

# BOROUGH OF TOTOWA P L A N N I N G   B O A R D

PASSAIC COUNTY  
NEW JERSEY



MINUTES – APRIL 27, 2017

Acting Chairman Campilango called the Planning Board meeting of Thursday, April 27, 2017 to order at 8:00 p.m. in the Municipal Building of the Borough of Totowa.

**PRESENT:**

Commissioner Campilango	Commissioner Paese	Commissioner Zarek	Commissioner Festa
Councilman D'Angelo	Mike Cristaldi, PE	Richard Briigliodoro, ESQ	

The clerk read the statement of the meeting as follows: The meeting of the Planning Board to be held on the 27th day of April 2017 is in accordance with the Schedule of Annual Notice, which is posted, and in accordance with Chapter 231 P.L. 1975 of the State of New Jersey. The agenda for this meeting has been prepared and distributed to the members of the Planning Board and a copy has been on file in the Construction Official's Office.

**ITEM #2**

North Capital Funding Corp. 535 Union Blvd.	Block 147 - Lot 1	Minor Site Plan Certificate of Use
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Ms. Lindsay appeared requesting the approval for occupancy of approximately 700 square feet of space to be used for a mortgage office operation. Ms. Lindsay testified that she is a principal in North Capital Mortgage Corp. which is changing its name to North Capital Funding Corp. The change is being approved by the New Jersey Department of Insurance and Banking.

Acting Chairman Campilango read a letter of intent into the record. The anticipated hours of operation will be Monday through Friday from 9:00 a.m. to 5:00 p.m. There may be occasional evening and Saturday hours to accommodate client needs. The owner and mortgage processor are currently the only two employees.

Ms. Lindsay testified that she has been in business for over twenty years and is a licensed New Jersey Mortgage Broker. The primary services include mortgage loan pre-approvals, loan originations and loan submission to lender partners. She stated that mortgage applications are originated and submitted to a lender for underwriting. After the loans are approved by the lender, the Applicant continues to work with the client in order to clear conditions which ultimately result in closing the mortgage. There are three dedicated parking spaces for the Applicant's use. In addition, there are six additional parking spaces located behind the building.

There is an existing freestanding pylon sign on the property and two sign panels. The Applicant will utilize only one sign panel which is double-sided. The Applicant will replace one of the existing sign panels with a new sign panel to reflect the name of the new business. The sign panel shall be no larger than the existing sign panel. In addition, the Applicant is permitted to have signage in the glass window, however, any signage shall not exceed 20% of the area of the window. No additional signage was approved in connection with this application.

A motion was offered by Commissioner Paese and seconded by Commissioner Festa to approve the minor site plan as presented. This approval is subject to and contingent upon the following conditions and will be memorialized in a Resolution at a future date:

1. The construction of internal partitions, exits, entrances and fire safety devices are subject to and require the approval of the fire sub-code official, the fire inspector and the building inspector.
2. The applicant will supply the Chief of Police with an emergency contact list and will also obtain the approval of the Police Chief in regards to all alarms and security devices.
3. There will be no outside storage of equipment or materials.
4. The applicant will comply with the Totowa Sign Ordinance.

Five agreed to a roll call vote... 5-0

**ITEM #2**

GOM Real Estate Investment  
95 Shepherds Lane

Block 11 - Lot 9.01

Preliminary/Final Site Plan

Jerome A. Vogel, Esq., Attorney for the applicant appeared requesting approval for the Preliminary and Final Site Plan as well as ancillary "c" or bulk variance relief. The property is located in the R-AH-2 Zone. The Applicant seeks approval in order to construct a new boulevard style access drive off of Shepherds Lane in order to construct four buildings containing a total of fifty-four dwelling units. Forty-four of the dwelling units will be market rate and ten of the units will be affordable housing units. The ten units of affordable housing will be dispersed throughout the project.

Testifying on behalf of the Applicant was Patrick D. McClellan, P.E., a Licensed Professional Engineer. Mr. McClellan oriented the Board to the site and the surrounding area. The site is approximately 5.9 acres in size. It has approximately 215 feet of frontage on Shepherds Lane. Mr. McClellan testified about significant topographic features which exists on the site. In addition, he stated that the property is constrained by environmental conditions inclusive of wetlands on the westerly side of the property as well as a regulated stream that runs through the property. Mr. McClellan estimated that approximately one-third of the site cannot be developed due to environmental constraints. Mr. McClellan stated that the Applicant designed the development to be located outside of the wetlands.

Mr. McClellan testified that the Applicant is proposing four buildings with Building No. 1 consisting of eighteen units; Building No. 2 consisting of eighteen units; Building No. 3 consisting of ten units and Building No. 4 consisting of eight units. In addition, the Applicant requires ancillary "c" variance relief in regard to building height for Buildings 3 and 4 because the maximum building height allowed is forty-five feet and the Applicant requires a height variance for Building No. 3 at 45.7 feet and Building No. 4 at 46.2 feet. Since both Buildings 3 and 4 do not exceed the maximum height in the R-AH-2 Zone by 10 feet or 10%, the variances are "c" or bulk variances.

Mr. McClellan also testified that the proposed building heights are a product of the site topography. The Applicant also requires ancillary "c" variance relief in regard to the height and stories where the maximum number of stories is three and the Applicant proposes four stories. Mr. McClellan stated that without the fourth story, the Applicant would be unable to provide the proposed ten affordable units.

Next, Mr. McClellan addressed the issue of off-street parking. He testified that the Applicant is required to provide one hundred twenty-seven parking spaces. The Applicant is proposing ninety-five parking spaces as shown on the plans submitted. Mr. McClellan also testified and brought forward an alternate parking plan for the Board's review and consideration. The alternate parking plan was introduced into evidence as Exhibit A-1. He characterized Exhibit A-1 as being a driveway expansion exhibit. Mr. McClellan stated that there are fifty-four dwelling units which consist of twenty-seven footprints. There is one garage with one driveway parking space for each downstairs unit.

The upstairs units have parking around the looped access road. In order to provide additional on-site parking, the Applicant will add a second driveway parking space, adjacent to each driveway serving a garage, which will be 9' x 18' for the twenty-seven units that are located upstairs. As a result, the Applicant will now be able to provide one hundred twenty-two on-site parking spaces, significantly reducing the parking deficiency. As a result of the alternate parking plan, the Applicant is only deficient by five parking spaces. Mr. McClellan also testified that adding the additional driveway space would result in 4,500 sq ft of additional paved area.

Mr. McClellan also testified that the alternate driveway layout will result in the elimination of sidewalk in front of the buildings. Mr. McClellan also testified that the sidewalks between the driveways and building entrances will be reduced in width from 6 feet to 4 feet 2 inches. Mr. McClellan testified that the Applicant will be adding sidewalk along the parking spaces on the interior loop of the access road, provide cross-walks and will extend the sidewalk along the boulevard style entrance drive out to Shepherds Lane. Mr. McClellan also addressed the Boulevard access way. He stated that the Boulevard access way would be forty-two feet in width. In comparison to Shepherds Lane which is thirty feet in width, the Boulevard access way would be significantly wider. Mr. McClellan also testified that there would be no parking of vehicles within the travel lane.

The Applicant will coordinate with the Borough Planner and Engineer in order to provide a landscaping plan that is satisfactory to the Board's Professionals. The Applicant also agreed that it would provide street signage on each building for identification purposes.

Regarding wetlands issues which are regulated by the New Jersey Department of Environmental Protection (NJDEP), Mr. McClellan stated that the Applicant would apply for a Letter of Interpretation in regard to the wetlands. The Applicant will require a Flood Hazard Permit in order to permit the crossing of the drainage ditch. Mr. McClellan also testified regarding the proposed culvert crossing for the main access road.

Mr. McClellan also stated that the Applicant seeks approval to locate a conforming monument sign on the site, in order to identify the site. The monument sign shall not exceed 40 square feet and five feet in height. Mr. McClellan also stipulated that the Applicant will provide a site lighting plan which shall be subject to the review and approval of the Board Engineer. Mr. McClellan also testified that refuse and recycling containers will be stored out of sight either under the porch or in the garage. The unit owners with a garage would store their refuse in the garage and the unit owners that do not have a garage would store their refuse barrels under the porch for each dwelling unit.

Mr. McClellan also introduced into evidence Exhibit A-3 which is an illustrative site cross section depicting the retaining wall and buffering. The Exhibit highlighted the fact that the retaining wall would be approximately 10 to 12 feet off of the property line. He further commented that the existing residential dwelling at 272 Boyle Ave. will only see two stories of Building 3 which is at a height of 43 feet. Mr. McClellan also testified that there would be evergreen buffering and understory shrubs such that the retaining wall will not be visible from off the site.

Mr. McClellan also stated that the Applicant would install a safety/privacy fence and landscaping in order to maximize safety and buffering regarding the wall. Mr. McClellan further testified that the Applicant would adjust the location of the retaining walls to provide additional space between the top of wall and lot line to maximize the area available to be planted with landscape buffering.

The next witness to testify was Paul Tiajoloff, a licensed professional architect. Mr. Tiajoloff testified that the project was designed for fifty-four units in a stacked townhouse configuration. The Applicant is proposing twenty-seven two-bedroom units and twenty-seven three-bedroom units. Mr. Tiajoloff also reviewed with the Board the various architectural plans submitted by his office. He also, introduced into evidence Exhibit A-2 which was a Color Rendering of one of the proposed buildings. Mr. Tiajoloff confirmed that there will be a twenty-four sq. ft. area under the porch in order to keep refuse out of sight.

Mr. Tiajloff also stated that a vehicle will be able to pull into the garage and there will be no conflict with garbage stored in the garage. Mr. Tiajloff also stated that there will be no conflict with the stairs that provide access to the dwelling units and cars parking along the driveway as far as drivers or passengers being able to enter or exit the vehicle.

The next witness to testify on behalf of the Applicant was Joseph J. Staigar, P.E., P.P., a licensed Professional Engineer and Planner with particular expertise in traffic matters. Mr. Staigar testified in regard to the traffic report dated April 20, 2017 prepared by his office and the process he undertook to evaluate traffic related issues and the conclusions reached. Mr. Staigar found that:

1. The proposed 54 residential units will generate 3 entering trips and 15 existing trips during the morning peak hour and 13 entering trips and 8 exiting trips during the evening peak hour. This is based on a constructive assessment of trip generation with no credit for the existing use of the site, mass transit usage or internally captured trips.
2. Access to the site will be provided via one full movement driveway along Union Boulevard.
3. With the addition of the site generated traffic, the individual intersection movements of Shepherds Lane and Union Boulevard will continue to operate at level of service "F" or better during the AM and PM peak hours, resulting in minimal impact to the intersection.
4. With the addition of the site generated traffic, the individual intersection movements of Shepherds Lane and the site driveway will operate at favorable level of service "A" during the AM and PM peak hours.
5. As proposed, the project's site driveway and internal circulation have been designed to provide for safe and efficient movement of vehicles on-site.
6. The proposed parking supply and design is sufficient to provide the maximum anticipated demand and is consistent with past experience at similar developments.

Mr. Staigar concluded that the adjacent street system of the Borough of Totowa will not experience any significant degradation in operating conditions with the construction of the proposed Project. He further stated the site driveway is located to provide safe and efficient access to the adjacent roadway system.

The next witness to testify was Ken Ochab, P.P., a licensed Professional Planner. Mr. Ochab testified that the site is an irregular shaped site, which resembles an "L" shape. He stated that the topography rises from Shepherds Lane up to Boyle Ave. Mr. Ochab testified about the density of the project and represented that fifty-four units are being proposed for this site which constitutes a density of 9.7 units per acre where the Ordinance allows for a density of 12.5 units per acre. Thus, the proposal for fifty-four units of "For Sale" housing is significantly below the permitted density in the zone. He also stated that the building coverage is only 11.75% which is significantly below the maximum of 65%. Mr. Ochab also addressed the issue of variances. The Applicant requires the following ancillary "c" or bulk variances:

1. Tract setback with a minimum setback of 40 feet required and 31 feet proposed;
2. Building wall side-to-side setback, where a minimum of 35 feet is required and 25 feet is proposed;
3. Building length where the maximum building length is 200 feet and the Applicant proposes a building length of 211 feet for Buildings 1 and 2;

4. Building height in regard to Buildings 3 and 4 where the maximum building height is 45 feet, and Building 3 is 45.7 feet and Building 4 is 46.2 feet;
5. Stories where the maximum stories permitted is three stories and the Applicant is proposing four stories;
6. Number of off-street parking spaces where 127 spaces are required (utilizing RSIS requirements for townhouses), and the Applicant is proposing 122 off-street parking spaces;
7. No parking permitted along roadways and the Applicant is proposing parking along roadways;
8. Tract buffer where a 50 foot natural landscape buffer to adjacent residential property along Boyle Ave. is required, and less than 50 feet is proposed; and
9. Tract buffer where a minimum of 20 feet natural landscape buffer to non-residential uses is required, and less than 20 feet is proposed.

Mr. Ochab addressed the issue of the tract setback variances and he testified that due to the environmental conditions existing on the site, the Applicant attempted to centralize disturbance in order to respect the environmental constraints on the site. Furthermore, the topography increases in elevation from Shepherds Lane and moving up to Boyle Ave. The Applicant will also provide landscaping and buffering relative to the setbacks in order to minimize the impact from not being able to meet the setback requirements.

Regarding building height, Buildings 1 and 2 conform to the maximum 45 foot building height in the R-AH-2 Zone. The building height for Building 3 only exceeds the maximum height in the zone by 8 inches. Furthermore, Building 4 only exceeds the building height by 1.2 feet. Mr. Ochab testified that there will be no living space in the area of the building that exceeds the maximum building height. In regard to the number of stories, three stories are allowed and four stories are proposed. However, Buildings 1 and 2 notwithstanding the use of four stories still complies with the Building Height Ordinance in the R-AH-2 Zone. With respect to the variances for building length at 211 feet for Buildings 1 and 2, the Applicant has designed the buildings in order to centralize disturbance on the site in order to respect the existing environmental constraints on the property.

In regards to the amount of on-site parking, the Applicant is now proposing 122 parking spaces where the RSIS requires 127 parking spaces, Mr. Ochab testified that the RSIS allows a *de minimis* exception to its requirements and this application would be appropriate to receive a *de minimis* exception from the RSIS requirements.

The Applicant will provide deciduous trees, evergreen trees, and understory shrubs to provide effective screening and buffering for the residential properties located along Boyle Avenue.

In regards to the issue of parking along the internal roadway being prohibited, the parking spaces will not present any conflicts and traffic circulation will continue to function in a safe and efficient manner notwithstanding the parking along the internal roadway.

Mr. Ochab testified that the Applicant was entitled to ancillary “c” or bulk variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(1)(a) due to the shape of the property, and (1) (b) by reasons of exceptional topographic conditions or physical features uniquely affecting a specific piece of property. These features include wetlands covering approximately one-third of the property, as well as the topography of the site. Furthermore, Mr. Ochab also evaluated the requests for variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(2). He stated that various purposes of the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(2) would be advanced.

More specifically, he stated 2 (a) would be satisfied because the general welfare would be advanced by promoting the establishment of affordable housing on the site; 2 (e) would be advanced by promoting the establishment of appropriate population densities and concentrations due to the Applicant proposing a density of 9.7 dwelling units per acre where a minimum of 12.5 dwelling units per acre are permitted for a for sale multi-family housing project; and 2 (i) would be advanced by promoting a desirable visual environment through creative development techniques.

Mr. Ochab concluded that variance relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance. Mr. Ochab also testified that the purposes of the Municipal Land Use Law would be advanced by a deviation from the Zoning Ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, thus allowing the Board to grant the variance relief requested by the Applicant.

A motion was offered by Commissioner Campilango and seconded by Commissioner Festa to open the public portion of the meeting. Five agreed to a roll call vote... 5-0

Errol Gulistan, Esq., an Attorney representing Barry and Ferrize Gulistan of 266 Boyle Ave., Victor Herrera of 202 Boyle Ave., Kelly Rosiello of 10 Murphy Court, Lisa Karras a part owner of 83 Shepherds Lane, Laura Gensinger, a resident of 1 Murphy Court, Albert Yannarelli, a resident of 308 Boyle Ave., Andrew and Linda Alvarez, residents of 263 Boyle Ave. and Warren Koman, a resident of 105 Shepherds Lane. The members of the public addressed the Board with various comments, questions or concerns including, but not limited to snow plowing and snow removal, the sufficiency of on-site parking, traffic along Shepherds Lane and Union Boulevard, the impact on the Totowa Borough school system, fire truck access, stormwater issues, fire safety and whether or not blasting would have to be undertaken to actually construct the project.

A motion was offered by Commissioner Paese and seconded by Commissioner Festa to close the public portion of the meeting. Five agreed to a roll call vote... 5-0

A motion was offered by Commissioner Campilango and seconded by Commissioner Murphy to approve the Preliminary/Final Site Plan as presented. This approval is subject to and contingent upon the following conditions and will be memorialized in a Resolution at a future date:

5. Ancillary "c" or bulk variance relief is granted in regard to tract setback, building wall side to side setback, building length, building height, number of building stories, off street parking, parking along roadways, and tract buffers.
6. Applicant agrees to comply with all terms and conditions set forth in the Board Engineer's review report prepared by Nordan Murphy, P.E., Alaimo Group, and dated April 24, 2017.
7. Applicant agrees to comply with all terms and conditions set forth in the Board Planner's review report prepared by Darlene A. Green, P.P., AICP, Maser Consulting, P.A., and dated April 24, 2017.
8. Applicant shall be responsible for retaining a qualified administrative agent to manage affordable units.
9. Applicant complying with all applicable affordable housing requirements.
10. Applicant will obtain the review and approval of the site plan by the Totowa Borough Emergency Services and the Totowa Fire Official.
11. Applicant shall enter into a Developer's Agreement with the Borough of Totowa and that a performance bond shall be posted for the proposed improvements.
12. Applicant will provide a Deed restriction within the Master Deed and all appropriate Homeowner Association documents that the use of garage space shall be used for the parking of vehicles and said space cannot be used solely for storage purposes only, which restriction shall be subject to the review and approval of the Borough Attorney.
13. Applicant will install sidewalks along the boulevard style access road up to Shepherds Lane and along the parking areas within the looped portion of the road.

14. Applicant will submit a landscaping plan and must show the required street trees along Shepherd's Lane according to the Boro Ordinance. The landscaping plan shall also address Chapter 383 of the Borough Ordinance regarding tree removal and replacement.
15. Applicant will submit a site lighting plan.
16. Applicant will install guide rails and safety fencing where retaining walls are parallel to the roadway. Guide rails shall be provided along Shepherds Lane in the vicinity of the head wall at the westerly corner of the subject property. A safety fence shall be provided along the top of retaining walls four feet high and above.
17. Applicant will submit a detailed Stormwater Operation and Maintenance Manual which shall be subject to the review and approval of the Board Engineer and shall be filed as part of the master deed for the homeowners association.
18. Applicant will obtain the review and approval of the submitted plans by the Totowa Borough Water and Sewer Departments.
19. Applicant will obtain approval of the New Jersey Department of Environmental Protection.
20. Applicant will obtain approval of the Passaic County Planning Board, if required.
21. Applicant will obtain approval of the Hudson-Essex-Passaic Soil Conservation District.
22. Applicant will submit revised plans which shall be reviewed and approved by the Board Engineer and Board Planner. The plans shall not be signed by the Board Secretary and Chairman until the revised plans have been reviewed and approved by the Board Engineer and Board Planner.
23. Applicant shall open and maintain an escrow account with the Borough of Totowa and keep the account current with sufficient funds for professional review and inspection fees

Five agreed to a roll call vote... 5-0

There being no other business, a motion was offered by Commissioner Paese and seconded by Commissioner Festa to adjourn the meeting.

All in favor.....5-0

Respectfully submitted,

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Pete Campilango, Secretary

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Patricia Paulson  
Planning Board Clerk

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Date Approved