

Township of Hamilton, NJ  
February 17, 2010

A special meeting of the Township of Hamilton Industrial Commission was held on the above date with Chairman Robert RaVell presiding. Members present were Eric Aiken, Gordon Craig, Carmen Fichetola Ariane Newman, Rocco Policarpo and Robert RaVell. Also present was Robert Sandman, Solicitor.

Compliance with the Open Public Meetings Law was acknowledged.

Summit Associates (Hamilton Business Park Associates, LLC) – John Visceglia was present.

Mr. Visceglia requested that the Commission grant an extension of the Agreement of Sale between Hamilton Business Park Associates, LLC, and the Commission.

Mr. Visceglia reviewed the history of his association with the Commission and the status of the approval of Hamilton Business Park Associates' first project within the Business Park. He related his experience during the hearing before the Planning Board, and noted that it had taken him much longer than expected, after the Planning Board granted approval for the project, to secure the Pinelands Commission "no further review" letter.

Mr. Visceglia stated that Hamilton Business Park Associates was under contract with Harrison Beverage to purchase approximately fifteen acres within Phase II, and that Hamilton Business Park Associates had agreed to construct the roadway necessary for Harrison Beverage's project. He described what had been done to date to further the approval that had been granted for the roadway in 1993, and noted that the Pinelands Commission had indicated it would recognize the 1993 approval, provided the improvements are constructed consistent with the approved plan.

It was Mr. Visceglia's opinion that the street improvements that Hamilton Business Park Associates would be constructing would benefit adjoining lots within the Park, and he noted the expense involved.

Mr. Visceglia stated that Harrison Beverage has been diligently pursuing the approvals necessary for its project and was scheduled to appear before the Planning Board on March 4, 2010.

Mr. Visceglia advised that he had hired Peter Dolcy to replace the Engineer he had retained previously, and that he had incurred considerable expense investigating the best way to approach Phase II construction.

In response to questions with regard to how long an extension would be necessary, Mr. Visceglia requested that six months be provided, based on his previous experience with securing approvals.

Mr. Visceglia pointed to the need to provide storm water facilities for roadway construction on certain lots that were under contract, and he stated that he didn't believe that was the understanding when Summit Associates entered into the contract, and that they never contemplated they would be purchasing property that would contain drainage basins for roadway improvements. It was Mr. Visceglia's opinion that the need for those storm water facilities decreased the amount of developable land.

Mr. Visceglia was advised that the only matter the Commission was considering at this special meeting was whether Hamilton Business Park Associates was moving forward with diligence and whether the extension of the Agreement should be granted, and that any other matter would be discussed at a later date.

Mr. Visceglia stated that he would like to discuss the issue at some point during the six month extension period.

Mr. Sandman commented that he understood Mr. Visceglia to mean that he did not want to purchase land at Contract price to construct the drainage facilities for roadway construction, and he expressed the opinion that the issue would require renegotiation of the Contract. Mr. Sandman stated that the Commission could consider the issue, but it could not be taken into consideration when considering the extension request.

In response to questions of Mr. Sandman, Mr. Visceglia stated that there was an option with Harrison Beverage as to whether Hamilton Business Park Associates or Harrison Beverage would construct the building; that he believed six months would be sufficient for Harrison Beverage to secure the approvals; and that Harrison Beverage was funding the cost associated with obtaining its approvals, including professional costs.

Mr. Sandman stated that he had reviewed the Contract, and concluded that, when Harrison Beverage obtains the approval for its project, it would trigger the time when Hamilton Business Park Associates, LLC, would be required to close on all of the lots listed as part of Phase II.

Mr. Visceglia stated that it was his understanding they could pull out property in a different phase and close on that property if that was what they chose to do, and Mr. RaVell advised of his recollection with regard to that discussion.

Mr. Sandman stated he would draft an amendment to the Agreement to modify a condition to closing such that reference to approval to develop nineteen acres would be removed and replaced with the approval associated with the pending application submitted to the Planning Board by Harrison Beverage, and to provide for the six month extension.

Mr. Sandman noted that the amendment would not preclude Mr. Visceglia from appearing before the Commission to argue that a portion of certain property is not usable due to certain drainage structures.

Mr. Visceglia, again, stated that he would like to discuss the issues involving the property that would contain the roadway basins together with the extension request. Mr. Sandman commented that the basin issue was not part of what the Commission had to decide and he advised the Commission not to discuss it at this point in time.

Mr. Sandman reviewed certain Contract provisions, and advised that the first extension was a matter of right, but the present extension request would be the first that would require Commission approval. He advised that the Commission would be obligated to grant the extension if it found that the approvals were diligently being pursued.

It was pointed out that Harrison Beverage was pursuing development of approximately sixteen acres of Phase II and that Mr. Visceglia was investigating the potential to develop the remainder of the Phase II lots by working with Peter Dolcy to determine how the roadway storm water management system would affect development.

Mr. Sandman asked if any member felt the matter should be discussed in executive session and no member expressed the desire to do so.

The Commission discussed the efforts put forth with regard to development of property within Phase II and concluded that the Contract Purchaser had been proceeding with diligence.

Mr. Craig moved, seconded by Mr. Policarpo, to grant a six month extension of the Sixth Amendment to the Agreement of Sale between the Township of Hamilton Industrial Commission and Hamilton Business Park Associates, LLC, to provide time to secure approvals, thereby, establishing September 4, 2010, as the last date upon which closing on the entirety of Phase II would take place.

A discussion took place with regard to the issues raised and reference to nineteen acres within the Agreement, and Mr. Sandman advised that the language within the amendment he would prepare for execution by both parties would be made abundantly clear that the nineteen acres is actually the property for which Harrison Beverage was seeking approval, and the granting of that approval would trigger closing on or before September 4, 2010. Mr. Sandman stated he would, also, set forth all of the blocks and lots of the properties within Phase II.

**ROLL CALL VOTE ON THE ABOVE MOTION:**

Mr. Aiken – Aye

Mr. Craig – Aye

Mr. Fichetola – Aye

Mr. RaVell – Aye

SAID MOTION CARRIED.

Ms. Newman - Aye

Mr. Policarpo - Aye

Mr. Pritchard – Aye

No public was present during this meeting.

Adjournment – Mr. Pritchard moved, seconded by Mr. Craig, to adjourn the meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Respectfully submitted,

Nancy Rainbow, Secretary