

Resolution No.: 7-2024

**RESOLUTION OF THE BOROUGH OF CLAYTON LAND USE BOARD
GRANTING PRELIMINARY MAJOR SITE PLAN
FOR BLOCK 905, LOTS 13, 14, 15 & 29
(516, 544, 552 S. DELSEA DRIVE & 257 NOVACK DRIVE)
APPLICANT- CLAYTON APARTMENTS NJ LLC**

WHEREAS, Clayton Apartments NJ, LLC (the "Applicant"), located at 207 West 25th Street, Floor 9, New York, New York, 10001, submitted an application the Clayton Land Use Board (the "Board") for amended preliminary and final major site plan approval for the development of a 112 unit high-density apartment complex, accompanied by parking lots, landscaping, open spaces areas, stormwater management facilities, two access driveways, and other site plan elements; and

WHEREAS, the subject property, located at 516, 544, 552 South Delsea Drive & 257 Novack Drive, also known as Block 905, Lots 13, 14, 15 & 29 on the Borough of Clayton Tax Map (the "Property"), is owned by the Applicant; and

WHEREAS, the Property is approximately 5.803 acres, and primarily consists of woodland vegetation, with single-family homes on Lot 15 and Lot 29; and

WHEREAS, the Property is located in the "PA-B-2" Planned High Density Apartment Residential Two Overlay District pursuant to the Redevelopment Plan, last amended by the Borough of Clayton Council ("Borough Council") on August 10, 2023, by way of Ordinance No. 15-2023; and

WHEREAS, on January 24, 2022, the Property's previous owner received preliminary and final site plan approval for the 112-unit project, with first-floor commercial space in proposed building # 5 (the closest to Delsea Drive), as memorialized by Resolution 7-2022 on February 28, 2022 (the Board's 2022 Approval) ; and

WHEREAS, since the Board's 2022 Approval, the Applicant purchased the Property, and now seeks amended preliminary and final site plan approval for the 112-unit apartment complex, but with removal of the commercial space, which has been replaced with a tenant amenity multi-use recreational athletic court, updated parking, changes to the stormwater management facilities, and other site plan revisions; and

WHEREAS, the Applicant appeared before the Board on Monday, February 26, 2024 (the "Hearing Date"); and

WHEREAS, the Board's engineer and planner, Wayne Roorda, Jr., PE, PP, CME, was present and duly sworn; and

WHEREAS, Marsha M. Moore, Esq., an attorney with Post Polak, P.A., presented the application on behalf of the Applicant; and

WHEREAS, Jack Hazan, member of Clayton Developers, LLC as sole member of Clayton Apartments NJ LLC, served as the representative for the Applicant, and was duly sworn to testify on behalf of the application; and

WHEREAS, William Gilmore, PE, the Applicant's engineer, was present and duly sworn to testify on behalf of the application; and

WHEREAS, Richard DeMarco, AIA, the Applicant's architect, was present and duly sworn to testify on behalf of the application; and

WHEREAS, Marie Pantalone, PE, the Applicant's traffic engineer, was present and duly sworn to testify on behalf of the application; and

WHEREAS, the Applicant met all jurisdictional requirements enabling the Board to hear and act on the application, and appeared before the Board on the Hearing Date, as specified above; and

WHEREAS, the following reports were prepared by the Board's professionals, and considered by the Board:

Memorandum of the Board's planner and engineer Wayne L. Roorda, Jr., PE, PP, CME dated February 22, 2024; and

WHEREAS, during the public hearing, the Applicant was given the opportunity to present testimony and legal argument, and the Board's professional and members of the public were given an opportunity to comment on the application; and

WHEREAS, the following exhibits were marked into evidence during the Hearing:

Exhibit 1: Color rendering of site plan; and

WHEREAS, Ms. Moore, the Applicant's attorney, presented a brief overview of the application. She explained that the Applicant purchased the Property after the previous owners received site plan approval in January of 2022. In addition to the 112 units, comprised of 29 one-bedroom apartments and 83 two-bedroom apartments, the 2022 Board Approval also included first-floor commercial and retail space in building #5. For the current application, Ms. Moore explained that the number of units and the breakdown of one- and two-bedroom apartments remains the same, but tenant amenity space will replace the commercial and retail space.; and

WHEREAS, Mr. Gilmore, the Applicant's engineer, earned a degree in civil engineering from Drexel University, maintains an active license as a professional engineer, has 30 years of engineering experience, and has appeared before this Board and other land use boards as an expert in civil engineering. The Board accepted Mr. Gilmore as an expert in civil engineering.

Mr. Gilmore provided detailed testimony on the amended site plans. He testified that the major revision was removal of the commercial and retail space in Building #5, the building next to Delsea Drive. Rather than commercial space, the Applicant proposes an tenant amenity multi-use athletic court. The removal of the commercial space also results in the reduction of 39 parking spaces. Other changes include more greenery, and removal of the assigned parking area for the previous commercial space. The Applicant also eliminates stormwater management basins, and Mr. Gilmore testified that the stormwater management facilities would be consistent with NJDEP requirements.

Mr. Gilmore testified that the Property will have five buildings, for a total of 112 units. Each building has a mailbox unit inside the building, and the trash enclosures comply with Borough requirements. He testified that the Property will have two access points: Delsea Drive and Novack Drive. Delsea Drive will be the sole access point for tenants and all other traffic, and Novack Drive will be emergency access for first responders. The Novack Drive access will have bollards preventing regular traffic, a stone base with grids that blend in with the grass, and landscaping to delineate the driveway. The project will include walking trails that connect to the sidewalk network, and a pavilion area. The Property has a maintenance manual for the parking lots, and signage will be installed to indicate the porous paving. The Property also has a manual for the stormwater management facilities.

Mr. Gilmore agreed to work with the Board Engineer/ Planner on relocation of the loading area, the landscaping details, and all of the concerns outlined in Mr. Roorda's February 24, 2024 review letter. He also agreed to work with the Fire Marshal/ Fire Chief on the bollards for the Novack Drive emergency access driveway.; and

WHEREAS, Mr. Hazan, the representative present on behalf of the Applicant, also provided testimony. Mr. Hazan testified that he serves as the managing member of Winchester Equities, a company that oversees a number of multi-family projects. Although most of the projects are in Newark, this will be his first project in South Jersey. When questioned by the Board regarding the noticeable change in architecture since the 2022 Board Approval, Hazan testified that the new renderings are more consistent with current development trends. He also testified that the new architectural renderings were presented and approved by the governing body after community input.; and

WHEREAS, after the Board raised concerns about the architecture, and after discussion with the Board and the Board Solicitor, the Applicant amended the application to seek preliminary major site plan approval, with a condition that the Applicant attend the Board's Development Review Committee ("DRC") to discuss the architectural choices. The Applicant must then seek final site plan approval from the Board.; and

WHEREAS, Wayne L. Roorda, Jr., PE, PP, CME, the Board's engineer and planner, reviewed his report. The Applicant agreed to comply with all of the completeness items, except for Items 33 and 36. The Applicant sought waivers for Items 33 and 36, and Mr. Roorda had no objection to the request. Mr. Roorda reviewed the remaining portion of his letter, and the Applicant responded to his remaining concerns. The Applicant agreed to comply with Mr. Roorda's February 22, 2024 review letter.

Among the items discussed during Mr. Roorda's review, the Applicant acknowledged compliance with the applicable affordable housing requirements, and clarified that garbage collection will be done through a private provider. Mr. Roorda also raised issues about traffic, water and sewer, stormwater management, and other site plan concerns. For traffic, the Applicant agreed to provide an updated circulation plan. For water and sewer, the Applicant agreed to comply with the Borough Engineer's recommendations, as well as provide details for pavement restoration. For stormwater management, the Applicant agreed to revise the calculations to show the appropriate runoff and recharge in accordance with stormwater regulations and the NJDEP BMP Manual. Mr. Roorda also explained that while the updated NJDEP regulations do not technically apply to this application, the Applicant agreed to have the basins pass the flows of the updated regulations to prevent the basins from overflowing; and

WHEREAS, Richard DeMarco, AIA, the Applicant's architect, and Marie Pantalone, PE, the Applicant's traffic engineer, did not provide testimony during the hearing; and

WHEREAS, the meeting was opened to the public, and no member from the public appeared in support or against the application; and

WHEREAS, the Board has considered and incorporates herein the review letter submitted by Board engineer and planner Wayne L. Roorda, Jr., P.E., P.P., C.M.E., and the Board has carefully considered all the documents submitted and the testimony of all the witnesses; and

WHEREAS, the Board has made the following findings of fact and conclusions of law:

1. The Applicant submitted an application for amended preliminary and final major site plan approval for the development of a 112 unit high-density apartment complex, accompanied by parking lots, landscaping, open spaces areas, stormwater management facilities, two access driveways, and other site plan elements.
2. A previous property owner received preliminary and final major site plan approval in 2022, as memorialized by Resolution 7-2022 on February 28, 2022. The 2022 Board Approval included first-floor retail space in Building #5. At some point after the 2022 Board Approval, the Applicant purchased the Property.
3. The Property is located in the "PA-B-2" Planned High Density Apartment Residential Two Overlay District, pursuant to the Redevelopment Plan, which was last amended by the Borough Council on August 10, 2023 by way of Ordinance No. 15-2023.
4. The Property is approximately 5.803 acres, and primarily consists of woodland vegetation, with single-family homes on Lot 15 and Lot 29.
5. The project includes five apartment buildings, with a total of 112 units; 29 units will be one-bedroom apartments, and 83 units will be two-bedroom apartments. The 2022 Board Approval included commercial and retail space in Building #5, and the current application proposes a tenant amenity multi-use recreational athletic court as a replacement. Removal of the commercial and retail space will reduce the parking by

39 spaces. Among other site plan revisions, stormwater management basins were removed, and more greenery was added.

6. The Property will have two access points: Delsea Drive and Novack Drive. Delsea Drive will be the sole access point for tenants and all other traffic, and Novack Drive will be emergency access for first responders. The Novack Drive access will have bollards preventing regular traffic, a stone base with grids that blend in with the grass, and landscaping to delineate the driveway. The project will include walking trails that connect to the sidewalk network, and a pavilion area.
7. The Board raised concerns about the significant changes in architecture. After discussion with the Board and the Board Solicitor, the Applicant amended the application to seek preliminary site plan approval, with a condition that the Applicant attend the Board's DRC to discuss the architectural layouts. The Applicant agreed to return to the Board for a final site plan approval.
8. The Applicant agreed to comply with Mr. Roorda's February 22, 2024 review letter, and to work with the Borough and the Borough's professionals.
9. The Applicant sought two submission waivers for Items 33 and 36. The Board determined the Application to be complete, subject to the two waivers.
10. A planning board's review of a proposed site plan is limited to determining whether the proposed development conforms with the zoning ordinance and the applicable provisions of the site plan ordinance.
11. The Board finds that the Applicant satisfied the relevant criteria for preliminary major site plan approval. With the exception of architecture, the Board finds that the proposed improvements conform to the requirements in the "PA-B-2" Planned High Density Apartment Residential Two Overlay District, as provided in the Redevelopment Plan.

WHEREAS, after deliberation, a motion was made to deem the application complete, to grant the requested submission waivers, and to grant preliminary major site plan approval, subject to certain conditions, as set forth herein, and was approved by a vote of 9 yeases to 0 noes.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Clayton Land Use Board, that it hereby approves the application for preliminary major site plan approval and submission waivers for the proposed site improvements, contingent upon the following conditions:

1. The Applicant shall attend the Board's DRC to discuss architectural layouts. After the Applicant attends the DRC, the Applicant must seek final site plan approval.
2. The Applicant shall work with the Borough and the Borough Professionals to comply with the concerns outlined in Mr. Roorda's February 22, 2024 review letter.

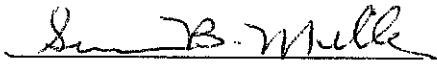
3. The Applicant shall respond to any concerns of the Fire Marshal/ Fire Chief, including but not limited to, the Novack Drive emergency access driveway.
4. The Applicant shall comply in all respects with the review letters submitted by the Board's professionals with the exception of waivers and/or variances granted herein.
5. The Applicant shall obtain the approvals of all other necessary governmental agencies having appropriate jurisdiction.
6. The Applicant shall post all required performance bonds and inspection escrows and pay in full all review escrows prior to the approvals taking effect.


BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the Applicant, Borough Clerk, Borough Construction Official, Borough Tax Assessor, and the Borough Zoning Officer.

THIS RESOLUTION DULY ADOPTED at a regular meeting of the Borough of Clayton Planning Board held on Monday, March 25, 2024.

Attest:

**Borough of Clayton Combined Planning
Board and Zoning Board of Adjustment**


Debbie A. Schlosser, Secretary
Susan B. Miller



By: Joe Abate, Chairman

ROLL CALL VOTE

THOSE IN FAVOR	<u>10</u>
THOSE OPPOSED	<u>0</u>
THOSE ABSTAINED	<u>0</u>

CERTIFICATION

I hereby certify that the foregoing Resolution is a true copy of a Resolution adopted by the Borough of Clayton Combined Planning Board and Zoning Board of Adjustment at a regularly scheduled meeting of the Board held on March 25, 2024 at the Borough of Clayton Municipal Building, 125 Delsea Drive, Clayton, New Jersey 08312 at 7:00 p.m. and memorializes the decision reached by said Board on the herein application at the Board's February 26, 2024 meeting and public hearing.


Debbie A. Schlosser, Secretary

