



## **TOWN OF CLINTON**

INCORPORATED APRIL 5, 1865

43 Leigh St., P.O. Box 5194

Clinton, N.J. 08809-5194

(908) 735-8616 FAX (908) 735-8082

### **Land Use Board Minutes**

Minutes of the Town of Clinton Land Use Board reorganization meeting and regular meeting held on January 5, 2021 at 7:00pm.

The Meeting of the Town of Clinton Land Use Board has changed the format of its regular meetings for the duration of the COVID-19 Public Health Emergency to “Virtual” Meetings via ‘Zoom’.

Secretary Allison Witt called the meeting to order at 7:00pm and read the “Statement of Adequate Notice” and the “Administrative Statement”.

Adequate notice of this meeting has been provided indicating the time and place of the meeting with the proposed agenda, which notice was posted, made available to the newspapers and filed with the clerk of the Town of Clinton in accordance with Section 3(d) of the Public Laws of 1975”.

N.J.S.A. 10:4-8 (b) authorizes municipalities to conduct public meetings through use of streaming services and other online meeting platforms.

The Town of Clinton is using ZOOM Video Meetings. Please be aware that this meeting is being recorded for the public record. ZOOM meetings are imperfect, so if glitches pop-up, please be patient. We will open the meeting to the public during public comment time, each person will have the opportunity to ask questions and give comments at the appropriate time. If you would like to speak, please use the raise hand feature and I will call on you one at a time you must provide you name and address to be recognized for comment. We ask that you keep your device muted until called upon by the Chairman.

Attorney Katie Razin was present:

#### **OATHS OF OFFICE:**

The following members were sworn in:

Ms. Healy, Mr. Viotto, Mr. Lubsen, Mr. Kelly

Ms. Dineen was previously sworn in

#### **ROLL CALL:**

**Present:** Mr. Sailer, Ms. Healy, Mayor Kovach, Mr. Smith, Ms. Van Weeren, Mr. Viotto, Mr. Lubsen, Mr. Snider, Mr. Kelly

**Absent:** Ms. Dineen

**Election of Chairman:**

A Motion was made by Mayor Kovach, seconded by Mr. Viotto, to nominate Mr. Sailer as Chairman for 2021.

**All Ayes. Motion Carried.**

**Chairman Sailer proceeded to run the meeting.**

**Election of Vice Chairman:**

A Motion was made by Mr. Sailer, seconded by Mr. Smith, to nominate Ms. Healy as Vice Chairman for 2021:

**All Ayes. Motion Carried.**

**Appointment of Board Attorney- Resolution # 01-21**

A Motion was made by Mr. Viotto, seconded by Mayor Kovach, to adopt the Resolution appointing Kathryn Razin as the Board's Attorney for the 2021 calendar year

**Roll Call vote:**

Ayes: Sailer, Healy, Kovach, Smith, Van Weeren, Viotto, Lubsen, Snider, Kelly

**All Ayes: Motion Carried.**

**Be it Resolved** that Kathryn J. Razin, Esq. from Stickel, Koenig, Sullivan & Drill LLC is hereby appointed to serve as the Land Use Board Attorney for the Town of Clinton and;

**Whereas** there exists a need for the performance of the statutory legal services for the year 2021 for the Town of Clinton Land Use Board and;

**Whereas** funds are or will be made available for this purpose to be certified by the local finance officer and;

**Whereas** the contract for Professional Services was awarded pursuant to the provisions of N.J.S.A. 10:44A-20.4 or 20.5 as appropriate.

**Now Therefore, Be resolved** by the Town of Clinton Land Use Board as follows:

The Mayor and Council are hereby authorized and directed to execute an agreement with Kathryn J. Razin Attorney for 2021.

Notice of this action shall be printed once in the Hunterdon Review.

**Appointment of Board Engineer: Resolution # 02-21**

A Motion was made by Mr. Lubsen, seconded by Mayor Kovach, to adopt the Resolution appointing Robert Clerico from Van Cleef Engineering as the Board Engineer for the 2021 Calendar Year:

**Roll Call vote:**

Ayes: Sailer, Healy, Kovach, Smith, Van Weeren, Viotto, Lubsen, Snider, Kelly

**All Ayes: Motion Carried.**

**Be it Resolved** that Robert Clerico is hereby appointed to serve as the Land Use Board Engineer for the Town of Clinton and;

**Whereas** there exists a need for the performance of the statutory Engineering services for the year 2021 for the Town of Clinton Land Use Board and;

**Whereas** funds are or will be made available for this purpose to be certified by the local finance officer and;

**Whereas** the contract for Professional Services was awarded pursuant to the provisions of N.J.S.A. 10:44A-20.4 or 20.5 as appropriate.

**Now Therefore, Be resolved** by the Town of Land Use Board as follows:

The Mayor and Council are hereby authorized and directed to execute an agreement with Robert Clerico, Engineer for 2021.

Notice of this action shall be printed once in the Hunterdon Review.

**Appointment of Board Planner: # 03-21**

A Motion was made by Mr. Viotto, seconded by Ms. Healy, to adopt the Resolution appointing James Kyle from Kyle & McManus Associates LLC as the Board Planner for the 2021 Calendar Year:

**Roll Call vote:**

Ayes: Sailer, Healy, Kovach, Smith, Van Weeren, Viotto, Lubsen, Snider, Kelly

**All Ayes: Motion Carried.**

**Be it Resolved** that James Kyle is hereby appointed to serve as the Land Use Board Planner for the Town of Clinton and;

**Whereas** there exists a need for the performance of the statutory Planner services for the year 2021 for the Town of Clinton Land Use Board and;

**Whereas** funds are or will be made available for this purpose to be certified by the local finance officer and;

**Whereas** the contract for Professional Services was awarded pursuant to the provisions of N.J.S.A. 10:44A- 20.4 or 20.5 as appropriate.

**Now Therefore, Be resolved** by the Town of Land Use Board as follows:

The Mayor and Council are hereby authorized and directed to execute an agreement with James Kyle, Planner for 2021.

Notice of this action shall be printed once in the Hunterdon Review.

**Appointment of Board Architect Consultant: # 04-21**

A Motion was made by Mr. Viotto, seconded by Mr. Lubsen, to adopt the Resolution appointing Michael

J. Margulies from Eclectic Architecture LLC as the Board Architect Consultant for the 2021 Calendar Year:

**Roll Call vote:**

Ayes: Sailer, Healy, Kovach, Smith, Van Weeren, Viotto, Lubsen, Snider, Kelly

**All Ayes: Motion Carried.**

**Be it Resolved** that Michael J. Margulies is hereby appointed to serve as the Land Use Board Architect Consultant for the Town of Clinton and;

**Whereas** there exists a need for the performance of the statutory Architectural services for the year 2021 for the Town of Clinton Land Use Board and;

**Whereas** funds are or will be made available for this purpose to be certified by the local finance officer and;

**Whereas** the contract for Professional Services was awarded pursuant to the provisions of N.J.S.A. 10:44A- 20.4 or 20.5 as appropriate.

**Now Therefore, Be resolved** by the Town of Land Use Board as follows:

The Mayor and Council are hereby authorized and directed to execute an agreement with Michael J. Margulies, Architect Consultant for 2021.

Notice of this action shall be printed once in the Hunterdon Review.

**Appointment of Board Zoom Moderator: # 05-21**

A Motion was made by Mr. Viotto, seconded by Mr. Smith, to adopt the Resolution appointing Zachary Kovach as the Board Zoom Moderator for the 2021 Calendar Year:

**Roll Call vote:**

Ayes: Sailer, Healy, Kovach, Smith, Van Weeren, Viotto, Lubsen, Snider, Kelly

Abstain: Kovach

**8 -1 Motion Carried.**

**Be it Resolved** that Zachary Kovach is hereby appointed to serve as the Land Use Board Zoom Moderator for the Town of Clinton and;

**Whereas** there exists a need for the performance of the Zoom Moderator services for the year 2021 for the Town of Clinton Land Use Board and;

**Whereas** funds are or will be made available for this purpose to be certified by the local finance officer and;

**Now Therefore, Be resolved** by the Town of Land Use Board as follows:

The Mayor and Council are hereby authorized and directed to execute an agreement with Zachary Kovach, Zoom Moderator for 2021.

Notice of this action shall be printed once in the Hunterdon Review.

**Committee Appointments:**

**Site Plan Committee:**

Mr. Smith, Chairman, Mr. Viotto, and Mr. Snider to serve on the Site Plan Committee. Ms. Healy to serve as an Alternate Member, the Site Plan Committee will meet on an as needed basis.

**Master Plan Committee:**

**TBD**

**Designation of Meeting Nights:**

The board will continue to meet on the first Tuesday of each month at 7:00pm and the third Tuesday of the month for any carry over items.

**All Ayes. Motion Carried.**

**Designation of the Official Newspaper:**

The Hunterdon Review, the Hunterdon Democrat, the Courier News to serve as the official newspapers:

**All Ayes. Motion Carried.**

**Adoption of the Town of Clinton Land Use Board Public Meeting Act Resolution # 06-21:**

A Motion was made by Mayor Kovach, seconded by Mr. Snider, to adopt Resolution #06-21:

**Roll Call vote:**

Ayes: Sailer, Healy, Kovach, Smith, Van Weeren, Viotto, Lubsen, Snider, Kelly

**All Ayes: Motion Carried**

The reorganization was adjourned at 7:15pm.

Attorney Razin, Mr. Robert Clerico and Jim Kyle were present.

**Regular Meeting Called to Order at 7:15pm:**

Chairman Sailer wished everyone a Happy New year.

**Approval of Minutes:**

A Motion was made by Mr. Snider seconded by Mr. Smith, to approve the December 15, 2020 minutes.

**All Ayes. Motion Carried**

**Master Plan Amendment & Resolution Adoption #07-21- Amendment to the Town of Clinton Third Round Town of Clinton Housing Element and Fair Share Plan:**

Chairman Sailer announced this item was legally noticed the meeting has been rescheduled to January 19, 2021 without further notice.

**Application for Block 3 Lot 2 -Tejomaya LLC- Conditional D3 Use Variance, and Amended Preliminary Site Plan Application:**

Attorney Michael Selvaggi, Engineer & Planner Rick Roseberry, Architect Benjamin Horten and Applicant Gulshan Chhabra were present and sworn in.

The following items were submitted into evidence:

- A1 Application Package
- A2 Certified mailing and 200 foot list dated November 3, 2020
- A3 Union Township 200 foot list dated November 5, 2020
- A4 Legal Notice dated December 23, 2020
- A5 Tax certification dated 11-17-2020
- A6 Water & Sewer Certification dated November 17, 2020
- A7 Will serve letters Dated November 5, 2020
- A8 Hunterdon County Planning Board Application
- A9 Conditional Use Plan prepared by Maser Consulting 11-2-2020
- A10 Architectural Plan prepared by Ben Horten Architect & Design dated 11-18-2020
- A11 Boundary & Topo Survey prepared by First Order LLC revised dated October 14, 2016 last revised dated March 5, 2020 2020
- A12 Wetlands assessment prepared by Maser Consulting Dated January 8, 2020
- A13 Stormwater Management report prepared by Maser Consulting dated January 2020
- A14 Hunterdon County Soil Conservation Application dated January 14, 2020
- A15 Report of Title by Foundation Title LLC dated January 30, 2020
- A16 Department of Health Certificate of Need Application
- B1 R. Clerico review report dated December 31, 2020
- B2 J. Kyle review report dated January 3, 2021
- B3 Fire Marshal Review letter dated December 14, 2020
- B4 Chief Kubinak Review report dated November 23, 2020

Attorney Selvaggi advised the board they are looking to convert the existing hotel into an assisted living Facility and in 2008 the Town adopted an ordinance that permits assisted living as a conditional use in the zone, the use does not meet all of the conditions required by the ordinance therefore they will require a D3 Variance.

Applicant Gulshan Chhabra gave the board an overview. Mr. Chhabra stated due to the economic downturn he has lost about 65% of his business and after a market study he found Hunterdon County is in need of assisted living facilities, he is looking to convert the hotel into an assisted living facility. The facility will have three components, assisted living, memory care facility which is part of the assisted living and an adult day care center.

The assisted living will have 55 private one bedroom units, 29 private suite units, and 7 semi-private two bedroom units which will be located on floors 2, 3 and 4. The memory care will have 13 private units, 1 private suite and 5 semi-private units located on the 5<sup>th</sup> floor. The adult day care will be located on the first floor in the existing ballroom area. The maximum number of occupants will be 117 people it will be open Monday-Friday between 7:00am-noon. The day care will have designated vans to pick up the adults for the day. The care center will provide meals, social gathering area for games, cultural programs and there will be a nurse and medical staff available on a as need basis, we anticipate 30-35 employees 7 days a week, visiting hours will be between 8:00am-5:00pm unless an emergency arises. In order to operate the facility is must be approved by the state and operate under state guidelines.

There were no questions from the public.

Architect Ben Horten went over the interior modifications (exhibit A-6) with the board members. Currently the first floor has the entry canopy, kitchen, bar, lounge, ballroom, staff rooms, laundry room, full service kitchen, and an outdoor patio with a water feature. The existing second floor has an entry way at the back of the building, indoor pool, exercise gym, meeting rooms, staff office and hotel rooms. The

third, fourth and fifth floor are identical and all have hotel rooms. The new layout of the second floor the pool will remain, the meeting rooms will be converted into activity rooms, possibly they will implement a hair salon and an indoor theatre, the amenities proposed are above state requirements. The majority of the work will be the interior renovation to the hotel rooms, the rooms will be equipped with a kitchenette that include a personal refrigerator, microwave and a sink, there will be no cooking facilities in the rooms, the bathrooms will be modified to meet ADA accessibility. The single rooms, excluding the bathrooms and the kitchenette will have 160SF of space which exceeds the state's requirements of 150 SF, the two person suites will have 230SF. In addition, we also have the capability of combining two single rooms into one to accommodate couples. The proposed plan calls for 140 rooms but we will probably end of with 110 rooms, the plan is meant to be flexible to accommodate shared rooms. Mr. Horten advised the board the memory care area still falls under the same umbrella as the assisted living, the state requires us to separate the memory care residents from the assisted living residents and part of the fifth floor wing will be dedicated to the memory care residents. There will be supervisory stations on the second floor, administrative staff and a dedicated area for medication in locked cabinets.

The second component is the adult day care center, the attendees will be picked up by vans owned by the facilities. The first floor existing ballroom will be converted to the day care center which is well suited for the adult day care center. The adult day care center will be licensed by the State Department of Health and Senior services which require the center to follow strict guidelines, including trained staff, nurses, a nurses station all dedicated to the day care center. The occupants will enter through the first floor canopy entryway into the activity room. The first floor full service kitchen will remain which will serve meals to the day care center and the residence of the assisted living.

Mr. Daniels, had the following questions for the architect: if the generator would service the new use, the building use designation, fire alarm system and rear entry; Mr. Horten stated the generator is not a code requirement however the hotel already has a generator that services the entire building they will utilize the existing generator; the use group will be I-4 the building is fully equipped with a full R 13 sprinkler system and the plan will be reviewed for compliance by the State DCA before it is submitted to the construction office for review, Mr. Horten stated the building is well suited for any life safety issues. The fire alarm will be addressed during the construction phase and is part of the DCA review; the upper entry way will primarily be used for the assisted living residents and guests the area will have a reception area to service visitors and residents.

There were no question from the public.

Mr. Rick Roseberry, Engineer and Planner from Maser went over the Conditional Use Plan (exhibit A-9). The property is bounded by Route 78 and Route 173, the adjacent property to the southeast is an apartment complex with a heavy wooded area adjacent to the property and to the east is Weidel Realty. One of the conditions of the conditional use is utilizing a shared access due to the area this property has limited resources for a shared access way. The modifications to the site include modification to the ADA spaces in front of the north and south entranceways, the ADA space presently does not comply with current regulations they will make the changes to comply. The second modification is upgrading the lighting to comply with the NJ energy plan. The site has 272 spaces, 61 spaces are required for assisted living and 14 additional spaces for the adult day care and after all the site modifications the site will have 267 spaces, the site has ample parking spaces.

Mr. Roseberry stated he is in agreement with the Engineer and Planner's suggestions. Mr. Roseberry addressed some items in Mr. Clerico's review letter dated December 31, 2020 (exhibit B1) items C1, C2, C3, C4, C5 and C7 the applicant will comply. In regard to item C-6 they have one deviation from code section 88-44-B-1(g) the site lighting is facing downward and not visible from the street, the code requires the mounted angle to face at a 90% downward angle the mounted angle is at a 45% angle, which

will require a variance. The lighting foot candle in some of the isolated areas are .2 the code requires a .3 foot candle, a variance is being requested.

Mr. Roseberry stated they do not want to lose the front entry way portico it is an important feature for the adult day care they proposed to make some changes to the radius, they will soften the radius and widen the radius on the inside loop and widen the radius on the west, the ADA spaces will be relocated the changes will assure emergency vehicles can access the area. In addition, the emergency vehicles can access the east side of the building and in the northerly area the vehicles have full access to the entire building. Mr. Roseberry stated he will work with Mr. Clerico to make the changes work. Mr. Hedden, Fire Chief, stated he would like to make sure the radius meets the 40' long tower ladder specifications, Mr. Roseberry agreed he will make the modifications to the curb line so the vehicles could gain access.

Mr. Roseberry addressed the Fire Official's memo dated December 14, 2020 (exhibit B3). In regard to item 1 Mr. Roseberry did not feel relocating the FDC was doable but felt the modifications to the access way would be adequate, item # 2, # 3 # 6, the applicant will comply, item # 5 they will make sure there are no issues with the FDC, item # 6 the system will meet the state standard, item 8 the Knox box will be upgraded, item #9 they intend to keep the portico and make site modifications to allow for emergency access. Mr. Roseberry stated any items that are not code complaint they will comply with. Mr. Hedden, Fire Chief stated we seem to be in agreement he would like assurance that they will have no issues with emergency access.

Mr. Roseberry addressed Mr. Kyle's report dated January 3, 2021 (exhibit B-2), the outside patio on the northerly side will be repurposed to a healing garden. In replace of a roof structure for shade protection, the applicant would prefer to offer umbrellas around the tables. Mr. Kyle stated he would like to see two to three shade trees on the west side of the area and suggested his office work with Mr. Roseberry to come up with a suitable plan as a condition of approval, Mr. Roseberry agreed. The signage will comply with the Town Ordinance, the Holiday Inn onsite directional signs will be removed. Mr. Kyle noted under item# 5 on his report the landing ramp by the northerly side of the building is right by the patio stairs leading down to the patio healing garden, the area has no barrier to prevent someone from tripping down the stairs, Mr. Roseberry suggested adding a railing as visual blocker.

Mr. Roseberry addressed the Planning issues, the applicant is requesting a D3 Variance. The Town determined assisted living is appropriate for the OB 2 zone as a conditional use and as part of the conditional use there are five standards that must be met. Condition one and two require shared access and parking, we do not comply. The adjacent apartment complex has a wooded area between the properties and the Weidel Realty property has a physical barrier due the grade change of the lot, it is not practical to have shared access we are requesting a variance; condition 3 requires a barrier free garden internal to the site surrounding the building, the healing garden meets the criteria of a barrier free garden and is internal to the site bounded on two sides, we feel we comply however if the board does not we will request a variance; condition four and five requires interior sound levels not to exceed 53dBA and exterior not to exceed 60dBA in the daytime and 55 dBA in the evening. We conducted sound readings the levels inside were 45dBA, and outside was 55dBA, however the site is surrounded by Route 78 and Route 173 and we cannot control the background noise in the extend the dBA exceeds the ordinance we will request a variance if the board feels we need to.

Mr. Roseberry stated in regard to the positive criteria the site is appropriate for the use, the site is oversized for the zone, this is a redevelopment of the site, the owner is being pro-active to repurpose the site, there are adequate utilities on site, adequate parking, adequate buffering on the site, the proposed use is needed as outlined in the Town's Master Plan and the plan will contribute to the Town's affordable housing requirements, there will be no increase in impervious coverage. In conclusion the applicant meets the criteria to grant a D3 Variance, there is no negative impact on the adjoining properties, the site is well



suited for the use Mr. Roseberry stated the positives outweigh any negatives.

Chairman Sailer asked for clarification that the applicant is making the changes to the loop and is willing to work with Fire Department, Mr. Roseberry replied yes they will work with the Fire Department to make the modifications work and if they have to relocate the FDC they will work with the Fire Department.

Mr. Daniels inquired about the status of the subdivision and the onsite storage trailers, Mr. Chhabra stated the subdivision was withdrawn and the trailer will be removed once all the renovations have been complete.

Mr. Smith commented that he felt the impact is minimal, the plan has been well thought out and he sees no reason to deny the application as presented.

A Motion was made by Mr. Viotto, seconded by Ms. Healy, to grant the Conditional Use, with the D3 Variance and Amended Preliminary Site plan for the assisted living and day care facility subject to the conditions as testified to.

Ms. Van Weeren lost connection and was not part of the roll call vote.

**Roll Call Vote:**

Ayes: Sailer, Healy, Smith, Viotto, Lubsen, Snider, Kelly

Nays:

**All Ayes.**

**Motion Carried**

**Board Discussion:**

Chairman Sailer welcomed new member Brian Kelly and advised the board there will be a meeting on January 19, 2020.

**Voucher Approval:**

A Motion was made by Viotto, seconded by Mr. Lubsen to approve the voucher list:

**All Ayes.**

**Motion Carried**

There being no further business a Motion was made by Mr. Viotto, seconded by Mr. Smith to Adjourn the meeting at 9:25pm

**All Ayes.**

**Motion Carried**

Respectfully submitted,

Allison Witt  
Land Use Board Administrator

