



West Chester Borough Planning Commission

Meeting Minutes

Regular Session – August 28, 2018

6:30 pm

Call to Order - 6:30 PM by Chair John Theilacker

Present: J. Theilacker, Z. Barner, C. Patriarca, M. Mixner, S. Moran

Absent: S. Adams, A. Burke

- 1) Citizen Comments of Items not on the Agenda – None
- 2) Approval of Minutes

MOTION to approve July minutes as presented (SM/MM) – Unanimous

- 3) Old Business

Mosteller/17 North Church – Continued Review of Preliminary Land Development

JT – Stated the resubmitted materials received by the Borough on August 24 and the information was not received by the PC until August 27 for review for the meeting this evening. He asked the applicant Eli Kahn (EK) to provide an overview of the submittal.

EK – Stated the August 24 submittal addressed all comments received from the Borough by all consultants and staff to date. He noted six waiver requests were being made and the waiver request as it relates to the planning module was an error and should read as seeking an exemption from the planning module from the DEP. He then noted in the time since the plan was resubmitted to the Borough, that he agreed to install a pair of lighted bollards on both the Gay and Church Street frontages adjacent to the plaza in order to be compliant with requirements for “street wall” in the Retail Overlay District.

Mr. Kahn next stated the resubmittal included lighting details as requested by the Borough that was previously only included as part of the building permit submission.

NC – The Borough Engineer Nate Cline (NC) next gave a brief overview of the infiltration issue and waiver request. He stated it is unknown whether or not infiltration can be achieved on-site as it cannot be determined until the building is demolished. As such he noted EK has agreed to do the infiltration testing post-demolition, and if a rate in excess of 0.25 inches of infiltration per hour are achieved, the waiver from §94-305.A would no longer be required. If adequate infiltration cannot be achieved at that time, then he would support the waiver request.

JT – Asked NC if the 0.25 inches of infiltration per hour was enough to satisfy ordinance requirements. NC stated this rate would be acceptable and represented a good



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compromise with the applicant. EK then stated all surface runoff from the plaza will be captured in surrounding trench drains.

JT – Asked if the proposed stormwater system beneath the plaza will address both quantity and quality. NC stated it is designed to primarily address quantity, with limited quality reductions. He next asked about the status of the Highway Occupancy Permit (HOP) with PennDOT. EK stated this was in progress and will be limited to essentially stormwater facilities in their ROW. Kevin Gore (KG) further stated the Borough is a “co-permittee” with the applicant as it relates to the HOP and stated it will also include the reconstruction of the ADA facilities at the Gay/Church Street intersection.

ZB – Asked how the timing of the HOP and planning module exemptions may impact project approvals. NC stated approvals cannot be delayed based on PennDOT approvals, but can until sewage management issues are resolved.

KG – Asked if the submitted lighting plan is compliant with applicable Borough codes. NC stated that after an initial review there does not appear to be any major issues with the submitted lighting plan, but he will defer to their lighting experts review.

JT – Asked NC if he believes the plan and supporting materials are developed well enough to grant preliminary approval. NC stated he did believe the submitted materials were acceptable for preliminary approval with a condition that all outstanding comments be addressed prior to Council considering the application.

The next portion of the discussion was led by Borough Planner Tom Comitta (TC). He stated as he just received the resubmitted materials, he not yet had developed a formal review letter. He did have time for a quick overview and did note a few of these changes to the PC. TC stated that Sheet AS 103 did provide the hardscaping details requested in previous letters, but that details for the fountain, color of the bollards, and clarification of the proposed metal fencing needed to be added. EK stated the fencing is only proposed in the vicinity of outdoor dining areas as required by the PLCB.

The next issue discussed by TC was the issue of the “street wall” in the vicinity of the plaza previously mentioned by EK. He did generally agree that inclusion of bollards along the Gay/Church frontages could address this issue, but encouraged other elements to be considered such as flagpoles or a pergola. Next followed a discussion between TC, EK, and KG on the issue of the “street wall” and how it was interpreted in the code by the applicant. EK argued the way the code is written allows for non-vertical elements serve to meet this issue, and that the combination of the fountain, planters, different surface treatments, steps, and bollards meet the spirit of the ordinance. Both TC and KG agreed



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the addition of bollards will satisfy the requirements for the “street wall” and meet the spirit for the inclusion of a vertical element.

KG next asked the PC for their thoughts on requirements for foundation plantings along the perimeter of the building as required under §97-35D(5)(a). He noted this requirement conflicts with zoning that requires zero open space for this district, and that if installed the plantings would be in the ROW and/or reduce the sidewalk width. EK stated in his previous projects in the TC district this issue had not arisen as when ordinance provision conflict like this, the more lenient provision is applied to the project. TC stated this issue has been addressed as part of the ongoing SLDO revisions. After discussion, the PC agreed with KG the comment can be disregarded given the conflict the requirement has with the zoning ordinance.

The next issue discussed was the proposed waiver from §97-40.1.C(1) for the fee-in-lieu for open space. At issue is that no public open space is proposed for dedication and the plaza will remain as private open space open to the public. The main concern of the PC on this issue is what would prevent the owner from closing access to this area to the public. EK stated the waiver is being requested as he believes that the plaza meets the requirements for recreational open space as defined by the Borough and that there are no existing recreational facilities “reasonably” close to the project where the fee-in-lieu is required to be spent. He further stated he could meet the ordinance as it required only two percent of the lot be dedicated as open space, but that this did not make sense as it would be only an area approximately the size of the fountain area.

KG asked if the plaza meets NRPA standards, and TC then provided a brief overview of them, but acknowledged they do not generally address an urban open space such as the proposed plaza. CP asked if the applicant would be open to allowing for the Borough to utilize the plaza for special events. EK indicated he would be open to this on a case by case basis, but acknowledged his tenants would have priority use of the space for all events. KG then pressed EK on the issue of recreational facilities “reasonably” close to the project noting it is equidistant to at least four facilities. EK disagreed with this view and contended no facilities are “reasonably” close to the project.

JT – Asked about the status of the historic marker and responses from both the sustainability and shade tree committees. KG stated the historic marker is required by zoning and will be addressed as part of the overall building permit review. EK then stated they have decided to not incorporate many of the items suggested by sustainability and have addressed the concerns raised by shade tree.

The PC then had final discussions and comments prior to making separate recommendations on all six waiver requests and the preliminary land development as a



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whole. Favorable motions were made for each of the following waivers by CP and votes were as follows:

1. *Support for the waiver request from SALDO §97-29.F(7) requesting relief to not provide 75-foot clear sight triangle due to the urban nature of the site and the improvement in sight over existing sight distance. (CP/SM) – 5-0/Unanimous*
2. *Support for the waiver request from SALDO §97-40.1.C(1) requesting relief to allow the plaza to be used as recreational land but remain in private ownership. (CP/ZB) – 3-2*
3. *Support for the waiver request from SALDO §97-54.A(1) requesting relief to provide plans at one (1) inch equals ten (10) feet to improve plan clarity. (CP/ZB) – 5-0/Unanimous*
4. *Support for the waiver request from SWMO §94-311.B requesting relief to provide Duraslot and ACO Brickslot trench drains per the plans. (CP/ZB) – 5-0/Unanimous*
5. *Support for the waiver request from SWMO §94-311.D requesting relief to provide Duraslot and ACO Brickslot trench drains per the plans. (CP/SM) – 5-0/Unanimous*
6. Although the PC supports efforts by the applicant to investigate the feasibility of having positive infiltration at the site by conducting the proper tests post-demolition, based on consultation with Mr. Gore the PC does not support the waiver request from SWMO §94-305.A at this time.

Specifically a negative recommendation was made for the waiver request from SWMO §94-305.A requesting relief to not infiltrate due to the existing 100% impervious coverage and the fact that overall impervious cover will be reduced by the provision of green space. (JT/CP) – 5-0/Unanimous

At such time the infiltration testing is completed, and if those tests indicate the required amount of infiltration cannot be achieved, then the PC would offer support to this waiver request.

Once the waiver requests were addressed the following recommendation and conditions were made and approved unanimously by the PC:



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After numerous meetings with the Planning Commission, a favorable recommendation for the preliminary land development plan dated August 24, 2018 as prepared by Commonwealth Engineers, Inc. for 44 West (Mosteller 17 North Church Street) proposing the construction of a four-story, approximately 40,000 square foot building and associated plaza subject to the following conditions:

- 1. Bollards along both the Gay and North Church Street frontages of the plaza shall be added to address the issue as it relates to the provision of a “street wall” with vertical elements.*
- 2. The applicant shall provide as part of the final land development submittal designs of the proposed fountain for both the Planning Commission and Public Arts Committee to review and comment on.*
- 3. The applicant shall demonstrate compliance with all outstanding consultant and staff comments as determined by the Borough.*

(CP/ZB) – 5-0/Unanimous

4) Reports

MM will provide a report on the forthcoming HARB meeting at the next PC meeting.

MOTION to adjourn at 8:30 PM (ZB/MM) Unanimous.