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UPPER MOUNT BETHEL TOWNSHIP
BOARD OF SUPERVISORS MEETING MINUTES
MONDAY, OCTOBER 23, 2023 – 7:00 PM

*This meeting was held in person and live streamed through the Upper Mount Bethel Township Facebook page.

I.

Chairman Pinter called the meeting to order at 7:00 pm.

The Pledge of Allegiance was recited.

In attendance were Chairman Pinter, Supervisor Teel, Supervisor Friedman, Supervisor Birmingham, Interim Manager Graziano, Township Solicitor Karasek, and Township Engineer Coyle. Supervisor Due via phone.

II.

APPROVE THE AGENDA

MOTION by Supervisor Friedman to approve the agenda, seconded by Supervisor Teel.
Vote: 5-0.

III.

PUBLIC COMMENT

Frances Visicaro, N. Delaware Dr., commented on tonight's agenda item, RPL's request for a waiver on SALDO Section 304.2.5.2.3, postponement describing the intended use.

Fred Clark, Crystal Terrace, read his public comment, which will be made part of the official record. Fred discussed changing the tone of RPL discourse.

Charles Cole, Riverton Rd., commented on the Board being mostly businesspeople who retained an Engineer who is giving expert advice. We should be listening to him.

Judy Henckel, Robin Hood Rd., commented on her RTK requesting the EDC study/report produced by Urban Research Development (that Supervisor Due spoke of at the last meeting) that was done, and Judy stated the report was never presented to the BOS. Judy commented on managing monies.

Michael Onufrak, Summerfield Dr., commented on the size of the development and the location of the drip irrigation field.

Sharon Duffield, Potomac St., commented on respect, obtaining proper information, and properly sharing documents.

Fred Eyer, Potomac St., commented on weight limits, length limits, axel limits, and load limits to name a few that the BOS should consider putting on some of the adjoining roads to the RPL project.

Jim Potter, Audubon Dr., commented on the lingering problem with EMS service in the Township. Jim is working on a feasibility study and would like the Township to submit a letter authorizing him to get the run numbers for the Township.

IV. ANNOUNCEMENTS

Supervisor Bermingham thanked those who participated in the Trunk or Treat, Mt. Bethel Pharmacy is donating two turkey dinners for two families in need. Supervisor Bermingham will be moderating a debate at the BASD on November 5th, 8-9 pm.

Supervisor Friedman stated the Electronics Recycle Event was a great success and perhaps next year open it to the County.

Secretary Cindy Beck thanked Supervisor Friedman and Manager Graziano for helping out at the Electronics Recycle Event. And don't forget to sign up for CodeRed.

Chairman Pinter announced the Veterans Day Celebration will be held on Saturday, November 18th, event starting at 2pm with the fireworks going off at 6pm.

Manager Graziano announced he has been working on the budget and thanked Supervisor Friedman for helping him out. Just a reminder that garbage bills are due by December 31st, there is no progress on the trucks due to the strike. On November 8th, at 7 pm, the Open Space Board will be holding a public meeting on the Portland to Lake Minsi trail.

Chairman Pinter stated that are a number of garbage bills that are long past due and if you'd like to discuss, please meet with him after the meeting.

V.

ACTION ITEMS

1. Code Adoption Ordinance-Solicitor Karasek stated that in order to finalize the advertisement for the Ordinance, he is in of the index and titles of the Code. **MOTION** by Supervisor Bermingham to table, seconded by Supervisor Teel. Vote: 5-0.
2. Resolution No. 2023-10-Sketch Plan Fee for Minor Subdivision/ Lot Line Adjustment-Solicitor Karasek discussed the need for a fee for a sketch plan for a "minor" subdivision/lot line adjustment plan. The Township does not have a fee, therefore he has amended the fee schedule of 2017 by Resolution, to reflect a fee of \$500 for a sketch plan for a minor subdivision/lot line adjustment plan. **MOTION** by Supervisor Friedman to adopt Resolution No. 2023-10, seconded by Supervisor Teel. Vote: 5-0.
3. NIDMA Cooperation Agreement-Chairman Pinter stated that we have working on the NIDMA for some time now and since the passing of the LERTA by the County, he wanted to work on finalizing the agreement. Solicitor Karasek gave an overview of his conversation with Cozza Law firm in regard to finalizing the agreement between Upper Mount Bethel Township and River Pointe Neighborhood Improvement District Management Association. Solicitor Karasek stated that a draft has been provided to the Board to review and comment. Chairman stated that he will have Cozza Law Firm attend the next meeting for any questions that the Board may have. **MOTION** by Chairman Pinter to table, seconded by Supervisor Teel. Supervisor Bermingham asked if Solicitor Karasek has been negotiating with Cozza, Solicitor Karasek stated that no, he was given the agreement to review. Questions/Comments will be compiled and sent then sent over to Solicitor Karasek. Vote: 5-0.

VI.

SUBDIVISION/LAND DEVELOPMENT

1. Ultra-Poly Building 3 Conditional Preliminary LD-Solicitor Karasek stated this plan was reviewed and recommended for Conditional Preliminary Approval. Solicitor Karasek stated that Attorney Pete Layman was present on behalf of the applicant. Adam Citrullo, Bohler Engineering, discussed the waiver requests.
 - a. Waiver Requests
 - i. SALDO Section 304.3.5.4 and 306.5.4-Location and Scale Map-this request was granted by the Planning Commission.
 - ii. SALDO Section 400.6.2.4-to permit a minimum driveway width exceeding 10' normally and 16' at the ROW.
 - iii. SALDO Section 501.3.7-to permit interior basin slopes of 3' horizontal to 1' vertical in lieu of the required 5' horizontal to 1' vertical.

- iv. SALDO Section 501.5.2-to permit a storm sewer pipe diameter smaller than 18" for roof drain leaders and trench drain connection on site.
 - v. SALDO Section 600.4.4.1-to permit 18" concrete curb depth in lieu of the required 24".
 - vi. SALDO Section 501.3.16.7-to permit the basin outlet and emergency spillway to be lined with NAG (North American Green) matting in lieu of the required mortared riprap.
 - vii. SALDO Section 4.704 (partial)-to permit cut slopes on the site to be proposed a 2:1 in lieu of the maximum permitted grade of 3:1.
MOTION by Supervisor Birmingham to grant waivers ii-vii, seconded by Supervisor Teel. Vote: 5-0.
- b. Conditional Preliminary LD Approval-Solicitor Karasek stated this is a clean plan. All conditions compliant of Engineer Coyle's review letter of October 17, 2023. **MOTION** by Supervisor Due to grant Conditional Preliminary LD Approval, seconded by Supervisor Teel. Vote: 5-0.
2. River Pointe Logistics Center LLC Lot 3A Conditional Preliminary LD-Solicitor Karasek wanted to state a couple of things before moving forward on the RPL Plans. Solicitor Karasek stated that it is important that the BOS and citizens understand how this all works. Solicitor Karasek stated that he has been a Township resident for over 30 years and has his own strong feelings about these projects, but he can't state them, it would be improper to do that. His job is informing the Board what the law is, (2016 Honey Brook Estates LLC vs Board of Supervisors), which states, the Municipality has an obligation to proceed in good faith in reviewing and processing development plans. The duty of good faith includes discussing matters involving technical requirements or ordinance interpretation with an applicant and providing an applicant a reasonable opportunity to respond to objections or to modify plans where there has been a misunderstanding or difference of opinion. The Township has been doing its best to follow the law. There was a discussion on water and sewer. Solicitor Karasek stated on the Conditional Approval form that was signed by the applicant, which indicates that they must receive planning module approval and/or an exemption. They have to get DEP approval to their sewage disposal in one way or another.

Discussion on Exhibit A of the Agreement for Conditional Plan Approval Form

Engineer Coyle stated there are still outstanding issues, the LVPC review letter has not been received, Special Exception Hearing decision, before final plan approval. Discussed were transition areas, riparian buffers. Attorney Julie Bernstein, of Kaplan-Stewart, on behalf of the applicant, stated that what is being discussed (Special Exception Hearing) is not part of this plan (Lot 3A), there are other alternatives to this project, they don't want this particular approval to be tied to that, they would like them to be separate. Engineer Coyle

recommends they either allow the applicant to proceed without them having the Special Exception Hearing or you could impose the condition that they have the Hearing before final plan submission or final plan approval. Supervisor Teel stated the Planning Commission did not make this recommendation as a condition.

- a. Deferral Request-with condition-Solicitor Karasek stated that the Planning Commission has recommended the deferral be allowed on the condition that a site plan is to be submitted at the time of filing a Zoning Application for the use, so that such site plan can be reviewed and filed for informational purposes as to the type of use.
 - i. SALDO Section 304.3.5.2.3-postponement describing the intended use. **MOTION** by Supervisor Teel to grant the deferral request, with condition, seconded by Supervisor Due. Vote: 5-0. Solicitor Karasek asked if the Board would like to act on the same deferral request, with condition, on all the plans presented tonight. **MOTION** by Supervisor Teel to grant the referral request, with condition, SALDO Section 304.3.5.2.3, on agenda items 2,3,4,5,6,7,8,9,10,11, seconded by Chairman Pinter. Vote: 5-0.
 - b. Conditional Preliminary LD Approval-**MOTION** by Chairman Pinter to grant Conditional Preliminary LD Approval, with conditions, and compliant with Engineer Coyle's review letter of August 12, 2023, seconded by Supervisor Teel. Vote: 3-2.
3. River Pointe Logistics Center LLC Lot 3B Conditional Preliminary LD
- a. Deferral Request SALDO Section 304.3.5.2.3-postponement describing the intended use-with condition-this deferral request has been granted as stated above, agenda item 2.
 - b. Conditional Preliminary LD Approval-**MOTION** by Supervisor Teel to grant Conditional Preliminary LD Approval, with conditions, and compliant with Engineer Coyle's review letter of August 12, 2023, seconded by Supervisor Friedman. Vote: 5-0.
4. River Pointe Logistics Center LLC Lot 3C-Conditional Preliminary LD
- a. Deferral Request SALDO Section 304.3.5.2.3, with condition-postponement describing the intended use-this deferral request has been granted as stated above, agenda item 2.
 - b. Conditional Preliminary LD Approval-**MOTION** by Supervisor Teel to grant Conditional Preliminary LD Approval, with conditions, and compliant with Engineer Coyle's review letter of August 12, 2023, seconded by Supervisor Friedman. Vote: 5-0.
5. River Pointe Logistics Center LLC Lot 4-Conditional Preliminary LD
- a. Waiver Request
 - i. SALDO Section 501.3.15-permit a basin outlet that functions with electrical and mechanical controls. **MOTION** by Supervisor Friedman to grant SALDO Section 501.3.15 on agenda items 5, 6,7,8,9,10,11, seconded by Supervisor Bermingham. Vote: 5-0.

- b. Deferral Request-SALDO Section 304.3.5.2.3, with condition-postponement describing the intended use-this deferral request has been granted as stated above, agenda item 2.
 - c. Conditional Preliminary LD Approval-**MOTION** by Supervisor Teel to grant Conditional Preliminary LD Approval, with conditions, and compliant with Engineer Coyle's review letter of August 12, 2023, seconded by Supervisor Friedman. Vote: 5-0.
6. River Pointe Logistics Center LLC Lot 5-Conditional Preliminary LD
- a. Waiver Request
 - i. SALDO Section 501.3.15-permit a basin outlet that functions with electrical and mechanical controls-this waiver has been granted as stated above, agenda item 5.
 - b. Deferral Request-SALDO Section 304.3.5.2.3, with condition-postponement describing the intended use-this deferral request has been granted as stated above, agenda item 2.
 - c. Conditional Preliminary LD Approval-**MOTION** by Supervisor Teel to grant Conditional Preliminary LD Approval, with conditions, and compliant with Engineer Coyle's review letter of August 12, 2023, seconded by Supervisor Friedman. Vote: 5-0.
7. River Pointe Logistics Center LLC Lot 7-Conditional Preliminary LD
- a. Waiver Requests
 - i. SALDO Section 501.3.15-permit a basin outlet that functions with electrical and mechanical controls-this waiver has been granted as stated above, agenda item 5.
 - ii. SALDO Section 501.3.16.7-allow turf reinforcement matting to be used in lieu of required mortared riprap. **MOTION** by Supervisor Friedman to grant SALDO Section 501.3.16.7 on agenda items 7, 8,11, seconded by Supervisor Bermingham. Vote: 5-0.
 - b. Deferral Request SALDO Section 304.3.5.2.3, with condition-postponement describing the intended use-this deferral request has been granted as stated above, agenda item 2.
 - c. Conditional Preliminary LD Approval-**MOTION** by Supervisor Teel to grant Conditional Preliminary LD Approval, with conditions, and compliant with Engineer Coyle's review letter of September 18, 2023, seconded by Supervisor Friedman. Vote: 5-0.
8. River Pointe Logistics Center LLC Lot 8-Conditional Preliminary LD
- a. Waiver Requests
 - i. SALDO Section 501.3.15-permit a basin outlet that functions with electrical and mechanical controls-this waiver has been granted as stated above, agenda item 5.
 - ii. SALDO Section 501.3.16.7-allow turf reinforcement matting to be used in lieu of required mortared riprap-this waiver has been granted as stated above, agenda item 7.

- b. Deferral Request SALDO Section 304.3.5.2.3, with condition-postponement describing the intended use-this deferral request has been granted as stated above, agenda item 2.
 - c. Conditional Preliminary LD Approval-**MOTION** by Supervisor Teel to grant Conditional Preliminary LD Approval, with conditions, and compliant with Engineer Coyle's review letter of September 18, 2023, seconded by Supervisor Friedman. Vote: 5-0.
9. River Pointe Logistics Center LLC Lot 9-Conditional Preliminary LD
- a. Waiver Request
 - i. SALDO Section 501.3.15-permit a basin outlet that functions with electrical and mechanical controls-this waiver has been granted as stated above, agenda item 5.
 - b. Deferral Request- SALDO Section 304.3.5.2.3, with condition-postponement describing the intended use-this deferral request has been granted as stated above, agenda item 2.
 - c. Conditional Preliminary LD Approval-**MOTION** by Supervisor Teel to grant Conditional Preliminary LD Approval, with conditions, and compliant with Engineer Coyle's review letter of September 18, 2023, seconded by Supervisor Friedman. Vote: 5-0.
10. RPL East LLC (South) Major Subdivision
- a. Waiver Request- there was a discussion as to an additional condition. Solicitor Karasek stated that the Board may want to consider adding an additional condition stating that if the Township Municipal Authority fails for any reason, they must now go to another public utility or do on-lot. **MOTION** by Supervisor Friedman to add the following condition: that in the event the proposed Township Municipal Authority would fail/go bankrupt/or could not perform its function, to perform and service sanitary sewer and water, then the applicant will need to go to another recognized public utility commission authority or do sewer and water on-lot, for both i and ii (below), seconded by Supervisor Bermingham. Vote: 5-0.
 - i. SALDO Section 600.4.6.1 (incorrectly designated as 600.4.d.1)- allow for a centralized public sewage system that is intended to be owned and operated by a public utility authority.
 - ii. SALDO Section 600.4.7.1-allow for a centralized water supply system that is intended to be owned and operated by a public utility authority.
 - b. Deferral Request- SALDO Section 304.3.5.2.3, with condition-postponement describing the intended use-this deferral request has been granted as stated above, agenda item 2.
 - d. Conditional Preliminary Major Subdivision Approval-**MOTION** by Supervisor Teel to grant Conditional Preliminary Major Subdivision Approval, with conditions, and compliant with Engineer Coyle's review letter of August 14, 2023, seconded by Supervisor Bermingham. Vote: 5-0.
11. RPL East LLC (South) Land Development
- a. Waiver Requests

- i. SALDO Section 501.3.6-allow flat bottom basins which are installed with a perforated underdrain in accordance with PADEP BMP Design Criteria. **MOTION** by Supervisor Teel to grant SALDO Section 501.3.6, seconded by Supervisor Due. Vote: 5-0.
 - ii. SALDO Section 501.3.15-permit a basin outlet that functions with electrical and mechanical controls-this waiver has been granted as stated above, agenda item 5.
 - iii. SALDO Section 501.3.16.7-allow turf reinforcement matting to be used in lieu of required mortared riprap-this waiver has been granted as stated above, agenda item 7.
- b. Deferral Request-SALDO Section 304.3.5.2.3, with condition-postponement describing the intended use-this deferral request has been granted as stated above, agenda item 2.
- c. Conditional Preliminary Land Development Approval- **MOTION** by Supervisor Birmingham to grant Conditional Preliminary LD Approval with conditions, and compliant with Engineer Coyle's review letter of August 14, 2023, seconded by Supervisor Teel. Vote: 5-0.

VII. NEW BUSINESS

1. Vacancy Board-Chairman Pinter stated that now that Nick has been appointed Interim Manager, he has resigned from his position on the Vacancy Board. Chairman Pinter stated that if anyone is interested in serving on the Vacancy Board until the New Year, to please submit a letter of interest to the Township Secretary.

Manager Graziano wanted to thank Lindsey Manzi for helping with the Recycle Event.

VIII. EXECUTIVE SESSION-Nothing to discuss.

IX. ADJOURNMENT

MOTION by Chairman Pinter to adjourn the meeting at 9:40 pm, seconded by Supervisor Friedman. Vote: 5-0.

Respectfully Submitted by Cindy Beck-Recording Secretary

Good evening, Fred Clark, Crystal Terrace, Upper Mount Bethel. Thank you for the opportunity to speak.

First, I would like to thank Supervisor Friedman for taking the time to discuss town issues with me recently.

Today, I would like to discuss changing the tone of RPL discourse.

It has been said that the Board of Supervisors should "**Do no harm**" when making decisions related to RPL. I originally liked this slogan, as I was in favor of the project as long as it did not harm the town.

Now I believe "**Do no harm**" is not a high enough standard for the development. The project and the BOS should strive to "**Do great good**" for the town, as promised by the developer. For the privilege of becoming our neighbor, the project's benefits should **significantly** outweigh any downsides, not just leave the town unharmed. Regardless of which standard is applied, both require a clear understanding of the risks, as has been pointed out by the town engineer, and seemingly discounted in some decision making.

In the beginning of the project, the developer seemed to be more willing to provide support for the narrative that they were "**Doing great good**" for the town. The members of the Board in favor of the project were also more vocal in identifying its' benefits. As residents began raising concerns about the potential negative RPL impacts, some project supporters resorted to attacking the messenger rather than the message. A dismissive tone was sometimes taken, instead of allaying those concerns with fact-based counterpoints.

Perceiving a lack of respect for the public's concerns about their health and safety, legal action seemed the only way to protect the town for some. Countersuits soon followed.

Now, we are in a downward spiral where individuals on both sides might believe the opposing side is lying if their lips are moving or unreasonable when they don't agree to roll over. **"Do great good"** for one side is a "damn the torpedoes" approach and a "stop them at all costs" for the other. Because mutual respect is lacking, negotiation that finds a middle ground does not even seem to be an option.

To the Supervisors: I understand there can be personal style differences between supervisors, but I ask that you rise above them, treat each other's positions with respect, and do what is best for the town. Please try to identify where you have common ground on this project and work from there to find the best way forward.

To the Developer: I struggle to see how litigation against residents that raise concerns about the impact of your project on the town benefits you in the long run. Go back to supporting the **"Do great good"** theme and listen and respond respectfully to the concerns of residents, supervisors, and the town engineer.

To the opponents of the project as proposed: This town has financial challenges to address, and industrial development could help. RPL owns the property and has a right to develop it. Offer acceptable solutions to the impasse between you and RPL.

For my part, I will try to get better at this.