

MINUTES

CLINTON TOWNSHIP PLANNING BOARD

www.clintontwpnj.com

March 16, 2020

7:00PM

PUBLIC SAFETY BUILDING

1370 Route 31N

Annandale, NJ 08801

THIS ELECTRIC MEETING WAS CONDUCTED VIA CONFERENCE CALL TO PROTECT HEALTH, SAFETY AND WELFARE OF RESIDENTS, EMPLOYEES, MUNICIPAL OFFICIALS, APPLICANTS AND CONSULTANTS IN RESPONSE TO THE COVID-19 PUBLIC HEALTH EMERGENCY.

Chairman Cimei called the meeting to order at 7:03pm.

Chairman Cimei led the Flag Salute.

Chairman Cimei read the Public Notice

This is a public meeting of the Planning Board of the Township of Clinton, County of Hunterdon and State of New Jersey. Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act in that an Annual Notice was published in the Hunterdon County Democrat and the notice of and agenda for this meeting was posted on the bulletin boards in the Municipal Building and faxed to the Hunterdon County Democrat, the Express Times, the Courier News, the Hunterdon Review, and the Star Ledger, no later than the Friday prior to the meeting.

MEMBERS PRESENT VIA TELEPHONIC CONFERENCE

Glaser, Higgins, Kleinhans, Lazarus, Scheick, Cimei

MEMBERS ABSENT

Butcher, Kilduff, Kochanowski

BOARD PROFESSIONALS/STAFF IN ATTENDANCE VIA TELEPHONIC CONFERENCE

Jonathan Drill, Board Attorney, Tom Behrens, Jr., Board Planning Expert, Michael Wright, Township Construction Code Official, Denise Filardo, Board Secretary

Mr. Cimei asked and confirmed that there was no one from the public was in attendance via the dial-in meeting conference call.

MEETING MINUTES

1) MEETING MINUTES FEBRUARY 3, 2020

Mr. Scheick motioned and Mr. Lazarus seconded the motion to adopt the Minutes of February 3, 2020. The vote record follows.

Roll Call: Minutes of February 3, 2020						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Butcher (Vice Chair)						X
Glaser (Alt. 2)					X	
Higgins			X			
Kilduff (Alt. 1)						X
Kleinhans			X			
Kochanowski						X
Lazarus		X	X			
Scheick	X		X			
Cimei, (Chair)			X			

NOVACAT ENTERPRISES

1) NOVACAT ENTERPRISES, LLC D/B/A COUNTRY SQUARE PLAZA
(SWEET MELISSA PATISSERIE AND LUCKY FORTUNE RESTAURANT)
Block 89, Lots 8 & 8.02
Application No. PB-2020-01

Applicant is seeking certain relief for two existing uses within Country Square Plaza I to allow Lucky Fortune Restaurant’s allocation of seating to be transferred to Sweet Melissa Patisserie (“Sweet Melissa”), grant of a Site Plan Waiver to allow Sweet Melissa to expand into unit 3, modification of certain aspects of a prior approvals to permit additional seating for Sweet Melissa and approval of traffic generation and parking as to both Lucky Fortune Restaurant and Sweet Melissa.

Mr. Cimei again asked and no one from the public was in attendance via the dial-in meeting conference call.

Mrs. Kleinhans recused herself from this application and left the room.

The applicant was represented by David Stern, Esq.

The following individuals were sworn and testified during the hearing:

1. Joe Santomo (managing member of the applicant),

2. Chris Rufano (managing member of Sweet Melissa),
3. Eric Keller, PE (applicant's engineering expert),
4. Michael Wright (Township Construction Official), and
5. Tom Behrens, PP, AICP (Board planning expert);

Board Attorney Drill explained that this application is to reallocate seats from one restaurant to another. In an attempt to understand it himself, and taking 6 drafts of to get it right, he prepared a Resolution in advance to clearly identify the history, conditions, etc.

The Application seeks the following relief:

1. approval to allow Lucky Fortune to allocate and transfer ten (10) of its seats for use by Sweet Melissa and a corresponding reduction in Lucky Fortune's floor plan,
2. approval of the traffic generation and parking for Lucky Fortune resulting from the deduction of 10 seats,
3. approval of the expansion of Sweet Melissa into Unit 3 of Country Square Plaza I (previously occupied by Frameworks Dance Studio) in addition to its current space in Units 1 and 2, with an additional 1,560 square feet and use of an additional five (5) seats to serve the Sweet Melissa use (for a total of 41 seats for the three units),
4. modification of the findings set forth in paragraph A.3 of Resolution 2015-13 to allow Sweet Melissa to maintain a total of 41 seats (instead of 26 seats) through the addition of 10 seats to be allocated from Lucky Fortune and the addition of five (5) seats from the expansion into Unit 3, and
5. approval of the traffic generation and parking as to Sweet Melissa for the additional 10 seats allocated from Lucky Fortune and the additional five (5) seats to be added through the expansion into Unit 3.

Eric Keller, PE appeared on this application in the past and his qualifications accepted by the Board.

Mr. Keller's testimony included and was not limited to the following:

- Description of the proposed interior changes
- Transfer of 10 seats from Lucky Fortune to Sweet Melissa
- Addition of 5 seats due to expansion into Unit 3
- No changes to the current parking
- The proposed changes will not have impact on the previously approved Site Plan

Mr. Rafano's testified that the proposed changes are to increase production capabilities to meet demand and further grow the business. Mr. Rafano agreed that he will comply with the proposed floor plan (maximum of 41 seats) and would not make any additional changes without first coming back to the Board.

Mr. Santomo agreed that he has reviewed the existing and proposed floor plans and that as landlord he will ensure that his tenant complies with the proposed floor plan which will permit a maximum of 41 seats.

Attorney Stern requested that the applicant be granted one year from the time the Governor lifts the restrictions on in-restaurant dining due to the current COVID-19 Emergency, to apply for permits.

Mr. Wright discussed that the proposed changes would change the current Uniform Construction Code Use from a B Use to an A Use and that the first step in the process would be for a fire wall to be installed between Unit 3 and Unit 4.

BOARD FINDINGS AND CONCLUSIONS

Allowing Lucky Fortune to Transfer some of its Allocated Parking Spaces to Sweet Melissa and Reviewing and Approving the Traffic Generation Generated by and Parking to be Provided by Lucky Fortune.

- the applicant is requesting an internal transfer of seating from one eating establishment to another eating establishment.
- allowance for the transfer and allocation to Sweet Melissa and corresponding reduction in Lucky Fortune seating does not create any negative impacts since the uses are generally compatible in nature.
- approval of the transfer of the allocation of seating by Lucky Fortune to Sweet Melissa is warranted and can be granted.
- No traffic will be generated or parking spaces required by Lucky Fortune as result of transfer and allocation of the seating to Sweet Melissa.
- As a result of the elimination of seating for Lucky Fortune, traffic generation will be reduced and the parking space requirement for Lucky Fortune will likewise be reduced.
- There are an adequate number of parking spaces on the property to accommodate the allocation and transfer of seating by Lucky Fortune to Sweet Melissa and that such allocation and transfer will not negatively impact traffic generation or parking for Country Square Plaza I.

Waiver of Site Plan Review and Approval to Allow Sweet Melissa to Expand into Unit 3 of Country Square Plaza I

- The additional space in Unit 3 can accommodate the expansion of Sweet Melissa with five (5) additional seats, particularly since it was previously occupied by a dance studio and since only a minimal number of seats are proposed to be added.
- The occupancy of Unit 3 by Sweet Melissa will not affect existing circulation, drainage, building arrangements, landscaping, buffering, lighting and other considerations of site plan review in accordance with ordinance section 165-36.1.A(3), particularly since Sweet Melissa is merely reoccupying existing interior commercial space.

Request to Modify Prior Resolution No. 2015-13

- The applicant wants to transfer and allocate 10 seats from one restaurant type use to another type of eating establishment use and to expand minimally into an existing commercial space.

- Requiring the enforcement of the precise seating requirements of the prior resolution rather than allowing for the transfer and allocation as proposed would frustrate the continued operation of each respective eating establishment use.
- It is reasonable and that good cause has been shown to allow for the modification of paragraph A.3 of Resolution No. 2015-13 to allow for 41 seats (in place of 26 seats) within Units 1, 2 and 3.

Traffic Generation and Parking

- There are an adequate number of parking spaces on the property to accommodate the anticipated traffic generated by Sweet Melissa relative to the transfer and allocation of 10 additional seats and expansion into Unit 3, since 10 seats would be “lost” by Lucky Fortune restaurant.
- The Board does not find that the overall “gain” of five (5) additional seats will generate more traffic than the number of existing parking spaces the site can accommodate.
- There are an adequate number of parking spaces on the property to accommodate the traffic generated by Sweet Melissa, in particular since the 10 seats that were allocated to Lucky Fortune will be shifted and utilized by Sweet Melissa

RELIEF GRANTED

- Approval of Allocation of 10 Seats from Lucky Fortune to Sweet Melissa and Approval of Traffic Generation and Parking as to Lucky Fortune.
- Waiver of Site Plan Review and Approval to allow Sweet Melissa to expand and utilize an additional 1,560 square feet with up to five (5) seats, in addition to its space within Units 1 & 2 of Country Square Plaza I.
- Modification of Factual Findings in Paragraph A.3 of Resolution No. 2015-13 to allow the applicant permitted use of a total of 41 seats instead of 26 seats.

All of the above relief is granted subject to the applicant’s compliance with the Board imposed conditions.

Mr. Higgins motioned and Mr. Scheick seconded the motion to grant the requested Waiver of Site Plan. The vote record follows.

<i>Roll Call: NOVACAT ENTERPRISES d/b/a Country Square Plaza (Sweet Melissa Patisserie and Lucky Fortune Restaurant)</i>						
Member	Motion	2nd	Yes	No	Recused	Absent
Butcher (Vice Chair)						X
Glaser (Alt. 2)			X			
Higgins	X		X			
Kilduff (Alt. 1)						X
Kleinhans					X	
Kochanowski						X
Lazarus			X			
Scheick		X	X			
Cimej, (Chair)			X			

PERIODIC REEXAMINATION REPORT OF THE MASTER PLAN & DEVELOPMENT REGULATIONS AND LAND USE PLAN AMENDMENT

Mr. Cimei again asked and no one from the public was in attendance via the dial-in meeting conference call.

Tom Behrens, Board Planning Expert was sworn by Jon Drill.

Mr. Behrens provided a summary of the proposed “2020 Reexamination Report of the Master Plan & Development Regulations and Land Use Plan Element Amendment” of the Master Plan dated March 4, 2020, attached herewith.

The Board determined that this Periodic Reexamination Report should be adopted as it contains information and recommendations as prescribed by N.J.S.A. 40:55D-89, and that the Land Use Plan Element should be adopted to incorporate changes recommended in the Periodic Reexamination Report and because it will guide the use of lands in the municipality in a manner which protects public health and safety and promotes the general welfare in accordance with N.J.S.A. 40:55D-28.

The Board further determined to adopt Resolution No. 2020-03 memorializing adoption of 2020 Reexamination Report and 2020 Land Use Plan Element of the Master Plan.

Mr. Lazarus motioned and Mr. Higgins seconded the motion to adopt the 2020 Reexamination Report of the Master Plan & Development Regulations and Land Use Plan Element Amendment” of the Master Plan. The vote record follows.

<i>Roll Call: Periodic Reexamination Report of the Master Plan and Development Regulations and Land Use Plan Element and Adoption of the memorializing Resolution No. 2020-03</i>						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Butcher (Vice Chair)						X
Glaser (Alt. 2)			X			
Higgins		X	X			
Kilduff (Alt. 1)						X
Kleinhans			X			
Kochanowski						X
Lazarus	X		X			
Scheick			X			
Cimei, (Chair)			X			

APPROVAL OF VOUCHERS

Mr. Lazarus motioned and Ms. Kleinhans seconded the motion to approve payment of the Vouchers. The vote record follows.

Roll Call: Vouchers						
Member	Motion	2nd	Yes	No	Not Eligible	Absent
Butcher (Vice Chair)						X
Glaser (Alt. 2)			X			
Higgins			X			
Kilduff (Alt. 1)						X
Kleinhans		X	X			
Kochanowski						X
Lazarus	X		X			
Scheick			X			
Cimei, (Chair)			X			

REPORTS

- 1) Report from Council – None.
- 2) Report from Ordinance Subcommittee – None.
- 3) Report from Open Space – None.
- 4) Report from Environmental Commission – None.

ADJOURNMENT

Mr. Glaser motioned and Mr. Lazarus seconded a motion to adjourn. The motion carried unanimously, and the meeting was adjourned at 8:29pm.

Respectfully Submitted,

Denise Filardo

Planning and Zoning Board Secretary

These minutes were approved on April 20, 2020.