

Resolution No.:2016-12

RESOLUTION OF THE JOINT LAND USE BOARD OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER, STATE OF NEW JERSEY, GRANTING "COMPLETENESS" OF AN APPLICATION FOR PRELIMINARY MAJOR SUBDIVISION REVIEW, PHASES 5 AND 6, FROM SILVERGATE ASSOCIATES, REGARDING PROPERTY LOCATED ON BUCK ROAD, CLAYTON-AURA ROAD AND FAIRVIEW ROAD, AND BEING FURTHER SHOWN AS BLOCK 65, LOTS 4.02 & 5, AND BLOCK 170, LOTS 14 & 18, BLOCK, 171, LOT 9, ON THE TAX MAPS OF THE TOWNSHIP OF ELK, APPLICATION NO.: SD-16-02

WHEREAS, Application No.: SD-16-02 (the "Application") was submitted before the Joint Land Use Board of the Township of Elk, County of Gloucester, State of New Jersey (the "Board") by Silvergate Associates, (the "Applicant") for a completeness review regarding a preliminary major subdivision application regarding phases 5 & 6, as to property located on Buck Road, Clayton-Aura-Road, and Fairview Road (the "Subject Property") and being further shown as Block 65, Lots 4.02 & 5, Block 170, Lots 14 & 18, Block 171, Lot 9, on the Tax Maps of the Township of Elk (the "Township"); and

WHEREAS, the Applicant did appear at a meeting and public hearing held by the Board on the Application on April 20, 2016 at 7:30 P.M., time prevailing, at which time were the following present on behalf of the Applicant: Emily K. Givens, Esquire, Maley & Associates, 931 Haddon Avenue, Collingswood, New Jersey 08108 (the Applicant's attorney); Nicholas Casey, P.P., Vice President of Development, The Quaker Group, 1101 Laurel Oak Road, Suite 110, Voorhees, N.J. 08043 (the Applicant's professional planner), Richard J. Clemson, P.E., C.M.E., James Sassano Associates, Inc., 41 South Route 73, Building 1, Suite 201, Hammonton, NJ 08037 (the Applicant's professional engineer); and

WHEREAS, Messrs. Casey and Clemson, provided their professional experience, background, and licensing, after which it was determined by the Board, without objection, that Mr. Casey is indeed a licensed professional planner in the State of New Jersey and is qualified to testify as an expert in the field of planning on behalf of the Applicant for purposes of the Application, and that Mr. Richard J. Clemson, P.E., C.M.E., is indeed a licensed professional engineer in the State of New Jersey and is qualified to testify as an expert in the field of engineering for the purposes of the Application, on behalf of the Applicant, after which were Messrs. Clemson and Casey sworn and provided testimony;

NOW, THEREFORE, BE IT RESOLVED by the joint Land Use Board of the Township of Elk, County of Gloucester, State of New Jersey, as follows:

FINDINGS OF FACT

1. The Application was complete, subject to the Board acting on certain requests by the Applicant for waivers from certain submission requirements. As such, the Board had jurisdiction to act on the Application.

2. The Board's professional engineer, Stan M. Bitgood, P.E., C.M.E., Federici & Akin, P.A. Consulting Engineers, 307 Greentree Road, Sewell, NJ 08080, and the Board's professional planner, Steven M. Bach, PE, RA, PP, CME, President Bach Associates, PC, 304 White Horse Pike, Haddon Heights, NJ 08035, were each sworn as to any testimony that they would give on behalf of the Board as the Board's professional engineer and professional planner, with respect to the Application.

3. The Applicant submitted and the Board entered into the record the following:

A. Application, Application Deposit, Escrow Agreement, Escrow Deposit, Certified List of Property Owners within 200 ft. of the Subject Property, Certification of Taxes Paid on the Subject Property.

B. Elk Township Land Development Checklist, dated February 17, 2016.

C. Phase I Environmental Assessment, Silvergate – Phases 5 & 6, Block 65, Lots 4.02, and 5, Block 170, Lots 14 & 18, Block 171, Lots 6 and 9, Township of Elk, Gloucester County, New Jersey, Prepared by Princeton Hydro. LLC, dated September 2011.

D. Drawings set (46 sheets) entitled "Silvergate – Phase 5 & 6, Block 65, Lots 4.02, & 5, Block 170, Lots 14 & 18, and Block 171, Lot 9, Elk Township, Gloucester County, New Jersey", prepared by James Sassano Associates, Inc., dated and revised to 2-12-16.

E. Letter dated April 18, 2016 from Richard Clemson, P.E., setting forth the Applicant's justifications for the submission waivers requested.

The Board also entered into the record a letter dated March 31, 2016 from Steven M. Bach, P.E., R.A., P.P., C.M.E., the Board's professional planner, regarding Mr. Bach's review of the Applicant's Application.

4. The Application was submitted by Silvergate Associates for completeness only as to a Preliminary Major Subdivision review for Phases 5 and 6 at the Subject Property. The Subject Property consists of five (5) lots totaling 170.1 acres with frontage on Buck Road, Clayton-Aura Road, and Fairview Road. All of the lots are owned by Silvergate Associates, with four (4) of the lots being cultivated and farmland assessed, and one (1) of the lots being vacant. The Applicant proposes a subdivision to create

388 residential building lots, 2 commercial lots with 46,650 sf of commercial building, and 15 open space lots. Of the 483 total residential units proposed, the proposal includes 145 single family homes, 172 townhomes, 70 duplex/twin homes and 96 affordable apartment units. The proposal constitutes Phases 5 and 6 of the overall Silvergate GDP. Because of the nature of the Application, the Board is acting on completeness only at this point in time. A short history of the Silvergate proposal and approvals is provided below:

5. Planning and site acquisition for the Silvergate Planned Unit Development (PUD) began in the mid-1980s coincident with construction of Route 55. The General Development Plan (GDP) for the overall Silvergate PUD was ultimately approved by the Elk Township Planning Board on April 18, 1996 and consisted of seven (7) phases. The GDP resolution provided that the approval would expire in 16 years, no later than May 16, 2012, and established deadlines for the filing of development applications for the various phases of the development. In 2011 the Applicant applied to the Planning Board for an extension of the vested rights through May 16, 2016 (the maximum period of 20 years allowed by Municipal Land Use Law). The Applicant provided information to confirm that the project has been delayed in large part due to factors outside the Applicant's control including the stagnant economy, issues with the water and sewer allocations, outside agency approvals, and related litigation. The GDP was extended through May 16, 2016. On February 17, 2016, the Applicant requested a legal interpretation as to its GDP expiration date, which request was heard by the Board. At the hearing, it was concluded that the correct expiration date is June 17, 2020 (Resolution 2016-10).

6. The overall Silvergate proposal consists of 1,311 residential units, 850,250 square feet of commercial space, and 280 acres of open space. Below is a summary of the status of the various phases, insofar as Township approvals:

PHASE	DESCRIPTION	APPLICATION	STATUS
Phase I	35 single family 28,400 sq ft commercial	Preliminary and Final Subdivision Approval	
Phase II	230 single family	Preliminary approval	
Phase III	162 single family	Preliminary and Final subdivision approval	
Phase IV	192 low/moderate income units 160,000 sq ft commercial	Submitted in 2001, revised 2008, held in abeyance. Not yet approved	Affordable Housing Subcommittee provided recommendations in 2011
Phase V	172 townhomes 46,650 sq ft commercial	Major Subdivision/Site Plan	Application submitted March 2016
Phase VI	70 twin/duplex 145 single family 96 affordable housing units	Major Subdivision/Site Plan	Application submitted March 2016
Phase VII	377,700 sq ft commercial	Not yet submitted	

The GDP approval required that most phases be built out within four (4) years of final approval. Silvergate has also submitted applications and received approvals for

minor subdivision and site plans related to the construction of a pumping station, water supply well, storage tank, and treatment facilities.

ZONE BULK STANDARDS

7. The Subject Property is within the MD Mixed Residential Zoning District. The following bulk standards per the Master Development Plan Resolution as adopted by the Planning Board of Elk Township at a meeting held on May 16, 1996:

Single Family Units

Resolution Section	Standard	Required	Proposed	Compliance
3.A	Single family detached dwelling	Permitted use	Single family detached dwelling	Conforms
3.A	Min. Lot Area	8,800 SF	8,800 SF	Conforms
3.A	Min. Lot Width at Setback	80 ft.	80 ft.	Conforms
3.A	Min. Front Yard Setback	30 ft.	30 ft.	Conforms
3.A	Min. Side Setback	10 ft.	10 ft.	Conforms
3.A	Min. Rear Setback	25 ft.	25 ft.	Conforms
3.A	Max. Imp. Cover	45% per lot	<45% per lot	Conforms
3.A	Max. Bldg. Ht.	2 ½ stories or 35 ft.	35 ft.	Conforms
3.A	Max. Gross Density	4.5 D.U. per acre	1.73 D.U. per acre	Conforms

Twin/Duplex Units

Resolution Section	Standard	Required	Proposed	Compliance
3.B	Twin/Duplex Attached dwelling	Permitted use	Twin/Duplex Attached dwelling	Conforms
3.B	Min. Lot Area	4,400 SF	4,400 SF	Conforms
3.B	Min. Lot Width at Setback	40 ft.	40 ft.	Conforms
3.B	Min. Front Yard Setback	30 ft.	25 ft.	Does not Conform
3.B	Min. Side Setback	10 ft.	10 ft.	Conforms
3.B	Min. Rear Setback	20 ft.	25 ft.	Conforms
3.B	Max. Imp. Cover	60% per lot	<60% per lot	Conforms
3.B	Max. Bldg. Ht.	2 ½ stories or 35 ft.	35 ft.	Conforms
3.B	Max. Gross Density	6 D.U. per acre	2.69 D.U. per acre	Conforms

Townhouse Units

Resolution Section	Standard	Required	Proposed	Compliance
3.C	Townhouse Attached dwelling	Permitted use	Townhouse Attached dwelling	Conforms
3.C	Min. Lot Area	1,600 SF	2,000 SF	Conforms
3.C	Max. units per building	8	8	Conforms
3.C	Min. Lot Depth	100 ft.	100 ft.	Conforms
3.C	Min. Front Yard Setback	35 ft. w/ parking on lot.	25 ft. w/ parking on lot	Does not Conform
3.C	Min. Rear Setback	25 ft.	25 ft.	Conforms
3.C	Min. Front to Front Setback	75 ft.	>75 ft.	Conforms
3.C	Min. Front to Rear Setback	50 ft.	>50 ft.	Conforms
3.C	Min. Side to Front & Rear Setback	40 ft.	>40 ft.	Conforms
3.C	Min. Side to Side Setback	30 ft.	30 ft.	Conforms
3.C	Min. Rear to Rear Setback	50 ft.	>50 ft.	Conforms
3.C	Perimeter Setback	50 ft.	50 ft.	Conforms
3.C	Max. Imp. Cover	70% per lot	<70% per lot	Conforms
3.C	Max. Bldg. Ht.	2 ½ stories or 35 ft.	3 stories/35 ft.	Does Not Conform
3.C	Max. Gross Density	8 D.U. per acre	4.74 D.U. per acre	Conforms

Affordable Housing/Apartment Units

Resolution Section	Standard	Required	Proposed	Compliance
3.D	Apartment Units	Permitted use	Apartment Units	Conforms
3.D	Min. Lot Area	12 Acres	12.34 Acres	Conforms
3.D	Max. units per building	16	8	Conforms
3.D	Min. Front to Front Setback	50 ft.	>50 ft.	Conforms
3.D	Min. Front to Rear Setback	50 ft.	>50 ft.	Conforms
3.D	Min. Side to Front & Rear Setback	35 ft.	>35 ft.	Conforms
3.D	Min. Side to Side Setback	25 ft.	25 ft.	Conforms
3.D	Min. Rear to Rear Setback	50 ft.	>50 ft.	Conforms

3.D	Perimeter Setback	50 ft.	50 ft.	Conforms
3.D	Max. Imp. Cover	65% per lot	<65% per lot	Conforms
3.D	Max. Bldg. Ht.	3 stories or 35 ft.	35 ft.	Conforms
3.D	Max. Gross Density	16 D.U. per acre	7.89 D.U. per acre	Conforms

Commercial

Resolution Section	Standard	Required	Proposed	Compliance
3.E	Commercial	Permitted use	Commercial	Conforms
3.E	Min. Lot Area	2 Acres	4.84 Acres	Conforms
3.E	Min. Lot Frontage	200 ft.	404 ft.	Conforms
3.E	Min. Front Yard Setback	100 ft.	100 ft.	Conforms
3.E	Min. Side Setback	25 ft.	25 ft.	Conforms
3.E	Min. Rear Setback	25 ft.	25 ft.	Conforms
3.E	Max. Imp. Cover	65%	<65%	Conforms
3.E	Max. Bldg. Cover	30%	<30%	Conforms
3.E	Max. Bldg. Ht.	45 ft.	45 ft.	Conforms
3.E	Min. Buffer along Residential	50 ft.	50 ft.	Conforms
3.E	Max. Clearing	80%	<80%	Conforms

8. As set forth previously, given the scope, size, and complexity of the Application, the purpose of the hearing was simply to act on whether or not the Application could be deemed complete.

9. The Applicant has submitted the land development checklist and has requested the below waivers, which are each followed by comments from the Applicant's engineer, by way of Mr. Clemson's letter of April 18, 2016:

- *#11 requires a current or re-certified property survey within 1 year. The Applicant has requested a waiver as no physical changes to the site have occurred. The Board's Planner had no objection to this waiver.*

The latest survey was performed in 2006 in connection with a Minor Subdivision Application submitted to the Elk Township and Gloucester County Planning Boards for the creation of a future wastewater pumping station lot. The Survey was reissued on March 29, 2007 to reflect

a modification to the existing right-of-way width for Buck Road. Since that time only farming activities have occurred on the property and no physical changes have occurred.

- *#12 requires certification and monumentation required by Map Filing Law. The Applicant has requested a waiver of this requirement until final plan review. The Board's planner had no objection to this waiver.*
- *#13 requires metes and bounds description with dimensions, bearings, curve data, etc. The Applicant has requested a waiver of this requirement until final plan review. The Board's planner had no objection to this waiver.*
- *#19 requires proposed street names and new block and lot numbers approved by the tax assessor. The Applicant requests that the approved block and lot numbers be permitted to be submitted with final major subdivision application. This may be provided as a condition of approval, to be reviewed and approved prior to signing of the plan.*
- *#31 requires a Traffic Impact Study. The Applicant requests a waiver as a TIS was provided as part of the PUD Approval. The Board's Planner defers to the Planning Board Engineer for Waiver recommendation. The Board's engineer recommended that the Applicant provide an updated Traffic Impact Report.*

An overall Traffic Impact Study was performed at the time of the General Development Plan Approval. All roads affected by the Development of Phases 5 & 6 are County Roads. An updated Traffic Impact Study was prepared by Horner & Canter Associates in December of 2004, which included schematic plans for improvements to all County Roads. Supplemental Reports were prepared and submitted to Gloucester County in 2005 and 2006. These Studies were incorporated into a Developers Agreement with Gloucester County which also included the timing and extent of County Roadway Improvements based on the traffic generated by each phase of development. Applicant will provide an update at time of preliminary Application submission.

- *#41 requires the location of all existing wells and septic systems and distances between them, and on adjacent properties where required by the Board. The Applicant requests a waiver as public water and sewer will service the site. The Board's Planner deferred to the Planning Board Engineer for Waiver recommendation.*

The development of Phases 5 & 6 will be served by Public Water and Sewer, and therefore will not have any impact on any existing wells or septic systems located near the property. The Applicant will provide an update at the time of preliminary application submission.

- *#49 requires the Applicant to provide the location of all existing tree masses, indicating general sizes and species. The plans shall provide more detail regarding the existing trees including sizes and species. Waiver is recommended for completeness only.*

The location of existing tree masses are shown on the plans. The Applicant's Woodland expert will provide a summary indicating the general size and species of trees existing within each tree mass.

- *#50 requires the Applicant to provide a tree protection plan. The Applicant has requested a waiver. A tree protection plan should be provided as it does appear that trees will be removed. Waiver is recommended for completeness only.*

Tree protection, in the form of silt fence, reinforced silt fence and snow/construction fence is delineated on the Erosion & Sediment Control Plans. These protection measures will be added to the Landscaping Plans as well. Beyond these protection measures, we did not find any guidance in the Township Ordinance.

- *#66 requires a written commitment from the MUA of sufficient sewer and water service capacity. The Applicant should provide an update as to the status of the multi-party developer's agreement.*

All of Phase 5 and most of Phase 6 were shown within the previous GCUA Sewer Service Area approved by NJDEP in December 2008. A recent plan amendment to the GCUA Sewer Service Area now includes all of the properties within the Silvergate PUD as approved by NJDEP in January, 2016. GCUA has indicated that the 250,000 limit on the sewerage treatment allocation to Elk Township no longer applies, and allocations will be made on a first come, first serve basis. Sewer Allocation for Phase 5 and 6 cannot be made until the TWA application is submitted after Preliminary Approval has been obtained.

Silvergate, along with other developers in Elk Township paid to extend the NJAW water main to serve the intended development within Elk Township and annual reserve fees have been paid by the developers since 2009 to reserve capacity to serve the intended development. Application for the allocation of the water demand for Phases 5 & 6 will be made as soon as Preliminary Approval is obtained.

The status of the Amended and Restated Developers Agreement and the underlying Cost Sharing Agreements between the Silvergate, Canuso and Orleans entities is the subject of litigation filed by the Canuso entities to terminate the agreements. Certain Canuso related entities now control the properties formerly owned by Canuso and/or Orleans entities which were the subject of the agreements. Although discussions continue between the parties, since this is a matter of litigation, no further details can be provided.

WHEREUPON, a motion was made by Board Member Nicholson, which was seconded by Board Member Goss, (Alternate Member #1) to grant completeness with respect to the Application, subject to the requirements of the Board's planner, and the representations made by the Applicant's Engineer as is set forth immediately above, with the following Board members voting in favor of the motion to grant completeness: Poisker, Nicholson, McKeever, Shoultz, White, Schmidt, Barbaro, Goss, (Alternate Member #1). There were no votes in the negative and no abstentions or recusals. The following Board members were absent: McCreery, Hughs, and Penza (Alternate Member #2).

10. The Application, having been deemed complete, subject to the additional submission of information as agreed to by the Applicant's Engineer as is set forth above, as well as any and all applicable revisions to the plans submitted, shall be forthcoming. The Applicant, by way of the testimony of Mr. Casey, set forth that it had

filed an application for preliminary major subdivision approval with respect to the above Subject Property, said Application to be heard at the Board's regularly scheduled meeting on June 15, 2016. The Applicant was advised by the Board, and acknowledged the same, that any additional submissions regarding the Application had to be submitted so that said submissions are received by the Board at least ten (10) days prior to the June 15, 2016 hearing, thereby enabling the Board's professionals' ample time to review said information and prepare a response. The Applicant is also reminded that prior to the hearing it must provide notice to property owners within 200 ft. of the Subject Property, as well as publication of the notice of hearing in the official newspaper of Elk Township, in accordance with the Municipal Land Use Law.

THIS RESOLUTION WAS ADOPTED by the Joint Land Use Board of the Township of Elk, County of Gloucester, State of New Jersey, on May 18, 2016 as a memorialization of the Board's actions in granting completeness of the Applicant's Application which was determined by the Board on April 20, 2016.

**JOINT LAND USE BOARD OF THE
TOWNSHIP OF ELK**

By: 
JEANNE WHITE, Chairperson

ATTEST:

By: 
ANNA FOLEY, Secretary

CERTIFICATION

I hereby certify that the foregoing resolution is a true copy of a resolution adopted at a regularly scheduled meeting of the Elk Township Joint Land Use Board, County of Gloucester, State of New Jersey held on the 18th day of May 2016 at the Township Municipal Building, 680 Whig Lane, Monroeville, N.J. 08343 at 7:30 PM, time prevailing, as a memorialization of the action taken by the Board at the Board's meeting and public hearing held on April 20, 2016 on the above cited Application.


ANNA FOLEY, Secretary