

BOROUGH OF SURF CITY LAND USE BOARD

813 Long Beach Boulevard

January 26, 2022

7:00 pm

The meeting was called to order. Kevin Quinlan, Esq. administered the oath of office to Sandra Klose, James Russell, Richard Savianeso, and David Wright.

All present joined Chairman Hartney in saluting the Flag.

The following members were present: Peter Hartney, Paul Hoover, Alan Mannherz, James Russell, Emil TumSuden, George Wachter & David Wright. Absent: Gavin Hodgson, Sandra Klose & Richard Savianeso.

The Board Attorney, Kevin Quinlan, was also present.

The Open Public Meeting Statement was read by Chairman Hartney, as follows: in compliance with the "Open Public Meetings Act" of the State of New Jersey, adequate notice of this meeting of the Board of Surf City Land Use Board has been provided to three newspapers & published in the January 13, 2022, edition of the Beach Haven Times.

Chairman Hartney also read the following statement: this meeting is a judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the Borough of Surf City Land Use Board may legally consider in reaching a decision. Decorum appropriate to a judicial hearing must be maintained all the time.

Counselor Quinlan opened the nomination for the position of Chairman. Mr. Russell nominated Mr. Hartney. Mr. TumSuden seconded the motion. With a vote in the affirmative, Mr. Hartney was nominated for Chairman.

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. Hoover, Mr. Mannherz, Mr. Russell, Mr. TumSuden, Mr. Wachter & Mr. Wright. Absent: Mr. Hodgson, Mrs. Klose & Mr. Savianeso.

Chairman Hartney opened the nomination for the position of Vice Chairman. Mr. Russell nominated Mr. Mannherz. Mr. Hoover seconded motion. With a vote in the affirmative, Mr. Mannherz was nominated for Vice Chairman.

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. Hoover, Mr. Mannherz, Mr. Russell, Mr. TumSuden, Mr. Wachter & Mr. Wright. Absent: Mr. Hodgson, Mrs. Klose & Mr. Savianeso.

Chairman Hartney opened the nomination for the position of Board Secretary. Mr. Russell nominated Mrs. Klose. Mr. Mannherz seconded the motion. With a vote in the affirmative, Mrs. Klose was elected to be the Board Secretary.

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. Hoover, Mr. Mannherz, Mr. Russell, Mr. TumSuden, Mr. Wachter & Mr. Wright. Absent: Mr. Hodgson, Mrs. Klose & Mr. Savianeso.

Mr. Russell moved to approve Resolution 2022-02. Mr. Mannherz seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, pursuant to the provisions of N.J.S.A. 19:44A-20.5 the Borough of Surf City Land Use Board will need the following professional services as non-fair and open contracts:

Land Use Board Attorney

Land Use Board Engineer; and

WHEREAS, the Chief Financial Officer has determined and certified that the value of the acquisition may exceed \$17,500, the maximum amount of the contract to be awarded under this resolution is set forth in the 2022 Municipal Budget; and

WHEREAS, funds are available for this purpose as certified by the Chief Financial Officer; and

WHEREAS, the listed individuals have submitted a proposal indicating they will provide the related services per their schedule of rates as attached or included in the agreement; and

WHEREAS, the listed individuals have completed and submitted a Business Entity Disclosure Certification. This certifies that they have not made any reportable contributions to a political or candidate committee in the Borough of Surf City in the previous one year. Also, that the contract will prohibit the them from making any reportable contributions through the term of the contract, and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) authorizes the award of contracts for professional services without competitive bids and requires that the resolution and contracts for each professional be made available for public inspection.

NOW, THEREFORE, BE IT RESOLVED by The Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey, as follows:

1. That the following professionals be appointed for the Land Use Board of the Borough of Surf City for a term of one (1) year, commencing January 1, 2022 and ending December 31, 2022.

Kevin Quinlan, Esq. - Land Use Board Attorney

Frank Little and the firm of Owen Little - Land Use Board Engineer; and

2. The Board Chair and the Board Secretary are hereby authorized and directed to execute the attached agreements with said professionals.

3. These contracts are without competitive bidding and are awarded as a professional service in accordance with N.J.S.A. 40A:11-5(1) (a) (i) of the Local Public Contracts Law because it is for services to be performed by a person(s) authorized to practice a recognized profession.

4. A notice of this action shall be printed once in the official newspaper of the Borough of Surf City

5. This resolution takes effect January 1, 2022.

6. A certified copy of this resolution shall be provided by the Clerk of the Board to the Chief Financial Officer and to each professional.

7. That a certificate of availability of funds executed by the Chief Financial Officer is annexed hereto.

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. Hoover, Mr. Mannherz, Mr. Russell, Mr. TumSuden, Mr. Wachter & Mr. Wright. Absent: Mr. Hodgson, Mrs. Klose & Mr. Savianeso.

Mr. Russell moved to approve Resolution 2022-01. Mr. Mannherz seconded that motion. With a vote in the affirmative, the following resolution was approved.

WHEREAS, the Open Public Meetings Act is the law of the State of New Jersey. It provides for adequate public notice to be given for meetings of the Land Use Board of the Borough of Surf City; and

WHEREAS, the Board is required to adopt a resolution to schedule regular meetings. the Board wishes to adopt, without limitation, its basic rules and regulations by this Resolution.

NOW, THEREFORE, BE IT RESOLVED the regular scheduled meetings of the Land Use Board of the Borough of Surf City shall be held at 7:00 p.m. on the fourth Wednesday of each month, except in cases of legal holidays or for other reasons when the meeting date may be hereinafter set forth. All meetings will be held at the Borough Hall Council Chambers located at 813 Long Beach Boulevard in Surf City, New Jersey. The public may only participate at such times as set forth in the agenda of the meeting or at the discretion of the presiding officer or chairperson.

Pursuant to this Resolution, the following dates for meetings shall be hereby adopted:

Wednesday, February 23, 2022    Wednesday, March 23, 2022

Wednesday, April 27, 2022    Wednesday, May 25, 2022

Wednesday, June 22, 2022    Wednesday, July 27, 2022

Wednesday, August 24, 2022    Wednesday, September 28, 2022

Wednesday, October 26, 2022    Wednesday, November 23, 2022

Wednesday, December 28, 2022

BE IT FURTHER RESOLVED that the Land Use Board meetings shall adjourn no later than 10:30 p.m. with no further testimony being taken or other business conducted unless ordered at the discretion of the Board.

BE IT FURTHER RESOLVED that in the event regular public meetings and/or additional meetings must be held at a date, time and place other than as set forth herein due to unforeseen circumstances; the same shall be held at a date, time and place as set by the Chairperson.

BE IT FURTHER RESOLVED that each applicant on the agenda that is scheduled shall have a maximum amount of time available to present testimony, witnesses and other proofs in support of its case. This shall include the comments of objectors or supporters. The maximum amount of time is of one (1) hour for each meeting the applicant appears on the agenda. The one (1) hour rule shall be enforced by the Board with any deviation allowed being solely in the discretion of the Board.

BE IT FURTHER RESOLVED that notice is hereby given that all forms in relation to the Initial Submission Checklist are available to the public for use in making application to the Board. Said related forms and sheets are offered as an aid to the applicant with the understanding that same do not represent the ordinances of the Borough in entirety. The complete legal burden is of the applicant; that it is still incumbent upon the applicant and/or his or her representatives to apply for and present their case appropriately pursuant to the rules and applicable ordinances and law.

BE IT FURTHER RESOLVED that the Board requires that all applications and appropriate plans in support thereof be filed with the Board Clerk as set forth in the Land Development Ordinance prior to any regular Board meeting and hearing. The Board Clerk has the discretion and authority to advise the applicant of a specific hearing date to appear before the Board provided there has been a determination by the Board Engineer and Board Attorney that the application and plans are deemed complete. The Board Clerk will forward all completed applications prior to the hearing date.

BE IT FURTHER RESOLVED that an informal review of concepts of plans for development as permitted by law may be requested by a developer and may be scheduled by the Board Clerk for a Board meeting at a date and time at the discretion of the Chairperson.

BE IT FURTHER RESOLVED Beach Haven Times, The Asbury Park Press and Atlantic City Press are hereby designated as the official newspapers to provide notice on matters of the Board.

This Resolution shall be published & posted not later than seven (7) days after its adoption, as required by law.

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. Hoover, Mr. Mannherz, Mr. Russell, Mr. TumSuden, Mr. Wachter & Mr. Wright. Absent: Mr. Hodgson, Mrs. Klose & Mr. Savianeso.

Mr. TumSuden moved to approve the December 22, 2021, regular meeting minutes. Mr. Russell seconded the motion. With a vote in the affirmative, the minutes were approved.

Roll call reflected the following in the affirmative: Mr. Hartney, Mr. Mannherz, Mr. Russell, Mr. TumSuden & Mr. Wachter. Absent: Mr. Hodgson, Mrs. Klose & Mr. Savianeso. Abstained: Mr. Hoover & Mr. Wright

Mr. Russell moved to approve Resolution 2022-04. Mr. Mannherz seconded the motion. With a vote in the affirmative, the following was approved.

WHEREAS, William D. Hodgson Sr. and Francis R. Hodgson Sr. are the members of FHW Land Acquisition, LLC (company) the Agent of the owner, Marvel Surfside, LLC of premises identified as Block 23, Lots 17, 18, 29 and 20 on the official tax maps of the Borough of Surf City and have standing to make the application.

WHEREAS, the applicant was represented by James Rabin, Esq.

WHEREAS, the applicant has applied to the Borough of Surf City Land Use Board to demolish the existing varied 1 to 2 story building and all associated improvements and create four (4) new lots. The following variances are required:

1. Proposed Lot 17.01 - Lot area of 4,500 sq. ft. where 5,000 sq. ft is required.
2. Proposed Lot 17.02 - Lot area of 4,500 sq. ft. where 5,000 sq. ft is required.
3. Proposed Lot 17.03 - Lot area of 4,500 sq. ft. where 5,000 sq. ft is required.
4. Proposed Lot 17.04 - Lot area of 4,500 sq. ft. where 5,000 sq. ft is required.
5. Proposed Lot 17.01 - Frontage of 45 ft. where 50 ft. is required.
6. Proposed Lot 17.02 - Frontage of 45 ft. where 50 ft. is required.
7. Proposed Lot 17.03 - Frontage of 45 ft. where 50 ft. is required.
8. Proposed Lot 17.04 - Frontage of 45 ft. where 50 ft. is required.
9. Proposed side yard setbacks of 5 ft. and 9 ft. where 5 ft. and 10 ft. is required on the westerly side of all lots.

WHEREAS, the applicant submitted the following exhibits and evidence which was admitted by the Board:

- A-1. Application,
- A-2. Major Subdivision Plan - Prepared by Nelke, Tyszka Land Surveyors dated 12/6/21.
- A-3. Deed of Property.
- A-4. Color Photos (4).
- B-1. Board Engineer Review Letter dated 12/17/21.

WHEREAS, the site is in the Business Zone where residential development shall comply

with the requirements of the RA-Residential Zone.

WHEREAS, Leon Tyszka, P.L.S. was sworn and qualified as an expert in professional land surveying.

WHEREAS, Mr. Tyszka testified as follows:

1. The existing lots oriented along Long Beach Boulevard have frontage of fifty (50) feet. The proposed reorientation of the lots along Long Beach Boulevard will not negatively impact parking and resulting lot sizes are not inconsistent with other properties in the neighborhood.
2. By reorienting the lots with frontage on the side streets the parking along Long Beach Boulevard will be preserved.
3. The side-yard setback of 9 ft. will be on the westerly side of the lots which will not impact surrounding properties.
4. The handicap parking on Long Beach Boulevard to remain.
5. The existing fence shall be removed, and any new fencing shall comply with applicable ordinances.
6. Ingress and egress to the properties shall be from the side streets rather than residents having to back out onto Long Beach Boulevard.

WHEREAS, William Hodgson was sworn and testified as follows:

1. He is authorized to make the foregoing application and is authorized, acting alone, to speak on behalf of the Limited Liability Company and to bind the company.
2. The depressed curb for the handicap parking space shall be retained.
3. The existing fence to be removed. Any new fence shall comply with Borough Ordinances.
4. The relocation of the driveway access to the lots along the side streets will provide for safer ingress and egress.
5. The proposed orientation of the lots will preserve parking along Long Beach Boulevard.
6. The requested variances for side yard setbacks of 5 ft. and 9 ft. affect this development and not the surrounding properties. The 9 ft. setback will be on the westerly side of the lots.
7. Parking will be improved by providing a minimum of two off-street parking spaces on each new lot.

8. The proposed development will be consistent with the neighborhood scheme.

WHEREAS, all interested parties were given an opportunity to be heard.

NOW THEREFORE, be it resolved by the Land Use Board of the Borough of Surf City, County of Ocean, State of New Jersey, the Board makes the following findings of fact:

1. The applicant is authorized to make the Application and has standing to make the application.
2. The exhibits have been properly introduced and moved into evidence.
3. The application is deemed complete, and Jurisdiction lies within the Surf City Land Use Board.
4. The board considered and determined that the application is properly heard as a Major Sub-Division with variances for lot area, lot width and side yard setbacks.
5. The proposed lots are consistent with the master plan and ordinances of the Borough of Surf City; the approval of the sub-division and variances can be granted without detriment to the public; and the benefits of granting the major sub-division and variances outweigh any detriment.
6. The proposed lots, while undersized in terms of lot area and lot width, are more aesthetically appealing and the orientation of same preserves and improves parking along Long Beach Boulevard and the side streets.
7. The proposed lots are more in conformity with the existing neighborhood scheme.
8. The proposed development is consistent with the Master Plan in that it improves the housing stock.
9. The variances for side yard setback do not negatively impact any adjacent properties.
10. The benefits of granting the variances outweigh any detriment. The Board finds that in improvements in housing stock, preserving and improving parking, and aesthetic improvement outweigh any detriment which the Board finds to be minimal if at all.
11. The Major Subdivision Plan shall be amended to accurately reflect the side yard setback of 9 ft. on the Westerly property line of each lot.

NOW, THEREFORE, BE IT RESOLVED that the application for Major Sub-Division with variances for lot area, lot width and side yard setback approval are hereby Granted subject

to the forgoing conditions and findings of fact.

IT IS FURTHER RESOLVED that the comments and conditions set forth in the Board Engineer's Review Letter dated December 17, 2021, not modified herein, are incorporated in this Resolution as if set forth at length herein.

IT IS FURTHER RESOLVED that the contents of the preamble are adopted and made part of this resolution.

IT IS FURTHER RESOLVED that the numbering of the new lots is subject to approval by the Tax Assessor.

IT IS FURTHER RESOLVED that this Approval is expressly contingent upon the applicant complying with the following, if applicable:

1. Proof of payment of real estate property taxes;
2. Payment of any outstanding professional fees;
3. Obtain any and all local building permits and pay all associated fees;
4. Posting of any performance guarantees and inspection fees,
5. Ocean County Planning Board approval and
5. Obtain any other outside agency approval as required.

NOW, THEREFORE, BE IT RESOLVED that the application for Preliminary and Final Major Site Plan Approval by HYB Holding RE, LLC. is hereby granted subject to the forgoing conditions and findings of fact.

IT IS FURTHER RESOLVED that the contents of the preamble are adopted and made part of this resolution; and

IT IS FURTHER RESOLVED that the prior approvals identified in Resolution 2007-06, Resolution 2018-29 and Resolution 2020-10 remain in full force and effect to the extent not amended by this approval and are incorporated herein as if set forth herein in their entirety.

IT IS FURTHER RESOLVED that this Approval is expressly contingent upon the applicant complying with the following, if applicable:

1. Proof of payment of real estate property taxes;
2. Payment of any outstanding professional fees;
3. Obtain any and all local building permits and pay all associated fees;
4. Posting of any performance guarantees and inspection fees, and
5. Obtain any outside agency approval as required.



Roll call reflected the following in the affirmative: Mr. Hartney, Mr. Mannherz, Mr. Russell, Mr. TumSuden & Mr. Wachter. Absent: Mr. Hodgson, Mrs. Klose & Mr. Savianeso. Abstained: Mr. Hoover & Mr. Wright.

Attorney Quinlan brought to the attention of the public, that Tuckerton Lumber Company will be heard at the February 23, 2022 meeting. Mr. Mannherz moved to approve that they will be carried to the February meeting. Mr. TumSuden seconded the motion. Roll call reflected the following in the affirmative: Mr. Hartney, Mr. Hoover, Mr. Mannherz, Mr. Russell, Mr. TumSuden, Mr. Wachter & Mr. Wright. Absent: Mr. Hodgson, Mrs. Klose & Mr. Savianeso.

Mr. Russell moved to approve the bills. Mr. TumSuden seconded the motion. Roll call reflected the following in favor: Mr. Hartney, Mr. Hoover, Mr. Mannherz, Mr. Russell, Mr. TumSuden, Mr. Wachter & Mr. Wright. Absent: Mr. Hodgson, Mrs. Klose & Mr. Savianeso.

Mr. Russell moved to adjourn the meeting. Mr. TumSuden seconded the motion. With a vote in the affirmative, the meeting was adjourned. Roll call reflected the following in favor: Mr. Hartney, Mr. Hoover, Mr. Mannherz, Mr. Russell, Mr. TumSuden, Mr. Wachter & Mr. Wright. Absent: Mr. Hodgson, Mrs. Klose & Mr. Savianeso.

Respectfully submitted,



Jenna Letts

Land Use Board Clerk