

RESOLUTION 2015-07

RESOLUTION MEMORIALIZING AN ADMINISTRATIVE CHANGE AND CLARIFICATION TO CONDITION NUMBER 34 OF RESOLUTION 2014-09 APPROVING PRELIMINARY MAJOR SUBDIVISION FOR A DEVELOPMENT COMMONLY REFERRED TO AS AURA PHASE II

WHEREAS, Aura Development Group, LLC a limited liability company with address of 1010 Kings Highway South Building 1 Floor 1 Cherry Hill, NJ 08034 with the assistance of its attorney, Robert Swartz, Esq. has made application for an amendment to the preliminary major subdivision approval for lands identified as Block 29 Lots 28 and 29; Block 29.01 Lot 3 and Block 32 Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9 on the tax map of the Township of Elk to clarify condition number 34 of resolution 2014-09; and

WHEREAS, The Planning/Zoning Board of the Township of Elk has met at public hearing on December 17, 2014 to review the application pursuant to the applicable rules of the Planning/Zoning Board and the applicable ordinances of the Township of Elk; and

WHEREAS, the owner of the lands, Orleans, Inc., has consented to the application and a representative was present at the public hearing and addressed the Board; and

WHEREAS, it appears that the Applicant has followed all procedures in making its application, and that the application, plans and all documents and material submitted therewith were reviewed by Planning Board Engineer, the Planning Board Solicitor and Planning Board members, and were found to be complete and in conformity with all applicable laws and regulations; and the application was deemed complete by the Board at its meeting of December 17, 2014; and

WHEREAS, the Board considered the testimony of its Engineer, Mr. Stan Bitgood, PE and its Professional Planner, Ms. Leah Furey, P.P., A.I.C.P., of Bach Associates, PC and discussed this matter with the Applicant's representatives, and the public; and

WHEREAS, the Board made the following findings and conclusions based upon the Applicant's testimony, representations and the application materials:

1. Condition number 34 in the preliminary approval required the following:

"34. As part of the original approval, the project included a realignment of County Route 623 (Ewan-Aura Road/Clems Run) in the vicinity of the existing Aura school and the land to be dedicated. The roadway realignment requires the acquisition of private land in order to vacate a portion County Route 623 where it now separates the existing school site from the land to be dedicated, and the creation of a new intersection with Whig Lane to the west of the existing school. The Applicant has indicated that the roadway realignment would be disproportionately expensive relative to the 169 lots that Aura Development Group currently proposes to develop, and they believe that the realignment may be unnecessary depending on how the School Board opts to use the 24.46 acres to be dedicated. The Applicant is in discussions with the School Board at this time. As of this moment the Applicant remains required to complete the road reconfiguration, but the matter may be revisited at the time of final approval."

2. The Applicant requested that the Board modify the timing of this condition. After significant discussion including an evaluation of the current discussions with the School Board and the present needs of the community

the Board found that the obligation to establish a definitive schedule for road realignment or other interconnectivity solutions for the property to be dedicated for public purposes shall be established upon the occurrence of the first of the following two events:

- a. The utility service (water and sewer) for this area shall advance to the point where construction of the additional approved residential lots which are part of this overall Latham Park project can occur; or
- b. The school board advises the Township that the residential development has progressed to the point where there are now pressures on the School District to provide for an expansion of the public School facilities to accommodate demand.

- 3. The Planning Board noted that the County of Gloucester had required the dedication of additional right of way for the adjacent roadways and the installation of turning lanes. The Applicant acknowledges its obligation to comply with the requirements of the County.
- 4. The Municipal Land Use law NJSA 40:55D-12 (a) requires that if an application requests a modification of a significant condition in a memorializing resolution and the modification is determined by the Board to be significant in nature the modification may not occur absent a hearing before the public on public notice.
- 5. The Planning Board finds that the change to this condition is not a substantial change to a significant and important condition of the original approval but rather, simply clarifies the language of an ongoing condition.
- 6. The Board finds that this issue was not the subject of significant public comment at the time of the original approval and since this is simply a clarification of the language and the timing of compliance for a condition which will continue to affect this approval and some discussion of this issue was mandated by the preliminary approval. As such this change can be made without formal public notice under the provisions of the Municipal Land Use Law.
- 7. The Board finds that the requested change is not detrimental to the development of the site.
- 8. The Applicant must satisfy all outstanding review fees and inspection fees.

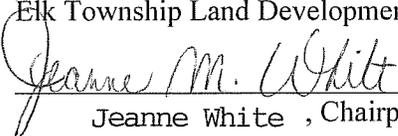
NOW THEREFORE BE IT RESOLVED, by the Combined Land Use Board of the Township of Elk that the request for an administrative change to condition "34" of Resolution 2014-09, is GRANTED subject to the conditions set forth above.

Voting in favor: Afflerbach, McCreery, McKeever, Shoultz, White, Yenner, Goss

Opposed: Hughes

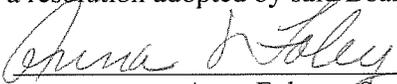
Attest:


Anna Foley, Secretary

Elk Township Land Development Board

Jeanne White, Chairperson

Certification

The undersigned hereby certifies that the above is a true copy of a resolution adopted by said Board on the 21st day of January, 2015, its decision of December 17, 2014.


Anna Foley, Secretary