boyles of FWH Associates, Site Engineer for Lennar. Chairman Anepete accepted his qualifications. Exhibits were marked into evidence:

A1 – Aerial Exhibit prepared by FWH Associates

A2 – Colored Rendering of an Overall Plan of Greenbriar Site prepared by FWH Associates

A3 – Colored Rendering of Section 8 of Greenbriar prepared by FWH Associates

A1 was described by Mr. Boyles. For identification purposes Section 8 is known as Block 376-398 all inclusive lots on the Township Tax Maps and consists of approximately 950 acres and previously approved in November of 1999 for Preliminary Approval of the entire site for 1400 units. Mr. Boyles described A2. Applicant has previously received Preliminary and Final approval on all of sections 1-7. Section 7 was originally approved with a cul-de-sac coming off of Bayville Way and Ship Bottom Lane. As part of the plan those have to be eliminated and roadways will provide access to Section 8. Section 8 has residential 90 lots. There are two phases: 47 are located in Phase A, 43 in Phase B. The sizes of the lots are consistent with the previously approved plans. No variances or waivers are required. Consistent with the first 7 sections, sidewalks are being proposed on one side of the street. The Applicant is seeking a design waiver for that. It is a de minimus exception from RSIS requirements. It is listed in the report to Mr. McVicar's office consistent with the previously approved sections.

Mr. Bruno spoke about the General Comments in Mr. McVicar's letter.

#C1 – Removal of cul-de-sacs. Both cul-de-sacs have to be redesigned and the plans for Section 7 presented back to the Board Engineer for approval of the re-design. Applicant is agreeable to that being a condition of any action that the board would take on this application.

#C2 – Revision of numbering of lots from prior sections. Applicant is agreeable and has started that process with the Assessor's office.

#C3 – Lot numbering of Section 8 is subsequent to the Amended Final Major Subdivision Approval for Section 7. Once the amended file map for Section 7 has been filed, all relevant sheets of the current application shall be revised with the filed Lot and block numbering. Applicant is agreeable.

#C4 – Lot numbering for Section 8 shall be revised to account for the elimination of the cul-de-sacs and the extension of the block limits. Applicant is agreeable.

#C5 – Plans will be revised per the Applicant to identify the sections as the Engineer has requested.

#C6 – Identifying Sight Triangle and Shade Tree Easements, Applicant will revise and show the Easements dedicated to the appropriate authorities.

Mr. Boyles gave a brief explanation of the stormwater management system on the site. Mr. Boyles confirmed as a result of the development of Section 8, there will be no negative impacts on the surrounding sections in terms of drainage. The basins will be dry infiltration basins. They are designed to be dry during normal weather conditions. When there is a storm, they will fill up with water to a certain level and then the water will discharge into the ground.

Mr. Boyles commented on the Stormwater Management portion of Mr. McVicar's letter.

#1 – Pre-development drainage calculations will be provided.

#2 – Drainage areas shown on the post-development Drainage Area Plans shall be identified to agree with areas identified in the Supplemental Drainage Report. Applicant is agreeable.

#3 – Locations of borings and percolation test sites will be added to the plans by the Applicant.

#4 – Documentation will be provided to the Engineer regarding compliance with NJDEP stormwater regulations.

#5 – Stormwater management maintenance plan will be provided by the Applicant.

Mr. McVicar asked the Applicant to address the CAFRA permit. Per Mr. Boyles, a CAFRA permit was obtained by the NJDEP for this entire site and that CAFRA permit did include this portion of the property. Soil Erosion and Sediment Control. Mr. Boyles said he is aware that they will require an updated certified plan for the Soil Conservation District for this site. Applicant will provide this as a condition of approval.

Mr. Boyles addressed Mr. McVicar's letter regarding Outside Agency Approvals.

Mr. Boyles addressed each concern in the letter sent from Greenbriar resident, Anthony Travisano.

Mr. Anthony Mignone, Project Manager with Lennar was sworn in and commented on "Problem #4" of Mr. Travisano's letter. There is an ongoing maintenance program that not only Lennar implements

to make sure that we are staying on top of maintenance obligations for each of these phases, but there is also maintenance obligations that occur under the management of the golf course, management company in the community. We are continually doing maintenance operations within these basins and the cutting, moving of debris, checking of the inlet structures to make sure that there is no obstruction with the structure. This specific incident that we are talking about where it overflowed onto Brigantine, I'm assuming it's probably an occurrence that has happened four or five years ago during the large flooding that we had. (Residents corrected him that was three years ago). I believe the comment revolves around a flood event that had occurred over three years ago in the community. At that time there were some maintenance procedures that were not up to par, so to speak. Since then we have implemented a program that allows us to be a little more diligent in our timing of when we do our inspections. So we have been on top of it. I don't believe we've had another problem of that magnitude since that event.

Chairman Anepete: What I'm suggesting is that it is a maintenance problem when this design doesn't function properly.

Mr. Mignone: At that time when we had the overflow, it was a maintenance issue.

Mr. Bruno: Again, we're going through these items, these don't relate to the applications before you this evening but they were raised and we'd like to get those....

Mr. Yost clarified that procedurally the board was aware of the letter of concern from the Greenbriar residents. The Chairman and Mr. Yost had discussed and determined that it was appropriate to let the citizens voice some of their concerns and give the Applicant an opportunity to address those same concerns. The board does understand that it is the position of the Applicant that this is not strictly speaking what's involved in the Section 8 Application and jurisdictionally the board is not in the position to enforce this.

Mr. Mignone spoke regarding "Problem #9" in Mr. Travisano's letter. We've spent a significant amount of time on this over the last 12 months looking at drainage issues within either rear yard swales or side yard swales. Lennar has done this in conjunction with the Township Engineer, Marty Miller. We have made various observations where repairs were necessary and there was some regrading or some yard drains installed. We do recognize that there still are a few more concerns from various residents throughout the community that need to be looked at and a determination made to see if there is a drainage concern, some ponding on individual properties and we will continue to work through our program of inspection. Just as recently as this week, Marty and I spent some time out there and looked at various home sites that have identified some drainage concerns so we are constantly on top of it. It was a significant number going into last year and it took us some time to just kind of get to even, but we're still working on it.

Mr. Negra: My concern is that I hear maintenance issues, and I hear approved plans. My concern is Section 8. We don't have problems that continue. Do you all agree that in this letter numbers 1-9 are issues? Do you agree that they do exist? Because what I heard from you was maintenance, maintenance, operational, maintenance, design plan and you said you were addressing some of these so I'm complimenting you for that. Do you believe 1-9 does exist? Or 1-7? Pick a number.

Mr. Boyles: My initial comments when we started talking about this letter was that there are various issues again relating to the overall stormwater management system throughout the entire community and talking about the inlets, ..., yard areas, as well as the detention and retention basins throughout the community. Based on our design plans and our as-built plans, everything here is working as it should in those areas and so as far as the engineer design and construction is concern, I'm not seeing any

issues here. As stated, we have identified a couple of locations where there were some maintenance issues and obviously I'm on top of it. But as far as engineering and design is concerned and construction is concerned, we haven't identified issues. So asking me if there is a problem, I'm saying there isn't a problem. If water goes into the roadway and into the golf course where it's suppose to, that's not an issue. It's going to be there for a little bit and then it's going to go away, it's part of the overall management for the entire stormwater system throughout the site.

Mr. Mignone: Maintenance is obviously an ongoing operation. It's not something that we're in and out of. In the past, the one basin that did have the "maintenance issue" where we had a clog that occurred in the inlet, I can't speak to what the timing was and when we should have been out there to do the rough inspection. We may have been out there the day before and due to the storm event, a piece of debris clogged the inlet which caused the overflow. I don't know. Right now I do know that there is on going maintenance program where we have not had an occurrence similar to the one identified in this letter at least in the last three years.

Mr. Bruno concluded the Application.

BOARD COMMENTS

Mr. McVicar spoke that it is his understanding that these issues are being addressed. He has spoken with an Engineer from Frost-Christian Associates (Greenbriar's Home Owner's Association Engineering Firm) and Martin Miller of Alaimo Associates, Township Engineer. Mr. McVicar feels there is an open line of communication. The first five or six sections are being addressed.

Mr. McVicar read into the record a letter from Martin Miller of Alaimo Associates, Township Engineer dated 4/2/09 addressing the concerns raised in Mr. Travisano's letter.

Mr. Mignone spoke that Lennar went for a bond release on Section 1 and 2 last year. Lennar may have been a little remiss in getting the request to have that bond released in a timely fashion being that the section has been built for an upwards of four to five years, I think we started it about six years ago, but the timing of it is irrelevant to this discussion. We went in last year for a bond release and at that time, the Township did a very detailed inspection in conjunction with the Home Owner's Association Engineer who identified concerns. The list was finalized in fall of 2008. Lennar acknowledges the list, escrow money has been kept and Lennar will be implementing repairs in the spring.

After being asked by Mr. Tredy if this process could be expedited, Mr. Mignone answered that he felt that the process has been sped up as he is now working directly with Martin Miller, Township Engineer. When issues come up, he and Mr. Miller get out to do an inspection within a two week period. Mr. Mignone feels Lennar is now taking a pro-active approach with regard to any drainage problems.

Mr. Mignone: That doesn't say there are still not a handful that are out there they may have been years, it's just a matter of getting them up to the front of the list and then getting a chance to go out there.

Mrs. Sweeney asked how we can be certain that these same drainage problems will not happen in Section 8. Mr. Mignone said Lennar has implemented a program to address those concerns, working with the Township hand in hand.

Mr. Negra: I guess one thing that troubles me is some of things that are said. Neighbors irrigation systems going on at the same time is causing the flooding between homes. That's not (inaudible)...

Mr. Mignone: Well it is, we're putting a significant amount of water into confined areas. We've implemented a program through the homeowners association to try to alternate watering days between neighbors where we've identified those problems. That is the cause of some problems. I am not saying that is the cause of all drainage problems. But I am saying that that is one of the numerous items that could cause a drainage problem.

Mr. Negra: My concern, and I think the boards concern is something that Rita just expressed. I heard you clearly before when you were going through the seven different, nine different issues, design plan, approved design, approved design plan, maintenance, and I understand the maintenance issues. That's your responsibility to make sure it's done well. My concern, as Rita just discussed, is that we are going to be looking at Section 8 in a couple of minutes and my concern is that some of the same problems and they exist because as I looked at the maps, some of the grading is exactly what was approved in previous sections. Some of the run-off is the same thing in previous sections. The run-off between homes, gutter, leader, water coming out, is the same as in the 1-7 sections which has caused a lot of problems. Have you thought of relative to design plans, have you thought of piping the drainage system off the homes into a main sewer line or a pipeline behind the properties where that water could run off and go into those? And do it for pre-existing homes to eliminate some of the issues.

Mr. Mignone: We have done it for some homes. What we found when we did some of these drainage repairs is that it required a yard drain and a pipe to be installed tied into the existing storm system in conjunction a lot of time we tied in roof leaders to that system to reduce the overall flow into a small area from multiple homes. That has worked. When we're looking at new sections specifically where we have homes that go back to back, we are looking at it and if we need to install a drainage system pre-development we will do that. To be honest with you, we have learned a little bit from the earlier sections.

Mr. Negra: You said we will look at it and we will do it. Is it going to be done or is it not going to be done?

Mr. Mignone: It's going to be done because I don't want to chase a drainage concern for the rest of my career with Lennar. I'm being honest with you and I've chased quite a few.

Mr. Negra: So it can go into the record that every home will have a drainage....

Mr. Mignone: I shouldn't say every home will have it because it's really specific to the type of home that we build. There are certain homes that have sunrooms off the back that have five rain leaders versus others that only have two. Its relative to each side of the street and which homes were sold. It needs to be thought about pre-development before the homes sit in there, but as far as if there is a need for a pipe, it almost is something that occurs post construction to understand the homes that were sold and its specific lot. But it has been a fix that I think has addressed a significant number of drainage problems. Piping in of rain leaders and adding yard drains has cured a lot of the concerns within the community specific to drain problems. And I talk specifically if anyone is familiar with the Brigantine block in the community.

Mr. Eagles: I live on it.

Mr. Mignone: So you know we've done a significant amount of work up there.

Mr. Eagles: Well, again, we're talking about, I think the objective here is to talk about Section 8. And finally maybe avoid the problems that have occurred in the last 900 homes that have been built and

going forth maybe we can get it right here on the last couple hundred to complete the project. When you say that we're going to look at individual lots and what have you going forth in Section 8, do you know what houses are going to be built on those lots today?

Mr. Mignone: No we do not at this time.

Mr. Eagles: So how can you judge which lot going in in pre-construction and pre-development where a pipe should be buried in the ground?

Mr. Mignone: We can't but we know that we need to accommodate the potential for a pipe with the storm water system design. We need to make sure that there is an inlet or a pipe run within the vicinity of a block of homes to make sure that if we need to put a pipe in, we have a place to tie it into. That's what we can do pre-sales and construction of homes. We have looked at that.

Mr. McVicar stated that this application is a Preliminary Application and the Final is not going to come before the board for one to two years. A lot of these details will be worked out by then. Mr. McVicar gets to review the application a second time when Lennar comes in with Final plans and these issues will be addressed by Mr. McVicar through his review of the drainage system at that time. For individual homes, he will make recommendations as to what he feels would require individual drainage systems.

Mr. Boyles added that (for Section 8) we are putting storm sewers in locations such that if any remedial work is required, we have the means to address it relatively easily.

With no further comments from the board, Chairman Anepete asked for a motion to open the meeting to the public. Mr. Tredy made a motion, Mrs. Sweeney seconded the motion. All in favor: (aye).

PUBLIC COMMENT

The following residents of Greenbriar spoke at the meeting:

Ken Thomas, 37 Belmar Blvd. Mr. Thomas brought photographs. The photographs were marked into evidence as T-1 and remained with the file at the board office. Mr. Thomas was sworn in by Mr. Yost.

Before Mr. Thomas began, the board had discussion that the application before the board is Section 8. Generally questions have to be germane to that Section 8. The Planning Board has nothing to do with anything else besides Section 8, although the Chairman felt much was being accomplished with the Lennar and the residents and the Chairman wanted to proceed in this manner, however, wanted to clarify that there is an enforcement problem and the proper address would be the Township Committee. The Planning Board has no power to address these issues.

Mr. Thomas explained his photographs. Mr. Boyles and Mr. Mignone reviewed them and gave comments.

Mr. John Castronova spoke and was sworn in by Mr. Yost. Mr. Castronova asked a question regarding bond release. He was advised to bring those questions to the Mayor and the Township Committee.

Mr. Joe Randazzo spoke and was sworn in by Mr. Yost. Mr. Randazzo thanked the board and Lennar for reviewing the letter sent. Mr. Randazzo spoke on the drainage problems in the prior section and he is in favor of the underground piping and to do the work before the problems arise vs. fixing the drainage issues after they occur.

Mr. Bruno added that Lennar has heard the concerns regarding drainage. They will have their engineer address it. As the plans get revised in accordance with Mr. McVicar's suggestions and technical comments, they will be further revised. Mr. Bruno added that he is sure the input from Lennar will be to try to address these concerns in a manner that is appropriate to satisfy that we won't have problems in the future and if we can address them at pre-construction or during construction they will do that.

Ms. Kathryn Misner, 138 Springlake Blvd spoke and was sworn in by Mr. Yost. Ms. Misner asked how the construction equipment will be going into Section 8. Is there a separate construction entrance on the plans for that section that would be provided by and maintained by the developer? Mr. Mignone answered that he can have a discussion with our design engineer about trying to limit the construction traffic to one of the two roadways with new section.

Mr. Thomas spoke again as a member of the pre-transition committee and possibly getting copies of the plans as he feels they should be on the property as a document of record. Mr. McVicar suggested that the Association's Engineer should get in touch with Mr. Miller, Township Engineer for a copy.

Mr. Richard Pecora was sworn in by Mr. Yost. Mr. Pecora thanked the board for their questions. Mr. Pecora spoke about his concerns with the drainage problems after the fact. It took six months for him to get his own yard drain.

Ms. Laura Casey was sworn in by Mr. Yost. Ms. Casey lives on the end of Pancoast and questioned about the golf path behind her house and whether it would be moved. She was concerned about the trees behind her house and wanted assurances they would remain. Mr. Mignone said he would meet with her so they could discuss her issues.

Mr. Anthony Travisano was sworn in by Mr. Yost. Mr. Travisano thanked for the board for taking time to review his letter and have most of the questions answered.

Seeing no further members of the public wishing to speak, Chairman Anepete asked for a motion to close to the public. Mr. Avellino made the motion, Mrs. Sweeney seconded the motion. All in favor: (aye).

CLOSE PUBLIC COMMENT

Chairman Anepete asked for any further discussion on the application from the board.

The board further discussed the drainage issues and the time it takes Lennar to get them fixed. There is concern that the same problems will happen in Section 8. Mr. McVicar stated that there were a number of drainage revisions that he wanted taken care of and while he looks at those on the revised plans, he will also consider the concerns that were voiced here tonight and perhaps he might indicate that collectively that these drains may be installed on certain lots based upon his engineering expertise. It will be addressed for Final.

Mr. Yost added that he felt emotionally the board would like to be maybe able to weigh in on some type of enforcement if they perceive that there was a problem. However, he thought the board recognized that they really don't have jurisdiction on anything other than Preliminary Approval for Plan 8 tonight. And he added that he had to advise the board that it was his legal understanding. He would be remiss in his obligation as a lawyer to the board to advise them to take into consideration matters that are really outside the record and should be considered and he did not advise the board to do that. He advised the board to do what he thought legally they are obligated to do. He said that with

all due respect for all the citizens of Greenbriar who are having these ongoing problems and he felt they conveyed their message to Greenbriar. It sounded to him like they were responsive; they were paying attention and listening to you. He thought you've learned some things tonight about how the system works and where you go when things don't work as well as maybe they should. He added to keep in mind your jurisdiction and vote accordingly.

Mr. Negra made a motion to accept the Preliminary Application with the following stipulations and revisions that our engineer has the opportunity to evaluate the specific grading, retention, discharge of the water, retention ponds, storm drainage and that the new plan reflect each and every street, each and every pond, each and every house, how that will all be effected by the water issue.

Mr. Yost: I think you have to vote on the plan that is submitted. And as I listen to you speak, I'm not sure how I would draft it and how we would enforce it if I could. So that is my dilemma. I think that you are voting on the plan that has been applied and I think, Mr. Negra, with the reservation that Mr. McVicar has suggested I think that your objective will be met. I think that that is what he is talking about, but I think it has to be based on the plan.

Mr. Eagles asked for clarification from Mr. McVicar.

Mr. McVicar: What I would be looking for with regard to the drainage plan would be the location of the existing basins as shown particularly where those houses are back to back and also take into consideration those homes in proximity to these inlets and if I feel that slope is insufficient or the distance to far, I would make recommendations that those individual lots receive these individual drain pipes directly to the pipe and the swale at this point in the Final Plans and there also be a note on the plan that these additional individual drainage systems may be required, should be installed if so directed by the Township Engineer during construction.

Mr. Bruno stated that the only thing he heard that he had an objection to was "each and every lot". We are agreeable to what Mr. McVicar said which is he's going to review these plans. There is going to be a note on the plan that is going to give him the authority to require certain drainage improvements. We're agreeable to that. We're not agreeable I don't believe, I think it would be very difficult to approve and review each and every lot. So said differently, we are agreeable to Mr. McVicar's suggested language and he's going to review. There is going to be a note on the plan that gives him the authority to request additional drainage improvements where warranted in his professional opinion.

Mr. Eagles asked about drainage issues with settled houses that back up to the woods and side by side. Mr. McVicar said he reviews the planning aspects of the grading and drainage to make sure it works on paper. When it gets to the construction, it's a different engineer and he makes sure that everything is constructed in accordance with the plans. Sometimes substantially there might be a slight variance which, in the planning stage, doesn't create a drainage problem but in actual construction it will. However at that point, he would have the leeway to say you have to do something in this area to provide the individual drainage pipes which weren't requested by me on the Preliminary or Final plans. I'll do everything in my power to make sure the plans are correct, but the actual construction that may be the later to where it doesn't work out that way and the Township Engineer has to step forward and make sure that issue is addressed.

Chairman Anepete stated that the board will receive a draft of the resolution. The board will get to look at it before we approve it at our next meeting and if the board is not satisfied, it doesn't need to be approved at that point. The board is not locked into the language right now, but basically it is the intent of the motion to get all the contingencies that were discussed at this meeting included in the resolution.

Chairman Anepete asked for a second. Mr. Avellino seconded the motion. All in favor: (ayes) Eagles, Avellino, Negra, Sweeney, Tredy, James, Anepete.

Chairman Anepete asked for a motion to adjourn. A motion was made by Mr. Tredy, seconded by Mr. Eagles. All in favor: (aye).

Meeting ended at 9:15 PM.

Respectfully submitted,

Beth O'Connor, Secretary