

RESOLUTION

Township of West Orange

Planning Board

PB 24-10 Green Essex Partners Urban Renewal Entity, LLC/ 100 Executive Drive

Block: 155 Lot: 42.03; Zone: Executive Drive Redevelopment Zone

Decided on June 5, 2024

Memorialized on June 5, 2024

Application for Minor Subdivision Approval

WHEREAS, Green Essex Partners Urban Renewal Entity, LLC (Hereinafter the “Applicant”) has made an application for Minor Subdivision Approval with no Variance relief to subdivide a portion of existing Block 155, Lot 4203, and convey a portion of this property to the Township of West Orange as contemplated by the prior agreement set forth in the March 10, 2021 Redevelopment Agreement and Condition #7 of the May 5, 2021 Planning Board Resolution approving development of the site ; and

WHEREAS, the Applicant was represented by Richard Schkolnick, Esq.; and

WHEREAS, the Applicant provided testimony from Charles Thomas, Jr. P.E., Applicant’s engineering expert whose credentials were accepted by the Board; (the “Witnesses”); and

WHEREAS, the Applicant submitted the following documents to the Board in the form of the application package:

ITEM	SIGNED BY	DATE/REVISION
Minor Subdivision Plat	Martin F. Tirella, N.J. Professional Land Surveyor	5/14/2024

WHEREAS, representatives of the public were provided with an opportunity to pose questions of the Witnesses and also had an opportunity to offer statements in regard to the Application; and

WHEREAS, the Board reviewed and considered the Application and the documents submitted therewith, the testimony of the Witnesses and members of the public; and

WHEREAS, the Board also considered the testimony and filed review letters of its professionals at the hearing, including a review memo dated May 28, 2024, from John J. Hess, P.E., PP, CME (Township Engineer) and a Planner's Report by Gerard M. Haizel, , AICP, PP, Township Planner dated May 24, 2024.

NOW THEREFORE, the Board makes the following findings of fact, based upon the evidence presented at its public hearing, at which a record was made:

1. The Applicant is requesting approval for minor subdivision with no variances to subdivide a portion of existing Block 155, Lot 4203, and convey a portion of this property to the Township of West Orange as contemplated by the prior agreement set forth in the March 10, 2021 Redevelopment Agreement and Condition #7 of the May 5, 2021 Planning Board Resolution approving development of the site.
2. The subject site is existing Lot 42.03 in Block 155, which encompasses 797,409 sq. ft. (18.31 acres).
3. The area surrounding the subject property is developed with a multifamily residential development with accessory parking, which is spread across the southern approximate 2/3 of the site, and a dog park with accessory parking, which is located at the northernmost area of the site.
4. Applicant has not requested any variances or waivers as a part of this application.
5. Pursuant to the terms of the governing Redevelopment Agreement dated March 10, 2021, and Condition #7 of the Planning Board Resolution dated May 5, 2021 which

granted Preliminary and Final Site Plan approval to the development, the Applicant proposes to subdivide existing Lot 4203 into two new lots, Lots 42.03 and 42.04.

6. New lot 42.04 which will encompass 80,833 sq. ft. (1.86 acres) contains the fully constructed dog park and accessory parking, while new Lot 42.03, which will encompass 716,574 sq. ft. (16.45 acres) contains the buildings and accessory parking associated with the multifamily development.
7. New Lot 42.04 will have a street address of 4000 Executive Drive.
8. The accessory surface parking area for the dog park (Proposed Lot 42.04) contains one hundred and four (104) striped parking spaces, including three (3) ADA-complaint parking spaces and four (4) parking spaces equipped with EV-charging stations, a police call box, site lighting, fencing and seating.
9. There is no additional construction proposed as part of this application.
10. N.J.S.A. 40:55D-47 governs the Board's review of the minor subdivision application. N.J.S.A. 40:55D-47 provides that minor subdivision approval shall be deemed to be final approval of the subdivision by the board, provided that the board or said subcommittee may condition such approval on terms ensuring the provision of improvements. Further, approval of a minor subdivision shall expire 190 days from the date on which the resolution of municipal approval is adopted unless within such period a plat in conformity with such approval and the provisions of the "Map Filing Law," (or a deed clearly describing the approved minor subdivision) is filed by the developer with the county recording officer, the municipal engineer and the municipal tax assessor. Any such plat or deed accepted for such filing shall have been signed by the chairman and secretary of the planning board. As such, if the applicant meets the

standards set forth in the ordinances, the planning board lacks the authority to deny approval of the subdivision. N.J.S.A. 40:55D-50a; PRB Enters., Inc. v. S. Brunswick Planning Bd., 105 N.J. 1, 7 (1987); Dunkin' Donuts of N.J., Inc. v. Twp. of N. Brunswick Planning Bd., 193 N.J. Super. 513, 515 (App. Div. 1984).

Conversely, if the application does not comply with all ordinance requirements, the Board must deny approval. Cortesini v. Hamilton Planning Board, 417 N.J. Super. 201, 215 (App. Div. 2010). However, there are two exceptions: (1) The first exception is where an application does not comply with all ordinance requirements but the Board grants relief in terms of variances or exceptions. In that case, the Board then must review the application against all remaining ordinance requirements and grant approval if the application complies with all such remaining requirements.

11. The Application complies with all the ordinance requirements.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Township of West Orange that approval for minor subdivision is granted; and

IT IS FURTHER RESOLVED that the approval granted to Green Essex Partners Urban Renewal Entity, LLC, is subject to the following terms and conditions:

1. The Applicant shall comply with all applicable Township, County, State and Federal laws, ordinances, regulations, and directives, including without limitation, obtaining all applicable local, state, and federal approvals, or permits. If another governmental entity or agency grants a waiver or a variance affecting the plans and/or exhibits submitted by the Applicant, this approval or the conditions attached to it, then the Applicant shall re-apply to this Board respecting the same and this Board shall have the right to view

that issue as it relates to this approval and these conditions and modify and amend same, if appropriate.

2. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successor or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.
3. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.
4. The Applicant shall pay all outstanding application fees and technical review fees, board attorney fees for preparation of the resolution, as well as any inspection fees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of the notification or this approval shall be deemed withdrawn.
5. All notes included in the approved plans, including notes required by this Resolution, shall be deemed conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.

6. Applicant agrees to abide by all of the suggestions and directives set forth in the Hess report dated May 28, 2024.
7. Applicant shall perfect the subdivision with a deed to be reviewed by the Township Planning Board Attorney and Township Engineer within the time frame allowed under the MLUL.

The undersigned secretary certifies the decision set forth herein was made by this Board on June 5, 2024, and memorialized herein pursuant to N.J.S.A. 40:55D10(g) on June 5, 2024.

Jamilet Baquerizo Vite
Planning Board Secretary

Vote Action Taken by the Board on June 5, 2024:

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
K. Alper						
J. Guarino						
L.Klein						
S. McCartney						
C. Morgan						
P. Smeraldo						
W. Wilkes						
W. Rutherford						
J. Cardoza						
L. Kapferer						
R. Bagoff						

Vote on Memorialization on June 5, 2024:

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
K. Alper						
J. Guarino						
L.Klein						
S. McCartney						
C. Morgan						
P. Smeraldo						
W. Wilkes						
W. Rutherford						
J. Cardoza						
L. Kapferer						
R. Bagoff						