

September 22, 2010

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on September 22, 2010. The meeting was called to order at 7:42 p.m. by Chairperson Teng, who announced that the requirements of the Open Public Meetings Act were met by the required posting and notice to publications.

The following members answered roll call: Ms. Teng, Ms. Chamberlain, Ms. Hart, Mr. Manning, Mr. Redling, and Ms. Weidner. Mr. Jones arrived at 9:14 p.m. Also present was Mr. Nestor, Board Attorney.

On a motion by Mr. Redling, seconded by Ms. Weidner, the minutes of the August 25, 2010 meeting were approved as submitted. On roll call, all members present voted in favor.

Resolution of memorialization was submitted by the Board Attorney with regard to the Kevin and Marie Woessner variance application. Mr. Redling moved, seconded by Ms. Weidner, to adopt the resolution as submitted. On roll call, Mr. Manning abstained. All other Board members present voted in favor.

Ms. Teng advised that the continuation of the Maniaci variance application will be heard later this evening.

Allendale Housing, Inc. application for minor subdivision and preliminary and final site plan approval including use variance and associated variances, 303 W. Crescent Avenue, Lots 10-14 and 31

Daniel McCarthy from the firm of Rogut McCarthy LLC was present representing applicant.

Mayor Vincent Barra was sworn. He said he is President of Allendale Housing, Inc. and it is his privilege to present the application of Allendale Housing, Inc. for an affordable housing project on the site known as the Foreit property. He said Allendale Housing, Inc. has been looking at the property for the last 2 years and have an option to purchase. They have spent a considerable amount of money on environmental studies all of which have indicated that the site is clean and fit for construction. This site will basically take care of Allendale's affordable housing obligations throughout Round 3. Between the Orchard Commons site and this site they will have fulfilled all of the obligations of affordable housing. Allendale will probably be one of the first towns in New Jersey that will not only have an approved plan but will actually implement that plan.

Mayor Barra said the Borough has received the Governor's Housing Excellence Award for the best supportive housing in the State of New Jersey. This will be phase 2 of those projects. He said the quality of construction at Orchard Commons is excellent and he expects this project will be the same. They will be building the same type of housing. There will be 11 units consisting of 6 one bedroom and 5 two bedroom units. They are putting in 6 units for MS which is a population that has qualified for this type of housing for which there is a tremendous need. The balance of the housing will be 6 units that will be affordable for sale units. That is why they are

asking for a subdivision because they are going to divide the property into two sections. One will have the special needs component which will be made up of the three buildings and in the lower left hand corner will be the affordable for sale units. There will be four 2 bedroom and two 3 bedroom affordable units in the \$125,000 range. The goal is to provide some housing for residents of Allendale who might work for our DPW or be with the Fire Dept. or Ambulance Corps. There are three Allendale residents who will reside at Orchard Commons so the goal is to continue that with this site. The developmentally disabled housing which is the 11 units and the 6 units for MS are all being funded through the Special Needs Housing Trust. Their declaration of intent has just been received that they will fund \$3,700,000 for that portion of the project. Approximately 1.1 million dollars will come from the Allendale Housing Trust Fund and that is coming from 11 units from the Whitney that were originally RCA units. Mayor Barra said the funding is pretty much all in place now and it will not cost the taxpayers of Allendale one dime to do this project. With the Board's approval construction will probably start in the middle of next year.

The Board asked about soil testing on the property. Mr. Barra said approximately \$30,000 worth of Phase I and Phase II testing was done. The one issue concerned an oil tank that was removed about 15 years ago and although they had the oil tank certificates indicating that it had been done properly they had never gotten DEP approval. They were required to do that and the approval has been recently received indicating that the site is clean and there is no toxic material. He added that HMFA requires all that to be done and they have passed on it in order to give the approval on the 3.7 million dollars.

Ms. Weidner asked who will take over the management of the property. Mr. Barra said the same corporation that manages Orchard Commons, the Madeline Corp. will take over and manage both properties.

Mr. Redling asked if traffic impact studies have been done. Mr. Barra said they have not. Ms. Tengi asked if this has been submitted to the County and the Mayor advised that it has.

Ms. Chamberlain said in looking at the plan it shows 6 MS units but on the proposed developmentally disabled it shows 9 units. She asked if that is an oversight. She asked if the total number should be 21 or 23. Mr. Barra said the total number should be 23. There should be 6 – 1 bedroom, 5 – 2-bedroom in the 2 story building and 3 and 3 in each of the two smaller buildings and the 6 for sale affordable.

Ms. Tengi opened the meeting to the public.

Steven Talarico was sworn. He said he lives at 7 Delta Court in Allendale. He said he was led to believe at a previous Planning Board meeting that some of the shrubs and trees would be left behind on Delta Court, in particular the shrubs along his property line. Looking at the plan it appears that every single tree and shrub on the property is going to be removed. Mr. Barra said they will not be removed entirely but he suggested the engineer would be better able to answer that question. The intent is to keep all the arborvitae along Mr. Talarico's property line. Mr. Talarico asked if the shade trees at the end of Delta Court will remain. Mr. Barra said he does not believe they are going to be removed but he will defer to the engineer.

Mr. Nestor said this application is before this Board because a use variance is required. The Board is also empowered to handle the site plan application as well as the subdivision under the Municipal Land Use Law and the local ordinances. The Board will decide whether this use can be on this property and then it will have to approve the preliminary site plan, the final site plan, the subdivision and the several bulk variances that are required.

Ms. Tengi said although the Mayor is presenting the application it is not the Borough of Allendale that is coming before the Board tonight. He is representing a separate entity. Mr. Nestor said the contract purchaser of the property is Allendale Housing, Inc., whose president is Mayor Barra. Mr. McCarthy explained that Allendale Housing, Inc. is a non-profit organization that operates these facilities. He said he had intended to present the site plan and subdivision portion of the plan to the Board tonight. Mr. Nestor said the board members received today a letter from the Borough Engineer indicating there are a number of items that are not touched upon in the application. He has no problem with the Board members hearing the testimony tonight but the determination has to be made whether this is a complete application.

Mr. McCarthy said he will call his engineer to answer the questions in the Borough Engineer's letter.

Ms. Tengi asked if this use is an inherently beneficial use as defined by case law. Mr. Nestor said it will be necessary to listen to the testimony in order to make that determination. Mr. McCarthy said it is the applicant's position that the MLUL provides expressly that affordable housing is an inherently beneficial use and in particular the type of housing being proposed here.

David Hals was sworn. He said he is a licensed professional engineer, land surveyor and planner in the State of New Jersey. He has been a licensed engineer since 1984, a planner since 1986 and a surveyor since 1988. He has been accepted as an expert in all three licenses in over 100 municipalities in the State of New Jersey including the Allendale Zoning Board. He was accepted as an expert witness.

Mr. Hals went through the items in the letter from Dewberry dated September 22, 2010 signed by John Yakimik. The escrow fees and the application fees have been paid. An affidavit of ownership has been submitted with the application. The property is in a State flood hazard area and a DEP permit was received. Along with that there is an acknowledgement that there are no fresh water wetlands within the site. Affidavit of ownership was received from the current owner. They do not meet Residential Site Improvement Standards and are asking for a waiver on the parking for the site.

Nicole Shapiro was sworn. She said she is a licensed professional engineer in the State of New Jersey. She works for Dewberry Goodkind Inc. and is present representing John Yakimik, the Borough Engineer. Property is in two zones, zones A and D.

With regard to Schedule B in the Borough Engineer's letter, Mr. Hals said they did not provide a metes and bounds description for the newly created lots. Those will be submitted upon approval of the subdivision. He said generally a metes and bounds description is submitted after the

approval. Mr. Nestor asked if there are four present lots. Mr. Hals said there are four lots that are being reconfigured into two. The lot with the single family dwelling is not part of the subdivision.

With regard to item 9, they used the 200 ft. list that was provided by the Assessor. A photo was not submitted of the site but they can do so if necessary. They do show the trees on the site on the survey drawing and there are no trees to be removed with the application except for the arborvitae. Ms. Shapiro said she wants to see the trees on the property line in the rear on Delta Court on the site plan. Mr. Hals said it is not necessary to set exterior property boundary markers. With regard to the height of building 2 at 37 ft., Mr. Hals said one building was 39 ft. but it is in zone D which allows a height of 40 ft. The other building is in zone A residential zone which allows 35 ft. Under item 8 the code states that parking spaces shall be behind the setback line in residential zone districts. Applicant proposes 3 parking spaces within the 3 ft. front yard setback along W. Crescent Ave. and a variance will be required. Mr. Hals said the application should be considered amended to include such a variance. With regard to item 9, Mr. Hals said since there are 23 units an additional 2 parking spaces will be required on site. Presently they are providing 41 spaces and 46 are required.

Ms. Hart asked about distances between buildings. Mr. Hals said residential site improvement standards do not pertain to setbacks between buildings. That would be within the local code. The Board will have to make a determination whether what is being provided on site is an adequate distance between buildings. That will be heard during the site plan review and the Board will have to make the determination whether the site plan is reasonable.

With regard to item 1 on page 5 of the letter of September 22, Mr. Hals said they are subdividing the properties for lots 10 through 13 and lot 31 which is the current Foreit site. Lot 14 is the single family home to the right of the site. The home is currently financed through a mortgage through HMFA and that boundary line has to stay exactly as it is delineated in its current form. The property is being subdivided into two separate lots. They are separating out the affordable housing from the other special needs building and that is because there will be other mortgages on the property and affordable units cannot be market rate or rentals along with the special needs housing. The functioning of the site will all operate as one site. There will be one operator that will maintain the units and operate the special needs housing. This also includes the single family home on the site. He said that is why the parking lot is slightly overlapping into lot 14 because the service provider will be parking in those spaces and walking over to the homes. They are trying to coordinate the whole site as one contiguous unit and functioning as one unit except there will be three separate parcels. They are looking for a subdivision for the parcels but there be no fences and no delineated property line. The property will look as if it is one site.

Mr. Nestor asked if there is going to be an easement running from lot 14 for the parking area. Mr. Hals said they may need to have some type of cross easement agreements in the future. The whole purpose of the minor subdivision is to separate the mortgages and the financing. This was the best way they could come up with in order to finance the property so they could gather all the different funding sources, put them together and have one large project.

Ms. Hart asked if the impervious coverage includes lot 14. Mr. Hals said it does. Mr. Nestor asked if Ms. Shapiro is satisfied that she can work with the engineer and meet any of the questions in the letter that are not satisfied tonight. Mr. Shapiro replied affirmatively. Mr. Nestor said if the Board is satisfied he feels the best thing to do is allow Counsel to proceed with the application. Mr. Nestor asked Ms. Shapiro if there is anything missing that needs to be supplied from an outside source other than working with the engineers. Ms. Shapiro replied that they only looked at the application for completeness. They did not do a technical analysis. Mr. Nestor said the Board will reserve any questions for the engineer if necessary.

Mary Scro with Z+ Architects was sworn. She said she is a licensed architect in the State of New Jersey. She has testified before this Board and other Boards in the State of New Jersey and has been deemed an expert witness.

Ms. Scro described the layout of the site. The affordable housing units are in Building 1, Buildings 2 and 3 are the MS units and Building 4 is the special needs units as shown in Exhibit A-1, Landscaping and lighting plan for Crescent Commons prepared by David Hals. Ms. Scro said the MS units do fall under special needs. The MS units are separate because these residents will essentially be a family. A court yard was created between the buildings because a sense of community is very important for these residents and the social interaction is very important. The buildings will be a traditional style and the quality of the materials will be similar to what was done at Orchard Commons. Building 4 will have a community room as a meeting place or a place to hold events for the residents. SK 7 was marked A-2.

Mr. Jones asked if there are any plans to have full time aides. Ms. Scro said she does not believe there are any plans to have full time aides at the site. There will be people coming to the site to work with the occupants. Mr. Barra said there will not be any aides living there but there will be a caretaker there in the evening. Each of the developmentally disabled have their own individual programs and aides and the number of hours per day will depend on each individual's situation. They will not sleep there and they will not have their individual unit. They will just be present on site. Each individual person will have his own plan of services that will be provided to him.

Ms. Tengi asked why a height variance is needed. Ms. Scro said the height variance exists at Building 4. The majority of the grade ridge height is 34 ft. but at a certain point it is 37 ft. Ms. Tengi said her concern is that portion closest to Delta Court. Ms. Scro said the majority of the building is at 34 ft. The affordable units in the D zone are at 39 ft. SK1 through SK6 was marked Exhibit A-3.

Ms. Chamberlain said although the 39 ft. is permissible in the D zone this is a residential use. Residences in Allendale are limited to 35 ft. Is there a reason why they have to be 39 ft. Ms. Scro said the 39 ft. is at the peak of the three gables that were added to break up the appearance of the long building. She said it can be easily pulled down to 35 but she felt the peaks help to break down the mass of the building. She said she will try to get the ridge down and break the roof line on this building because of the way it is viewed from the road.

The meeting was opened to the public for comments.

Mr. Talarico said the Fire Dept. carries two different type ladders and you have to be careful of the grading or the ladder might not reach the eaves and you would be unable to get onto the roof. Most fires occur in the home at night when people are asleep on the 2<sup>nd</sup> floor. The quickest and safest way to get to them is with a ground ladder so the grading and access to the windows has to be a big consideration. He asked if everything will be accessible from a ground ladder. Ms. Scro replied affirmatively. She said there are walkways around the buildings.

There being no further comments, the meeting was closed to the public.

Mr. Nestor asked what will be in the building to the far right. Ms. Scro said it will be special needs housing. He said it appears that there are portions of the building that look like there are three floors. Ms. Scro said nobody will be occupying the third floor. Windows were placed in some of the gables. They will not be habitable. There will be no lofts in the second floor units. It is purely for aesthetics.

For the record, Ms. Tengi said the Board has always been concerned about height issues as well as vegetation issues to insure that buffers are created for aesthetic purposes and to protect the property of adjoining neighbors.

Mr. Hals said he prepared a site plan consisting of 11 sheets last revised August 4, 2010 (Marked A-4). Mr. Hals said Sheet 2 is the survey. He said lot 14 is the individual single family home lot. Most of the site is covered by impervious surface which is the parking lot on the site. The property is located on the easterly side of West Crescent Ave. It is bound on the north by the railroad and on the east a portion of the property fronts on Delta Court. On the south and east of the site there are existing residential homes. Across from the site is the Borough's recycling facility.

Mr. Nestor said the Maniaci application that is on the agenda for this evening will be carried to next month. There will be no need to renote. The applicant has waived any time limitation that may bind the Board or himself.

Survey sheet 2 of 11 was marked Exhibit A-5 (Part of A-4). Mr. Hals said a substantial part of the site is impervious today. Specifically the existing site has 69,200 sq. ft. of impervious coverage. They will be actually reducing the impervious coverage over what currently exists on the property. There are two separate zones on the property. Lot 11 is in zone D and the remaining portion of the site is in zone A. The one building is wholly within zone D and the remaining are in zone A. Currently there are several wide curb openings on W. Crescent Ave. With the proposal they will be removing all the existing impervious coverage on the property. They will be removing the existing buildings and eliminating the large curb cuts. Sheet 5 and 6 together were marked A-6.

Mr. Hals said the proposal is to remove the existing site improvements on the property, install four buildings on the site utilizing the existing residential house. They have tried to orient the buildings in a fashion that will have the least amount of impact visually on any of the adjoining properties; specifically, orientation along West Crescent and the residences on Delta Court.

Building No. 1, the affordable housing units, is located on the north portion of the site. There are 6 units and each has a garage. The longer building which is the 11 unit developmentally disabled unit is oriented going away from Delta Court so there is not a long massive view from that street. The other two buildings are one story buildings. They will be shorter in elevation and similar in height to the Orchard Commons buildings. This entire site is located in the flood hazard area. The State changed the flood hazard regulations at the end of 2007 and consequently all the properties on Delta Court and surrounding area are now within the flood hazard areas of the Ramsey Brook. The driveway access to the site has been placed at the safest location on the site. It will be safe for entering and exiting traffic from W. Crescent Ave.

Mr. Nestor asked if the 1 ft. elevation in the flood zone has anything to do with the elevation of the buildings. Mr. Hals said it does and that is why they are asking for the height variance. Ms. Hart asked about the fill in the flood zone. Mr. Hals said it is necessary to come out with the exact same volume of fill that is on the property today. All the buildings have to have a slab on grade. They cannot have any basements or crawl spaces. The buildings will all be sprinklered. There is flooding that occurs during heavy storms where it floods underneath the railroad. From the Foreit site the water flows uncontrolled down toward the south into some backyards. He said all of the storm water from the site is being collected. They will be collecting all of the water from the impervious areas. Half will go towards W. Crescent Ave. and half towards Delta Court as it does today but the difference is they have put larger size pipes underground. They are substantially reducing the flow rate and reducing the water surface elevation downstream thereby reducing the runoff and lessening the impact downstream.

Mr. Manning asked if the plans would be impacted if the railway wanted to improve their existing rail line. Mr. Hals said they have to have specific clearance and would have to acquire property in order to do anything.

Mr. Hals said they are proposing sidewalks around the perimeter of the property. All of the buildings are barrier free. They are trying to avoid an institutional look. There will be an elevator in Building 4. The parking is 19 ft. from the right of way of W. Crescent Ave. That does require a variance. The minimum requirement in the residential zone is 35 ft. They have a considerable number of handicap parking spaces on the site. Three areas for trash collection have been provided.

Ms. Hart asked about the thought process for the layout of the buildings. Mr. Hals said they were trying to mimic what was done at Orchard Commons. They are trying to create a sense of community so the residents themselves will be able to walk through a small area and be able to meet and greet the other adjoining owners without being open to the surrounding public. He said we are trying to close it in and use the buildings as a buffer in order to minimize the noise associated with W. Crescent Ave. They have also tried to minimize the sound from the railroad.

Mr. Hals said in terms of landscaping they have created several different areas of heavy buffering. Currently along the easterly property line is a row of arborvitae. The plan shows they are going to plant a row of white pine along that area. The intention is to keep the arborvitae hedge but his concern is that when they actually start construction there may be damage to the hedge. There is heavy shrubbery along Delta court and along residential property immediately to

the south to minimize the visual impact and to create a buffer at the end of the cul de sac. They are also trying to create a buffer along the railroad. They are providing shade trees along the entire frontage of West Crescent Ave. There are shade trees along the frontage of the for sale units and interspersed around the site as well as foundation plantings around the buildings themselves. 14 ft. high pole mounted lights are proposed throughout the site. They are going to use colonial style fixtures similar to what was put in Orchard Commons.

Mr. Hals said they do require the use variance for the site as well as several other variances. He knows the Board is very sensitive to the building height. He said proposed building No. 1 is 39 ft. tall measured from the outside grade to the ridge. That is conforming to the requirements of the D zone. The first floor elevation to the ridge is 34.5 ft. The building itself is approximately 45 ft. deep. The back of the building is substantially lower than the first floor. The back of the building has 5 ft. of exposed foundation because of the flood elevation. That has been minimized by the landscaping. Buildings 2 and 3 are conforming to building height. A variance for building height is required for building 4. It is 37 ft. tall and it will be heavily landscaped along the property line. No one from outside the site will be able to see that portion of the property because of the landscaping. Other variances required for the site are a front yard setback of 25 ft. for building 1 to W. Crescent Ave. where 35 ft. is required. A substantial landscaping buffer will be required to minimize the impact. A variance is required for the front yard setback of 12 ft. to Delta Court where 35 ft. is required. Where a side yard setback of 15 ft. is required they have 10 ft. and 14 ft. and that has been heavily landscaped.

Mr. Jones said he is concerned about Delta Court and what they will be looking at. Mr. Hals said if the Board wanted, they could put in larger trees.

Ms. Tengi said she visited the area and there are huge arborvitae blocking the view onto the Foreit property at the dead end of the cul de sac on Delta Court and hopefully they can be preserved because they act as a nice buffer in that area. Mr. Hals said they can plant taller one than what is being proposed if necessary.

Mr. Hals said they are providing an emergency access out to Delta Court by putting a slightly lower curb of 3 ft. along Delta Court. A car will not get through but an emergency vehicle will. Mr. Manning asked if the Fire Dept. is comfortable with one entrance into the facility. Mr. Hals said they are actually providing two – the main driveway and the alternate access from Delta Court. A Fire truck will be able to get through without any problems.

Mr. Hals said another variance or waiver is required for parking spaces. The RSIS requires 45 spaces for 23 units and they are providing 41. Because of the type of housing they are providing and the needs of the actual residents, they do not need to have all of the extra surface parking. They felt this was a much better plan by not adding additional impervious area which would add to the storm water runoff.

Mr. Hals said they are seeking a use variance. They are proposing affordable housing which is not a permitted use in the A or D zone. Affordable housing is an inherently beneficial use. This is beneficial to the residents of Allendale because it provides and meets the unmet need that Allendale has with its housing and it meets the goals of the State. It meets the positive criteria

for the use itself. The commercial site is located in a residential zone. They are going to be removing that commercial site and that will be a direct benefit to the residents by removing that intense use that is adjoining the residential use. It is a direct benefit to the community as a whole. In terms of the negatives with the site they are providing a safe access to West Crescent Avenue. The proposed use will actually generate less traffic than the commercial use and has a direct benefit in reducing traffic to West Crescent Ave. It reduces the driveway openings onto W. Crescent Avenue and provides safe access into and out of the site.

They will be reducing the impervious area of the site. With the overall development the existing coverage is 67.8% of the overall area and the proposed impervious coverage will be 47.2% which is a substantial reduction. Along with that there will be less storm water runoff which is another benefit to the community. In regard to the negative criteria the plan will not substantially impair the intent and purpose of the zone plan and zoning ordinance. They are proposing a residential use in a residential zone; however, it will be a more intense residential use but they are mitigating that with less impervious coverage, less traffic, less storm water and they have also mitigated through landscape buffers they are providing along the property. He added that they are providing what he believes is a well thought out and engineered plan.

Mr. McCarthy asked that the Board deem the application complete and grant the minor subdivision and preliminary and final site plan approval sought by the applicant.

The meeting was opened to the public.

Mike Pelic, 23 Delta Court was sworn. He said the arborvitae on Delta Court is not going to block the view of the big building going up. He said the residents of Delta Court want to make sure the plantings are adequate in height and would be happy to meet with the engineer and landscaper at the time of construction in order to arrive at a plan that would be agreeable.

Mr. Talarico said the residents on Delta Court have never had any objections to the project. They just want it to blend in with their neighborhood. They are a little concerned that the 25 year old hedge that is along his property may be damaged or killed during the construction. He has an oak tree on his property that is about 65 ft. tall and the tree root structure goes out to the canopy. He is concerned that the roots of the tree may be damaged during the digging and it could possibly topple towards his property. He suggested moving the roadway and the drainage pipes could be curved to insure they don't dig close to the hedge and damage the trees.

Ms. Tengi asked if that would be feasible. Mr. Hals said it would not and the pipes have to be straight. They are going to be 10 ft. from the property line to do the work. He does not believe they are going to damage the tree and he does not anticipate they will have any trouble installing the trees. He added that he also has a degree in forestry. Mr. Talarico added that it is not just one tree but several trees that may be affected. Mr. Hals said he does not believe the construction impact is going to cause a problem. Mr. Hals felt that the likelihood of their damaging the tree with the excavation for the pipe or what they will be doing on their property is pretty slim.

Mr. Talarico said to keep in mind that the pavement on the Foreit property was not always there and over the past 25 years more and more paving was done on the property. The pavement up to his property is only 5 years old and permits were never obtained. Mr. Talarico asked how far down is the grade going to be lowered. Mr. Hals said about one foot. Mr. Talarico said the excavating is going to bring everything down a foot and then you are going to dig down an additional four feet. Mr. Hals said that is correct. Mr. Talarico pointed out the location of several shade trees and asked if they would be affected. Mr. Hals said they would have to be removed to lower the grade in that location. Mr. Talarico pointed out that Mr. Hals said he would not have to remove any trees. His concern now is the houses on Delta Court. They are small Cape Cods and he is concerned about the appearance from the street if the trees are removed. Mr. Hals said if they are able to save any of the trees on Delta Court they will do so. If they have to be removed because of the construction they will plant trees in a fashion that will buffer the end of the building.

Ms. Tengi suggested that the residents come to the dais and take a close look at the landscaping and lighting plan.

Mr. Jones asked if a retention wall will be required on the north end of the property running parallel to the railroad tracks. Mr. Hals said it will not. They are proposing a 3 to 1 slope so it will be a stable slope.

Mr. Jones said the landscape plan shows no vegetation at the point where the structure is closest to the property line and in the D zone it is a 40 ft. height. He asked if it is possible to provide plantings in order to minimize the impact of the sharp corner. Mr. Hals said the landscaping can be extended to fill in that gap. Mr. Pelic suggested planting some higher trees for the 14 and 12 ft. setback on Delta Court. He asked if there is a maximum that applicant would be willing to provide at least in the two areas that are closest to the property line. Mr. Hals said he already said he would change them to 8 and 10 ft. high and that is about the limit of what will be readily available to purchase for the type of plantings designated on the plans.

Mr. Jones asked if it would be prudent to provide some sort of fence on the railroad line edge of the property line to protect the interests of the special needs residents. Mr. Hals said he did not see any need for a fence there.

Ms. Tengi said she would like to make a motion. Based on the application before the Board and the intent and purpose of this application, she does find that it is beneficial to the community. It complies with the master plan, the State requirements to fulfill the Borough's Mt. Laurel requirements and there is no doubt in her mind that the special needs housing is an inherently beneficial use. She is familiar with case law on this matter and cannot imagine any better use for this property than this particular plan. Although she approves of this application as submitted and as testimony has supported, she does believe that final plans still have to be presented to this Board for approval. She suggested that Ms. Scro work on the height issue so the ridge comes down so that the height does not exceed 35 ft. In response to some concerns from the public she would like to see the landscaping plans finalized to make sure there are adequate plantings to shield the neighbors on Delta Court. She moved to consider this application as complete subject

to the final plans being submitted to the Board. She added that as a Zoning Board member, it is a pleasure to participate in a project of this nature.

Mr. McCarthy asked if the motion is for the approval of the subdivision and the preliminary and final site plan subject to revised plans acceptable to the Borough Engineer prior to signing by the appropriate Borough officials. He said he believes that their engineer and architect are prepared to provide final plans that would be in compliance with the comments they have heard tonight and to address all of the concerns of the Board.

Ms. Chamberlain said in concept she is very much in favor of the proposal. She would like to see some of things that have been discussed this evening presented more formally. She does have some concerns about the height and she would like to look at the trees in more detail. She has seen huge trees upset by construction work so she would like to be able to respond with more knowledge to some of the concerns that were raised.

Mr. Nestor said the Board could decide the use variance and the bulk variances based on what the Board has heard tonight or could reserve decision until seeing the revised plans. Mr. McCarthy said the Board could grant preliminary approval to the use variance, the minor subdivision and preliminary site plan, reserving the right for final site plan approvals. He has not heard that the Board has any issues with the use variance or the subdivision or generally with the site plan but could reserve its right to make sure that the final site plan in accordance with what the Board would like to see.

Ms. Chamberlain said in terms of the number of units in building 4 are we committed to that number. Could they be reduced by two so the building could be shrunk a little bit. Mayor Barra said he did not think that should be done because of where we are with the Whitney and the 11 units and with the little bit of buffer that we have, he thinks we would be taking a serious risk. He said he is very sensitive to Delta Court and he would like to see as much buffer there as possible. If it means 10 to 12 ft. trees he believes that should be done. He believes we should have the buffer on Delta Court. He said it seems the only other issue is the 35 ft. and the architect can work to accomplish that. He feels it would be a really great error to try to shrink this project and he is not sure of what it would accomplish. Mayor Barra said these people may have developmental disabilities but they are really very independent in a lot of ways. He added that the people who will be living there are well qualified to live independently.

With regard to Mr. Talarico's concern about the trees, Mayor Barra said everything possible will be done to save and protect the trees and the arborvitae on the property line. He feels it would be a mistake to cut back on the number of units because the Borough has the opportunity of fulfilling all of its obligations. Mr. McCarthy added that the funding commitment that they received from the HMFA is based upon number of units.

Ms. Tengi reiterated her motion to approve the application subject to final site plan presentation and review by the Board. She said in the interim we are approving the use variance, the C variances and the preliminary site plan and subdivision. The C variances include the front yard setback, the side yard setback, the number of parking spaces, the height of the building, the impervious coverage and the parking spaces forward of the 35 ft. front property line as amended.

Ms. Chamberlain seconded the motion and said she would also like to highlight the other benefits to the Borough such as reducing impervious coverage, eliminating the present nonconforming industrial use, reducing the driveway openings and the water runoff and improving the collection of water runoff.

Ms. Tengi said the engineer has to review the final plans before it comes back to the Board.

On roll call, Mr. Jones abstained because he was not present for the initial testimony. Mr. Redling, Ms. Hart, Ms. Chamberlain, Ms. Tengi, Mr. Manning and Ms. Weidner voted in favor.

On a motion by Ms. Chamberlain, seconded by Ms. Tengi, the meeting adjourned at 11:10 p.m.

Respectfully submitted,

Barbara Knapp