

Approved 5/11/11

**REGULAR PUBLIC MEETING OF THE
TENAFLY PLANNING BOARD
April 27, 2011**

Chairperson Wilmit called the meeting to order at 8:00 p.m.

The announcement was made regarding compliance with the Sunshine Law.

The secretary was asked to call the roll:

Voting members present:	Mayor Peter Rustin	Councilman Barry Honig
	Mary Beth Wilmit	Kevin Tremble
	Gus Allen	Jeffrey Toonkel
	Mark Zinna	Marc Harrison
	Steven Greene	Eugene Marcantonio
	John Kim	

Others present:	Jeffrey Zenn, Esq.
	David Hals, P.E.
	Dee Lorberbaum, MLUL Officer

A motion was made by Mr. Zinna and seconded by Mr. Allen to approve the minutes of the Special Public Meeting of April 13, 2011. A voice vote carried the motion. All voted in favor; none were opposed.

A motion was made by Mr. Greene seconded by Mr. Toonkel to approve the resolution to appoint Joseph Burgis, principal of Burgis Associates, as Planner to the Planning Board. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Toonkel, Mr. Zinna, Mr. Harrison, Mr. Greene, Councilman Honig and Mayor Rustin. ABSTAIN: Mr. Tremble. Mr. Joseph Burgis is the planner for the Tenafly Planning Board for the calendar year 2011.

A motion was made by Mr. Allen and seconded by Mr. Harrison to approve the non-competitive resolution and Professional Service Contract for Mr. Burgis. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Toonkel, Mr. Zinna, Mr. Harrison, Mr. Greene, Councilman Honig and Mayor Rustin. ABSTAIN: Mr. Tremble

PUBLIC HEARING

PB#1-03-06A (Amendment)

Applicant: Grove Street at Tenafly, LLC
Conversion of Affordable Sales to Rental
Block 1104, Lots 2, 7, and 3 and Block 1103, Lots 1, 2 & 4-10

Mr. Richard Hubschman is the attorney for the applicant. Mr. Joseph Burgis, Borough Planner, was sworn in to give his testimony. Board Member Allen did not participate in the discussion, as he was not in attendance at the previous hearing for this applicant.

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This is a continuation of the above referenced application. The Planning Board's October 28, 2004 Resolution of Approval of the Grove Street at Tenaflly, LLC, enabled the applicant's property to be developed with a total of 44 dwelling units, of which 9 were to be set-aside for lower income households. The 3.69 acre lot with frontage on Grove Street, Mahan Street and West Railroad Avenue is in the HO-2 Affordable Housing Overlay Zone.

The 9 affordable housing units were approved to consist of 2 one bedroom units, 5 two bedroom units and 2 three bedroom units. One of the conditions of approval required that all of the affordable units "shall be for sale units". The applicant in a letter dated December 30, 2010, states, with respect to the affordable housing units, that "given the nature of today's economy, there have only been four units sold and there remain five available. The Bergen County Housing Authority advises that at this time, it is very difficult to obtain funding for qualified purchasers." It is for these reasons that the applicant requests that the remaining 5 available affordable units be allowed to be rented. Further, the applicant indicates that the Bergen County Housing Authority and the Council on Affordable Housing (COAH) have indicated their consent to allow the affordable units to be offered for rent.

Board Attorney Zenn noted that the Overlay Zone (where this development is located) permitted multi-family residential. Ordinarily, the type of ownership or possessory interests would not be before the Planning Board. Municipal Land Use Law allows for regulation of uses of land only, not regulation of who may own or what legal form that ownership or possessory interest may take. Here, the exception and reason the board is having this discussion is that this development is part of Tenaflly's Fair Share Plan; and it was approved with a specific understanding of for sale units.

Mr. Burgis testified that many towns are being asked by developers to change from sale to rental units in regards to affordable housing. Applicants are having great difficulty getting mortgages. He noted that the Borough is under no obligation to make the requested change; however, COAH would like to see affordable units occupied, either by sale or rental. The Borough would also get rental bonus credits for this development. The five units would count as ten units for the Borough.

Councilman Honig commented that the Borough is under no obligation to grant this request and there is no risk to the Borough as far as COAH is concerned to maintain the units as sale units.

Chairperson Wilmit noted that she had spoken with COAH attorney Stuart Koenig regarding this application. He indicated that there is a great deal of benefit to the Borough to grant this application given the flexibility with rentals vs. market rate units. There is a challenge to the Borough Housing Plan, which may be mitigated with this change. The Borough is open to the plaintiff's lawsuit should there be affordable units not occupied.

Councilman Honig commented that he would have liked to have the COAH attorney present at this meeting. Chairwoman Wilmit countered that at the last planning board meeting when she advised the board that she would be reaching out via telephone to Mr. Koenig that no board members voiced any objections to her doing that and no one suggested that he attend a meeting.

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Mr. Burgis noted that COAH will most likely be disbanded but that affordable housing will not go away. COAH will be replaced by something else. He reviewed the various COAH rounds with the board.

There was much board discussion regarding the proposed amendment. It was noted that litigation will most likely occur should the Planning Board decide against granting this agreement, as the developer would be hindered from renting/selling his units.

The meeting was open to the public to question Mr. Burgis. Jennifer Knarich of the law firm of Price Meese was present representing Mr. & Mrs. Young Soo Kang. She explained that her clients wished to purchase a unit and had qualified to do so. There were legal issues preventing that sale from going through. She wanted assurances that her clients would be able to still purchase a unit and that the remaining five units would be "sale or rental" units. Mr. Hubschman agreed to this stipulation and amended his application to reflect that change.

There being no one else wishing to question Mr. Burgis; this portion of the meeting was closed to the public.

Board members were polled and gave their opinions/concerns regarding this application.

The meeting was open to the public for comments on the entire application. There being no one from the public with comments; this portion of the meeting was closed to the public.

A motion was made by Mr. Tremble and seconded by Mr. Zinna to revise the resolution of approval to allow the applicant to either rent or sell the affordable units remaining in his development. Further, the resolution is conditioned that the exteriors of the units will be maintained by the owners/renters/home ownership association. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Tremble, Mr. Toonkel, Mr. Zinna, Mr. Harrison, Mr. Greene, Mr. Marcantonio and Mayor Rustin. Voting NO: Councilman Honig

The application for Dimitri Konotolies, Block 1010, Lot 4, 16 West Railroad Avenue, has been deemed complete. This application will be scheduled for the May 25, 2011, meeting.

A motion was made by Mayor Rustin and seconded by Mr. Allen to adjourn the meeting at 9:20 p.m. All voted in favor of the motion; none were opposed.

Respectfully submitted,

Valerie B. Nicolosi
Planning Board Secretary