

Borough of Clayton Public Meeting Room

May 24, 2021

joe abate

I'd like to call to order the combined Clayton Combined Zoning Planning Board Meeting of May 24th, 2021. Stand for a moment of silence for all the war veterans who gave their lives so that we can live in freedom.

I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation, Under God, indivisible, with liberty and justice for all.

I'd like to read the Sunshine Law. Public notice of this meeting pursuant to the Open Public Meeting Act of 1975 has been properly given in the following manner.

- A) posting written notice on the official bulletin board in the municipal building.
- B) mailing written notice to the South Jersey Times and Franklinville Sentinel.
- C) Filing written notices of the Borough of Clayton

Roll Call

Abate	Here
Branco	Here
Culver	Here
Fox	Here
Miller	Here
B. Saban	Here
T. Saban	Here
Thomas	Absent
Vondran	Here

joe abate

Thank you. I would like the approval of the Minutes of the Clayton Planning Board held on April 26, 2021.

Motion to approve.
M/ Miller, S/ Vondran

joe abate

Roll call.

Abate	Yes
Branco	Yes
Culver	Yes

Fox	Yes
Miller	Yes
B. Saban	Yes
T. Saban	Yes
Vondran	Yes

joe abate

Under old business I see none. Under new business we have Dream Homes, Development Corporation, Autumn Woods – 201 East Avenue a/k/a Block 2002, Lot 22 - they're here for a use variance.

John Alice, Solicitor

This is why I said we have to let them know that we have six members to participate since we are going to serve as a zoning board since this is a use variance. Therefore he needs five of six.

David DeClemente, Esquire

We understand. May we proceed. I have three witnesses. Would you like to swear them in now? Before we go I've got two professionals who I'd like to qualify.

David DeClemente, Esquire

I have William Gilmore, P.E. I've got Brian Seidel, he's our planner. I've got Vincent Simonelli, who is the applicant/principal.

John Alice, Solicitor

Swore all parties in.

David DeClemente, Esquire

David DeClemente, I'm the attorney, and if you need me to qualify Williams Gilmore, who I know has appeared before your board before I'll do so. Mr. Gilmore are you a licensed engineer in the State of New Jersey?

William Gilmore

Yes, I am. I've been licensed in New Jersey 12 years.

David DeClement, Esquire

Have you appeared before the Clayton Combined Land Use Board before.

William Gilmore

I have.

David DeClemente, Esquire

Any opposition to Mr. Gilmore's qualifications as a professional engineer in the State of New Jersey.

John Alice, Solicitor

Swore in Mr. Breier and Mr. Gilmore

David DeClement, Esquire

Mr. Seidel are you a Professional Licensed Planner in the State of New Jersey.

Brian Seidel, LLA, NJPP

Yes, I am.

David DeClemente, Esquire

Is there any opposition to Mr. Seidel? It's very hard to hear you guys, so I'm trying to keep it as short as possible. This is for an application for a use variance for 63 single family age restricted condominium community at block, 2002 lot 22 at the intersection of East Avenue and Washington Avenue. I would like Mr. Gilmore to give an overview of the plans.

William Gilmore

It's a 25 acre lot as Mr. DeClemente said on the East Avenue and Washington Avenue intersection and is currently vacant. There is a wetlands component to it at the rear of the site. The plan package, hopefully you have that in front of you but to orient you to the plan north is straight up and down on the plan. East Avenue is to the left side of the plan running North South. Washington Avenue is on the bottom of the plan running East West. The wetlands I speak about are on the northern portion of the site. We've got an LIY from the DEP documenting wetland also wetlands as well as buffers are associated with that. There's a stream running from East to West as a tributary of the little ease. There's a culvert across the center of East Avenue continues to lead to the right to the property and continues on through the property. So right now it is just vacant land with wooded areas in the wetlands, some open field areas.

William Gilmore

Do you want me to describe the use proposed?

David DeClemente, Esquire

Please do.

William Gilmore

We are proposing 63 single family manufactured homes. This is a condominium type of development where the land holder would own the property and lease it to you, and you put your manufactured home on that. We're proposing approximately one thousand square foot lots. We've set it up as a basic conventional type of subdivision where we have two access points, one from East Avenue, one from Washington Avenue, and a series of roads or loops that meander through the property. We develop the project with cognizant of the new stormwater management regulations

by DEP and that the Borough is codifying now. We will have 1, 2, 3, 4, 5, 6, structured basins intermittently throughout the project with the idea to manage stormwater closer to a source and to recharge the groundwater in an appropriate manner. So, this development, as is proposed, will meet all the DEP regulations for stormwater management, wetlands, any flood hazard areas, anything associated with the DEP requirements. So, we will be able to accommodate that. It's a pretty straightforward project. Sixty three manufactured homes on a condominium type of use.

John Alice, Solicitor

Inaudible. I didn't hear your question. Mr. Gilmore could you repeat the question from Mr. Alice.

William Gilmore

Yes, I believe he asked if the residents would own the building and if the land will be owned by the landholder and that is, in fact, correct.

John Alice, Solicitor

Question in audible.

ROSE LAFFERTY

I believe John is asking who owns the land. The owner of the manufactured house or someone else and who is that someone else if it's not the owner of the property right John?

David DeClement, Esquire

I would like to have the applicant testify to that, Mr. Simonelli.

Vince Simonelli

Yes. It would be the developer. We would own the land and each individual person would own their manufactured home. I just said want to add one note of clarification to Mr. Gilmore. He said earlier that the lots were approximately a thousand square feet. The average size of the lot is 54 or 5500 square feet so I think that was an error. John, to address your question.

joe abate

Can I ask you a question Mr. Simonelli is this an over 55 development?

Vince Simonelli

Yes, it is.

joe abate

Ok, I wanted to make sure we had that.

Vince Simonelli

It is, that's correct, yes.

John

Is it designed as an affordable housing project?

Vince Simonelli

No? It's designed as an age restricted development. I'm trying to figure out the town's looking for affordable housing credits.

Vince Simonelli

I believe that this will be affordable by market it's designed to be a more affordable housing option.

ROSE LAFFERTY

Mr. Simonelli, John is asking regarding the Council on Affordable Housing.

Vince Simonelli

It is not designed to be an affordable housing development.

ROSE LAFFERTY

Paul addresses that in his review letter so when we get to Paul he can go back on that.

David DeClemente, Esquire

If I may, Mr. Seidel has two meetings tonight. Can we turn our attention to him before I may lose him, if the Chairman has no objection.

Sue Miller

You alright with that Joe.

Joe Abate

Yes, Mr. Seidel.

David DeClemente, Esquire

Your opinion with regards to this project please?

Brian Seidel, LLA, NJPP

Sure. I apologize for jumping around with the testimony. I will be brief and I will be around for questions here. Mr. Gilmore identified and described the proposal very well, 63 single family detached age qualified manufactured homes. This is a property that is going to be basically internally owned and managed. The roadways interior to the project will be maintained by the property owner, the developer. The utilities, the stormwater management, everything will be handled on the site by the developer and owner of the property. Regarding the surrounding area. Mr. Gilmore

describes this is located just south of the Autumn Pasquale Memorial Park. Generally otherwise surrounded by residential uses and looking at the zoning regulations, the site is located in the RA zoning district as is all of the adjacent properties.

Uses permitted in the district are single family detached dwellings, community residence assisted living facilities, and home occupation. While the subject property meets the open area of regulations for the underlying zoning district, the use, as a condominium and this type of development is, not specifically permitted, which is the reason for the use variance. In regards to the use variance, an application needs to show both the positive and negative criteria. Regarding the positive criteria, the application will address the purpose of zoning, specifically for (A) Municipal Action to guide the appropriate use for development; (E) Promote the appropriate population densities contributed to the well-being of the neighborhood and community; (G) to provide sufficient space on appropriate locations; (I) to promote a desirable visual environment; and (L) to encourage senior citizen community housing construction.

This site is particularly suited to the proposed use. It's located in a residential zoning district. This is central to other residential uses and is one of the largest, if not the largest, undeveloped property in the area. By developing this matter, a significant portion of the site, will remain as open space and be preserved as a wetland area to the park. Relief can be granted without substantial detriment to the public good, and without impairments to the zoning plan and the zoning ordinance. The project serves the public interest by providing new housing stock and a residential dwelling that's in current demand for an aging population. Again, the residential use is still compatible with the other area of uses in the area.

A negative criteria could be considered the development of the property which is generally undeveloped. However, it's important to note the property could be developed as a traditional single family detached dwelling community. Regarding any imposition of reasonable conditions to reduce potential detrimental effects is essentially satisfied by the applicants design and development of the community. Again, as I mentioned, access to all proposed units will be provided from the internal roadways.

The age qualification of ownership will minimize potential negative impacts to schools and on the public roadways and development including the internal roadways, utilities, buffers, landscaping, stormwater management, will be privately owned and maintained by the applicant. The application is consistent with and addresses conclusions identified in the Clayton Borough's Master Plan Report, specifically, regarding the aging population of Clayton. Identifying that the age group at that point between age 45 and 64 was the highest growing population in the area. And these numbers support the community's aging trend and would indicate that the trend will continue to increase.

By providing an age qualified development, as part of this application, will satisfy and justify with the findings of the master plan. Final aspect of weighing the positive and negative aspects of the application, there really are no negative aspects of this project. Again, it's a residential use. It's just handled in a different matter as a condominium rather than individual lots. For the reasons stated, I believe the applicant and the application can be approved and the relief granted.

David DeClement, Esquire

Thank you.

joe abate

Thank you. I have a question Mr. Seidel as far as the maintenance goes, you said that the homeowners association would be responsible for the maintenance. Who would be responsible for the maintenance of the property?

Brian Seidel, LLA, NJPP

I'm referring to it as a homeowner's association so it would be a condominium association or a homeowners association. But in either regard, yes, that organization will be responsible for maintenance on the property.

joe abate

What protection are you going to give to the Borough of Clayton for that.

David DeClemente, Esquire

Mr. Simonelli is better to address that.

Vince Simonelli

Yes, Mr. Abate in what manner. I'm not completely clear.

joe abate

You said, the homeowner association will be responsible for all the maintenance of this project, including snow clearing, maintenance of the roads, the retention ponds...everything. I'm talking about maintenance of the entire project.

Vince Simonelli

That is correct.

joe abate

How is the Borough of Clayton going to be protected against any future problems for that?

Vince Simonelli

Well, in much the same manner that any other condominium association has an obligation to maintain the common area and the facilities. We would necessarily have to maintain the roads, utilities, the stormwater management, the grass cutting

landscaping, and snow removal or else our condominium members would choose not to be there. I don't believe that a situation could occur where it would become incumbent upon the Borough to take over essentially a private piece of property. So I'm not really sure how to address that. Every other condo that I've ever built in the last 30 years, we had a condo association and people purchased interest in the condo association and then the homeowners association proceeded to maintain based on the dues or the rents and the homeowner's fees paid every month. In addition to that, I have to file a Public Offering Statement with the Department of Community Affairs. In order to get a Public Offering Statement approved and to have the legal right to offer condominium units, I have to post bonds and demonstrate that I've done this. I have to provide a sinking fund that's audited. I have to provide support of the monthly fees. So it's not necessarily something that could be taken lightly. If I, as the applicant, the developer were to neglect my responsibilities, I'm responsible. I'm responsible, civically or criminally.

joe abate

You're talking about maintenance and perpetuity forever.

Vince Simonelli

That is correct.

joe abate

That is a long time.

John Alice, Solicitor

Mostly inaudible. Mr. Simonelli's project is private land. Clayton will not have an obligation to do anything.

Vince Simonelli

John, I'm straining to hear you as there is an echo. It is a Lease Agreement. A rental, a monthly or yearly agreement.

David DeClement, Esquire

Without a dedication to the Borough for any of the infrastructure, the developer is still on the hook.

Steve Branco

What would happen if the developer went bankrupt?

David DeClement, Esquire

The homeowner association under DCA would still be an operating entity.

Vince Simonelli

Correct. If I may, in any event, that the developer goes bankrupt or ceases to operate the homeowners association, the members of a condo association by law

are permitted to continue to operate the condominium association because of their vested interest in the association. After a certain point, after 75% in our condo documents, whenever we form at 75% the occupants actually have a majority of the board seats.

Vince Simonelli

In the event that the development was fully occupied and the developers cease to operate. Each individual owner could choose to operate it themselves, bring in a management company, etc.. The monies that are being paid in order to maintain the roads, maintain the basins, continue the landscape, continue to do snow removal. So, those monies are included. Quantity, an audited budget that is approved by the DCA. So in the event that the developer or the sponsor is no longer there. Those monies, the dues, the monthly payments are still due. They go into an operating fund, and things continue to go on. I hope that that never happens. I hope I'm planning to live to at least 150. So hopefully this will not come into play. But that's really what happens with a condo association.

David DeClemente, Esquire

Just so that we're clear this use variance is only the beginning because the condominium documents and all the other materials that govern this homeowners association have to be approved by the Department of Community Affairs. They haven't been prepared yet because this is the beginning of that process. Without this opening of that door, the preparation of those documents isn't necessary yet.

Vince Simonelli

If I can add something to David's comments, the DCA will not accept a public offering statement for a condominium without, at the very least, aid and entitlement such as this. They will not approve a public offering statement for a condominium application without the developer being in title. As an additional comment. An adjunct to David's comment, should we prevail, should we be granted a use variance tonight? We have to come to you for a major site plan application. Certainly one of the conditions of the final approval of a major site plan. Most probably a condition of the preliminary, but perhaps not, one of the conditions for a major site plan approval, the final is to have us submit to you, to your counsel, to the board attorney our proposed homeowner's association documents, our proposed master deed, in this case master lot rental. We present that to you for your approval as well. Like David said, there are numerous steps between here and there. This doesn't happen in any type of vacuum.

joe abate

Thank you for explaining that to everyone. Maybe we can go to our professional, Mr. Breier, to go over his cover letter dated May 18, 2021. Inaudible after.

joe abate

I'm having a hard time hearing you Mr. Breier.

Tony Saban

You're all broken up.

David DeClemente, Esquire

You're on the computer and the phone. You may just want to take off the computer and go right to the phone. That should clean it up.

Paul Breier, PP

I had the speakers off on the computer so it shouldn't.

David DeClement, Esquire

It's better now.

joe abate

I can hear you now.

Vince Simonelli

Yep.

Paul Breier, PP

The bottom of page two I'm getting to the bulk variances where they meet the requirements. One, it's a condominium unit for the entire property. So, it meets all the minimum lot and width requirements. Bill can you explain the typical lot sizes...inaudible...so everyone can get a feel for the size of the house.

William Gilmore

Yeah sure, Brian did some research on this today.

Brian Seidel, LLA, NJPP

I believe the minimum lot width that's being proposed is at inaudible feet. The corner lots are at 90 feet. Generally, the lot areas are just under I believe 6000 square feet for the individual unit that the home would sit on. That is comparable in terms of the underlying zoning district and the minimum width requirement at the street of 60 feet. However, the building setback line for individual lots would be a little bit more narrow than what is proposed under the existing zoning at 100 feet.

John Alice, Solicitor

What's the front yard and what's the back yard?

Brian Seidel, LLA, NJPP

The front yard that is required in the underlying zoning district is 50 feet.

Vince Simonelli

It's 20 and 20 the front and the rear. That's what we are proposing.

John Alice, Solicitor

Alright...inaudible.

Vince Simonelli

The rear yard is 25 feet required, 20 proposed.

John Alice, Solicitor

That's right.

Vince Simonelli

It's 50 and 20.

Paul Breier, P.P.

So what's the typical size manufactured home that you think would be on here.

David DeClement, Esquire

He's asking for the footprint Bill.

William Gilmore

So we are showing 25 foot wide on the plan by about a 50 foot depth.

Paul Breier, PP

Is this a typical inaudible.

Vince Simonelli

Could you say that again please, I'm sorry.

Paul Breier, PP

In your experience, is this a typical size of the leased area for age restricted manufactured homes?

Vince Simonelli

Actually, it's probably about 30% larger than the typical. But we had a meeting in November and we had a lot of input from Mark and Stan and we actually made the lots wider. We took a lot of input based on what their suggestions were. But to answer your question directly, it will be more typical to have more narrow lots, smaller lots. So, it's really more of a question of what's suitable for the community, what in keeping with this area, a more rural area or leaning more towards that. So we made the lots of little larger.

joe abate

We appreciate that.

Paul Breier, PP

I was just going to say that, Mr. Chairman. Thank you. Could I just address I am now on page three, where I start my general comments item? Item two, the community center could you just describe that a little bit more? You have open space, so I guess the wetlands is technically open space. Are there any other recreational facilities or just what you intend on this project.

Vince Simonelli

We actually had quite a bit of conversation regarding recreational facilities. Based on the fact that the park is immediately adjacent, and there's a sidewalk to the park. We felt that that amenity would be more than anything as it's not being used as much as expected and it's a nice amenity. It's immediately adjacent. The Community Center is 1750 square feet. We've kind of left it flexible in terms of what goes in there. We've learned that it is easier to give the occupants what they like rather than putting things in that they don't want. So that being said the degree of open space relative to the size of the track is insignificant. And though there is a wetland, there is a wetlands delineation by the time you get to the area that's actually wet. It's not able to be stepped on. There are acres and acres that you could actually walk through. We felt that between the clubhouse, and the adjacent park, and the fact that you can walk through the wetlands area that would satisfy that requirement. The other thing that we have done in the past and we're doing it currently in another subdivision, even though it's technically in the wetlands. The DEP permits us to do mulch walking paths to do like a loop. That's something that we would explore. Basically, once again, if the owners have interest in that, then we would do that. I think that we have the recreation component reasonably well covered. I think, if you give senior citizens opportunities to do some activities, they will take advantage of them when they can. I have a friend of mine who lives in an over 55 development. They just put in a bochy ball and the place is being overrun with participants now. Even beanbags, horseshoes, things of that nature. I think you should consider seeing if you can fit some of these things in if you have room near the community center.

Vince Simonelli

I think that a lot of the amenities tend to evolve as occupants are moving in. What we've found that's good, once again, with the mulch walking trail, and creation stations one every 300 feet and you could do whatever it is that you want and there's one stationary item. That's been very popular. Walking trails are the number one most popular amenity regardless of the age group of the development. People love to walk that. They love to have a loop to walk around. They walk their dogs and walk with their children and whatnot.

Joe Abate

I agree.

Vince Simonelli

I mean, in the past, I've tried to detail recreation to an extreme degree and I've been wrong most of the time. You really don't know and now with the demographics and the type. Fifty five now, 65, 75, 70 years old now, is the new 50. We tend to get people that are a lot more active, and a lot of the things that used to be popular, are not popular any longer. We've found that if we provide areas and then say to the homeowners, we have this area over here, do you want shuffle board, do you want boccy, do you want a gazebo, do you want a barbeque pit? We have this clubhouse here do you want us to put a treadmill in. Do you want a ping pong table? Do you want some couches? Do you want two tv's? What is it that you want? These are people who have a vested interest, they give you specific input.

joe abate

And that makes sense. Mr. Breier do you have some more to go over here.

Paul Breier, PP

Yes, I skipped over to page four. I guess item five emergency and fire access. I know it's not typical for a use variance but it kind of comes into play. Bill can you address that.

William Gilmore

Absolutely. With the layout we met with the borrower and attach an engineer and we did run a firetruck through the entire development to make sure that it was safe and they could easily access all of the units, including the community center. So, as with any other subdivision, conventional subdivision, like the water supply system, with fire hydrants in, and all the necessary safety precautions.

Paul Breier, PP

Do you have any ideas for signage. Are you going to promote this?

Vince Simonelli

We'd like to call it Autumn Run. I would propose a simple monument sign at either entrance. You know nicely landscaped maybe with some kind of fountain or something. I didn't have anything more elaborate than that. The intention was to stay within the size requirement. If there wasn't one, we generally will stay within 32 square feet for a monument sign. If there is one, we can make it smaller, but that was pretty much it. Other than Autumn Run, age restricted or something, that would be the sign. There would be two of them, one on East and one on the other road.

Paul Breier, PP

Obviously, that would be on site plan submission and review.

Vince Simonelli

Correct.

Paul Breier, PP

Two more items, I'm going to affordable housing. I just had on there to address it. It's not intended to be affordable housing, by definition. I guess that's a moot point now. I think Mr. Seidel in his testimony tonight and his letter, I don't know if everybody has a copy of this letter, he did describe the positive and negative very well and how it meets our zoning plan and masterplan and things like that. I think one of the main benefits of this is that there will be very little responsibility for the Borough. The homeowners or developer are going to be responsible for maintaining the basin, the water and the sewer, snowplowing, and road repairs, and all that. Inaudible. It's zoned for this type of use. That's my summary there, I just think he has adequately addressed the positive and negative criteria. Thank you Mr. Chairman.

joe abate

Thank you. Do any of our members have any questions.

Susan Miller

I just have a couple. I did a little research as this was relatively a new concept to me about single family homes being condos. One of the things that I read, that a number of them run is not only does the developer own the land and actually takes care of the normal things in the development but they also address the exterior conditions of the homes. Is that something the HOA developer is going to do take ownership of that responsibility or no.

Vince Simonelli

In this particular case, each homeowner would be responsible but in the homeowners association documents in the covenants, easements and restrictions, there are certain criteria for maintenance. So in the event that I chose not to maintain my home, the association not only has the right to go in and make repairs or maintain it efficiently the association has the obligation to maintain a unit that's being neglected. It's in the interest of everyone's leasehold interests. So if you choose not to maintain your unit, so it is unsightly or unsafe, the association is obligated to send you notice and say so you have to take care of XYZ. If you don't do that, the association retains a professional, they go in and they do what they need to do, and then you get a bill. That's how it works.

Susan Miller

Another question I have. I only ever heard this in discussion was some prior 55 and older communities. That the law at the time, did permit X number, and I do not recall the percentage, that could be made available to regular, non age restricted residents. I don't wanna call it a set aside, but that there's a certain percentage that

is eligible for non 55 and older people. Is that still the law?

Vince Simonelli

It's federal. The way that it reads is that if there are two people, at least one person has to be 55.

David DeClemente, Esquire

Right.

Vince Simonelli

If both people are over 50 that is also a condition. However, there is under the law the opportunity for over 19 year old people to live there, if one member is 55. And under no circumstances are the permanent residents to be under 18. But there is an exclusion in the federal law that says if someone's 55 and they want to have a 19 year old boyfriend or girlfriend and, unfortunately, we have seen that in other developments. People do object to that and it is a federal law. Other than that, the restriction is fairly clear about under 18 for permanent residents is not permitted. If there are two people that are over 50, that's OK, If one person is over 55, the other person could be, literally, any age between 19 and 50. That's the law.

Susan Miller

The only other question I had. I think I know the answer, but I'll ask it anyway. We encountered, in one of our other developments, whereas certain units, in this case, they're townhomes, when they weren't able to be sold, they were bought by a company and now they are rentals. So I don't think you can discriminate against that in housing law. But I'm just curious if you have ever seen that in any of the developments that you've had like that where you have an owner but then have a renter.

Vince Simonelli

In this case you might the homeowner's association generally retains the right to purchase a unit that has been abandoned or neglected or does not pay dues. Then the homeowners association would have the right to resell it, or in the event it couldn't be resold to renting, Regardless of ownership of the unit, the restrictions to age would govern the property. It wouldn't matter if someone leaves, I'm not paying I'm moving out. Whether another person purchased that or whether the homeowners association said there is nobody, we are now taking over this unit. We will now rent it, because we can't sell it yet. That unit would still be subject to the restrictions in the master deeds. The age restrictions, would not change, regardless of the ownership.

David DeClemente, Esquire

The age restriction runs with the land.

Vince Simonelli

It's in the public offering statement.

Susan Miller

Thank you.

joe abate

Anyone else have any questions?

joe abate

Yes, Steve.

Steve Branco

Numerous. Is the trash pickup private?

Vince Simonelli

Yes.

Steve Branco

So, water and sewer you're dealing with the existing system inaudible.

Vince Simonelli

I believe, Mr. Gilmore could weigh in on that, but we did an analysis of capacity. Water and sewer is there in ample capacity.

David DeClemente, Esquire

I believe your engineers did it too. I believe Bill has had conversations with regard to that already.

William Gilmore

Correct. There's no moratorium or capacity issues.

Steve

So, just getting back to you to lease. So you would lease the land, so you would have that payment, then you would have the HOA fee and then your mortgage.

Vince Simonelli

The payment for the land would include essentially everything other than electric, gas, and cable. So all of the maintenance, the sinking fund to provide for the eventual repair of the road, etc. Everything would be one payment. You would pay \$600 or whatever it is. That would include your HOA fee to maintain the clubhouse, the snow removal, the landscaping, the basins, the road, the maintenance of the water and sewer because the association will maintain that after it comes in from the curb line. The homeowner will pay one fee that's it.

Steve Branco

What would a typical lease agreement be for the land?

Vince Simonelli

I'm sorry say it again.

Steve Branco

What would a lease agreement be if somebody were to purchase the property or the house? At least 20 years or 30 years.

Vince Simonelli

Typically we've done 30, 40, 50 year leases. The longer, it's a more valuable property, the longer the lease because the leasehold interests can be transferred, willed, passed on, sold. So in the past, we've done 30 years to start with the ability to continue the lease.

Darlene Vondran

I have a question. Basically what you're saying it's like a trailer. I'm not saying it's a trailer but it's like a 55 and over trailer community. Correct?

David DeClemente, Esquire

No.

Darlene Vondran

I know they're not trailers but they're modular homes. Basically, it's like being in a 55 and over trailer community. You own the building, but you don't own the land and you as the company maintain everything but the building correct?

Vince Simonelli

That's correct. It's very similar to a condominium. You own your building and you own a proportionate share of the land. In this case you own the building and you lease the land. I would say to you, and once again, we originally submitted renderings of what the homes would look like. I don't know if anybody has them but these are 24 and 26 foot wide homes. You would never know that it was anything but a stick built home. It looks like a regular home.

Darlene Vondran

I believe I was in on that meeting where they showed them. So I remember it.

Vince Simonelli

What we're trying to address or what we're addressing in these types of communities is the no maintenance aspect, but that's really the biggest issue. When we first came in, the lots were smaller and they were similar to many other retirement communities...site built, stick built, what have you. There's really no desire for people to do much outside. So we were playing into that a little bit after

discussions with the engineer, with Mark and Stan. They said listen, you know, make the lots a little wider. It's easier for you to maintain them. It's easier for landscaping, for grass cutting, for snow removal for grading, and drainage. You won't have flooding. So we made them a little larger. Really what we're offering is nobody wants to do any maintenance anymore, but that's really what it is. It's age restricted, and it's maintenance free. That's the idea.

David DeClemente, Esquire

It's exceptionally popular in the older communities for maintenance free living. That's really what this project is about because people do want to do other things than to have to worry about cutting the lawn. We found that to be exceptionally popular.

Vince Simonelli

I, myself, do not believe in lawn cutting, so I have stone landscapes in my yard which is environmentally friendly.

joe abate

Environmentally friendly. You're exactly right. Anyone else have any questions?

Susan Miller

Just one other quick one. It really doesn't pertain to since we have multiple developments here that have pilots. How are those properties actually taxed. Is each lot assessed at market rate right then the developer pays the land tax and then individual homeowners pay their improvement tax?

David DeClement, Esquire

Who did you address that to Sue?

Susan Miller

Whoever may know.

Vince Simonelli

In my experience, the land is taxed as an improved lot. Once we obtain approvals for the site plan and file the Public Offering Statement, at that point, generally, the tax assessor changes the assessment from one 25 acre lot, to 63 improved lots even though they're not. At that point, that's when the assessment would change and that's how it would go going forward. And in terms of the actual improvement itself, that would be, I believe, something that the individual homeowner would pay separately. But the land tax would be part of the of the entire fee.

Susan Miller

That makes sense.

ROSE LAFFERTY

Well, I think that's when you see on the tax records, the qualifier so you can have a block to lead to lot one and then you'd see C001, C002. So, that's where the qualifier would come in at. The improvements will be taxed as one thing and then the land, once it's considered with its approval and I'm not a tax expert, but that's what I'm assuming that's what would happen then that would then also come up in value because there would be improvements on the land.

joe abate

Anybody else have any questions?

Bill Culver

Yeah, I have a couple of questions. I've had experience in the past where we have a condominium type situation with manufactured homes and the owner of the property became insolvent and the bank came and took the property away. Then they had other plans for it than having manufactured housing on there. Then people had to pull out. They were given 60 days to get out of there. It was very difficult. The people there were over 55 and were retirees. I'm a bit concerned about what is going to be in place to keep that from happening.

Vince Simonelli

David could elaborate on this one point, but I can say one thing about New Jersey in general, in residential real estate and residential tenancy of any type, the lease supersedes everything as long as it's current. So, I could become insolvent, the bank takeover. I mean, in this case, and this is aside from your question, but we will fund this internally there will be very little debt. So that particular scenario, in this case, wouldn't apply. But regardless, let me address your question or which is a good question. In the event that the sponsor developer became insolvent, as long as the lease was current, it wouldn't matter who took it over. The lease in New Jersey anyway, because we are a socialist country here in New Jersey, we are very socialist. There's no way that in the event, that it was a month to month lease. If it were all month to month leases or one-year leases and that occurred, which was the case with older style development, with older developments. They would put people in and they would sign a one-year lease in that event. If the developer sponsor sold the parcel, the development, they could then say ok, we're not renewing your lease after a year or 2 or 3. That's not what is occurring here. We will start with a minimum of a 25 or 30 year lease. That being said, it wouldn't matter after the association takes over the board, which happens 75% of the way through. I hate to say this but it doesn't matter if it's me or anybody else as long as those leases are current and that the monthly payment is being made, no one can change it.

David DeClement, Esquire

And one of the things that goes on is the tenants of the homeowners association

which run with the land can't be undone. I've never seen that I've never heard of a single case where you could undo that. Once the DCA passes on the homeowner's association and the covenants that are contained there irrevocable. I don't know the circumstances of your person's particular case but no bank should undo them. They can't say, well I want everyone under 15 here that just doesn't work. You can't undo them.

Bill Culver

I'm pretty sure the case that I know of it was like one year leases.

Vince Simonelli

That's correct.

Bill Culver

So a longer lease does make a bit of sense. One other concern that I have is I looked at the map and I drove around the neighborhood where it's at. One thing that's a serious concern for me is the area is like very low density as far as like the homes and they are larger homes, but on very large lots. That is not what you are proposing. So, a lot of it has to do with us and the fact that we're meeting by Zoom, and a lot of people aren't able to do that. I'm a bit concerned that we don't have enough representation of the public here at this meeting to give us their input before we should make a decision on whether or not we're going to allow the use of that land like that. It's not like we're deciding that you can put a front porch on your house and break your front set back by eight feet. This is a major, major decision here.

David DeClemente, Esquire

Well, we've done everything required by law. We have no control over that.

Bill Culver

Well there's what's required by law and then there's what's right. I've worked in the building industry and just because it's code doesn't make it right and just because it's right doesn't make it code.

David DeClemente, Esquire

I understand what you are saying but there is nothing for us to understand what practicality that may be.

Vince Simonelli

Another comment just as an aside. I think that that's true, doom is difficult, at best. But I believe that like the planner testified, and all testified, both planners, I think that it's in the interest that this development is good for the community. I believe that it satisfies the need for affordable housing without, and, John, I don't mean affordable housing in sense of code, but I mean it addresses the housing shortage which is endemic everywhere. In Ocean County, Monmouth county, Gloucester County, there is a housing shortage, and as the population ages, the shortage of

housing that's affordable to people that are over 55 is even more extreme, then under. So I understand what you're saying in the sense of people will have opinions because people always have opinions. But I think that there's an override factor here where this is going to afford 63 people the opportunity to live in a very nice development with amenities in a nice area wearable for them to debunk. That I think that may override anybody's opinion. In my experience, everybody comes to meetings and few people come out and say we'd like more development. Everybody wants everything to remain a farm forever. Somehow, it will be developed. That's just, again, my opinion, obviously, I have an interest, but I think it is good for the community. I think it does afford people the opportunity for more affordable housing. That's all.

joe abate

All right. Anyone else have any questions? I'd like to maybe open this up to the public. Motion to open to the public.

M/Fox, S/ Miller

joe abate

If there's anyone in the public that has any questions or anyone may address us now.

Motion to open.

M/ Miller, S/ Fox

Motion to close.

M/ Miller, S/ Fox

joe abate

I would like to have a motion to approve Dream Homes Development/Autumn Woods 201 East Avenue, a/k/a Block 2002, Lot 22 use variance contingent on a major site plan approval.

Steve Branco

Can we table this so the board members can get more information and maybe be more comfortable in a work session possibly?

John Alice, Solicitor

No this is an application of the board. The Borough of Clayton scheduled a hearing and the gentleman has a quorum. He is entitled to his hearing. You can ask the Chairman if he wants to have a motion to table it or something else, but nothing's going to happen because now we have an active application. Whatever happens, happens in public at a meeting. No groups or anything.

David DeClemente, Esquire

Just so that we are clear we've had two work sessions with your professionals.

Vince Simonelli

Yeah we did. We have actually gotten a lot of input.

John Alice, Solicitor

Mr. Chairman, the only person who should be talking right now is you.

joe abate

I would like to have a vote tonight on they use variance, either, yay or nay to approve the use variance for Dream Homes Corporation/Autumn Woods 201 East Avenue, a/k/a Block 2002, Lot 22.

Roll call.

Debbie Schlosser

Abate	Yes.
Branco	Yes
Culver	No
Fox	Yes
Miller	Yes
B. Saban	Yes

David DeClemente, Esquire

Thank you.

Vince Simonelli

Thank you everyone.

joe abate

We look forward to seeing your site plans.

Vince Simonelli

We look forward to coming back before you.

joe abate

We'll continue with our meeting. Under correspondence I see none.

Anyone have a discussion about anything?

I don't see any resolutions that need to be granted.

Jennifer Haller

As a homeowner in the area, I just want to say it's been very educational to watch you all and thank you for entertaining me.

joe abate

Thank you very much.

Darlene, do we have a motion to adjourn.

Darlene Vondran

Motion to adjourn.

M/ Vondran, S/ Miller

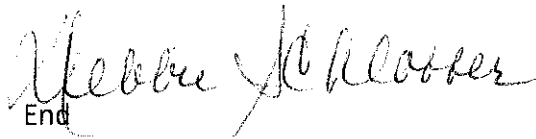
Ayes: Unanimous

joe abate

Next meeting, June 28th, 2021. Hopefully it's in person.

Tony Saban

Yeah, we're working on that right now.


End