

RESOLUTION
Sparta Township Planning Board
In the Matter of
NV RETAIL HOLDINGS LLC

Application #674
Preliminary & Final Site Plan Approval
North Village at Sparta

Decided on November 6, 2019
Memorialized on December 18, 2019
Relating to Block 16008, Lot 7

WHEREAS, NV Retail Holdings LLC (the “Developer”) has applied to the Sparta Township Planning Board (the “Board”) for Preliminary and Final Site Plan approval within the “North Village at Sparta” development, which property is located within the Planned Commercial Development (PCD) Zone and within the Planned Village Core (PVC) Overlay Zone, and designated as Block 16008, Lot 7 on the official Tax Map of the Township of Sparta, Sussex County, New Jersey (the “Property”);

WHEREAS, in April 2016, CC Holdings, LLC and the Township of Sparta entered into a Developer’s Agreement (the “2016 DVA”), as required by the Board as a condition of approval with respect to various approvals relating to other applications for development filed in connection with the “North Village at Sparta” planned unit development, which DVA was subsequently amended in December 2017 to reflect changes resulting from Board approvals of applications granted subsequent to the execution of the 2016 DVA, including without limitation, the removal of certain conditions as approved by the Board in connection with prior Applications #2370 and #2373 (hereinafter, the “2017 DVA”);

WHEREAS, NV Retail Holdings LLC is the successor in title to CC Holdings LLC with respect to the retail portion of the Project (NVT Holdings LLC is the successor in title to CC Holdings LLC with respect to the townhouse portion of the Project), and is subject to the terms and conditions of the 2017 DVA as they relate to the Project;

WHEREAS, the proposed site plan is a mixed-use phase of the larger development and consists of construction of one three-story gateway building with commercial and garage space on the first floor and residential on the second and third floors;

WHEREAS, the proposal requires a modification to the Transect Plan to extend the T-5 (mixed use transect) into the T-6 (business transect) to allow the proposed residential apartments on the second and third floors of the proposed building;

WHEREAS, the Board considered the Developer’s application for preliminary and final site plan approval as depicted on the filed plans entitled:

“Amended Preliminary & Final Site Plan - North Village at Sparta”, prepared by Dykstra Associates, PC, dated 10/15/2019, consisting of seven (7) sheets;

“Architectural Floor Plans for Building J”, prepared by Schoonover & Vanderhoof Architects, LLC, dated 10/2/19, consisting of two (2) sheets;

WHEREAS, the Board has also considered all testimony, reports, exhibits, and other evidence submitted in connection with the application;

WHEREAS, the application was the subject of a duly noticed public hearing held on November 6, 2019, during which the Board reviewed and considered all of the documentary evidence submitted by the Developer, the comments of the Board Engineer, the comments of the Board Planner, the witnesses presented by the Developer and the comments from the public, if any, from which the Board makes the factual findings and conclusions set forth below;

WHEREAS, service of adjoiners, if required, and proof of publication has been prepared, served and filed by the Developer in conformity with N.J.S.A. 40:55D-12;

WHEREAS, the Developer was represented by Debra Nicholson, Esq., in connection with the application;

WHEREAS, the Developer presented testimony to the Board from Owen D. Dykstra, P.E., a principal and engineer of the Developer;

WHEREAS, in addition to the application and the documents submitted therewith, the Developer entered into evidence the following exhibits:

- B-1 Colorized Revision #3 of the Transect Plan
- B-2 Colorized Presentation Plan of Proposed Building J
- B-3 Elevation of Proposed Building J

WHEREAS, no members of the public appeared at the hearing to offer testimony or comments;

WHEREAS, the Board has made the following findings and conclusions based upon the evidence submitted:

1. The Developer is the owner of the property and has standing to bring this matter before the Board.
2. The development of the “North Village at Sparta” project has been underway for several years and has undergone several revisions, including a rezoning of the property to create the overlay PVC Zone, which incorporates the concept of “transect zones”.
3. As originally established by the transect zones in the general development plan, more intense commercial uses were to be located at the front of the site, adjacent to Route 15, while residential uses with greater densities would be both intermingled with the commercial uses and located immediately to the rear of the commercial uses, with a gradual transition to lower density residential uses toward the far rear of the site where single-family homes would be located.

4. The first site plan for the North Village Development was approved in July 2015 in connection with Application #621 for the development of a Shop-Rite supermarket, a liquor store operated by Shop-Rite, two mixed-use buildings with commercial uses on the ground floor with residential units above (Buildings C and D) and a sewage treatment plant.

5. In November 2015, 92 single family homes were approved and the first Developer's Agreement signed in April 2016. In December 2016, the Duplexes and Affordable Housing units were approved and the Transect Plan was amended to permit additional residential units. In April 2017, the Chelsea Senior Assisted Living Center was approved. In June 2018, the Developer received approval to remove the second floor apartments on buildings D and E as well as approval for the construction of the North Village Commons Townhomes.

6. The Developer proposes herein to modify the Transect Plan to allow the T-5, or Mixed Use Transect, Plan on Lot 7 within Block 16008 into the T-6 (business transect). This will allow apartments for a proposed Building J that transitions from the height of the Chelsea to the retail buildings. The apartments in the proposed Building J also keeps all the residential uses on one side of North Village Boulevard. Building J is proposed to be a three-story gateway building with commercial and garage space on the first floor and apartments on the second and third floors.

7. The proposed plan for Building J is designed in accordance with the approved Architectural and Landscape Design Standards that were approved as part of Application No. 614.

8. The T-5 transect is located on the northern most part of the site and fronts on the corner of Route 15 and White Lake Road. This area incorporates a blend of uses that include residential apartments, retail and public spaces. The proposed Building J will be a transition building between the retail properties to the southeast and the residential properties to the northwest and providing a commercial component at the northwesterly corner of North Village Boulevard and Route 15.

9. The Property will have two entrances with one from Market Street to the garage and the other from a common access easement across the Assisted Living facility.

10. The proposed building will have 2,600 square feet of commercial office on the first level and garage parking for 20 stalls. The second and third floors will have 23 apartments with 18 one-bedroom units and 5 two-bedroom units. A rooftop terrace is proposed for the use of all residents.

11. Owen Dykstra, P.E., testified on behalf of the Developer that proposed Building J was designed to coordinate with the other buildings in the area with a height of 39 feet whereas the Chelsea is 46 feet high and the retail buildings are 33 feet high. The building will have brick to complement the Modern Farmer Restaurant and clapboard to complement the Chelsea.

12. The 20 parking stalls inside the garage will be designated for residents. An additional 29 parking stalls will be surface parking located outside of the building. The surface parking will be shared stalls for the residents and commercial uses. There will be a total of 49 parking stalls onsite whereas 51 parking stalls are required pursuant to Township and RSIS requirements. The Developer is proposing a shared parking arrangement for the 29 surface parking stalls shared between the commercial and residential uses.

13. The garage will have passive ventilation.

14. There will be HVAC units wall-mounted in each unit with a ground-mounted unit for the commercial space and common areas. The Developer has agreed to screen the ground-mounted units with vegetation.

15. The sidewalks will connect to the existing sidewalks and a patio is proposed at the end.

16. A generator is proposed near the easterly corner of proposed Building J. The generator will be fueled by natural gas. The Developer has agreed to screen the generator with vegetation. The enclosure will be black or neutral in color.

17. The Developer shall comply with comments from the Sparta Township Police Department set forth in a memorandum dated November 13, 2019 to include a sign in the parking lot prior to exiting to Route 15 indicating that the exit is for Route 15 North only (Right Turn Only).

18. All signs will comply with the Township Code.

19. Except as otherwise noted herein, the Developer will comply with all comments in the Professional Reports, as detailed in the response of Owen Dykstra, P.E. dated November 5, 2019.

20. Having considered the Developer's application and heard the testimony presented at the public hearing, the Board is satisfied that the Developer has satisfied the applicable criteria for amended preliminary and final site plan approval for the subject property.

NOW, THEREFORE, BE IT RESOLVED, that the application of CC HOLDINGS, LLC for Amended Preliminary and Final Site Plan approval for the proposed commercial development component within the "North Village at Sparta" planned development, located on Block 16008, Lot 7, on the official Tax Map of the Township of Sparta, Sussex County, New Jersey, be and is hereby granted subject to the following conditions:

1. The Developer 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 and/or permits. The Developer shall confirm, in writing, the necessary agency approvals required as part of the project and shall provide certification, in writing, that all such permits and/or requests for said approvals have been applied for, including without limitation, approval of the Sussex County Planning Board. All required permit applications and/or requests to other agencies having jurisdictional oversight with respect to this project shall be submitted to such agencies for review within sixty (60) days from the date of this resolution. Prior to the signing of the approved site plan, and prior to the commencement of any land disturbance or building construction, the Developer shall submit proof to the Board Engineer that it has obtained all required governmental approvals and permits required for the project.

2. If another governmental entity or agency grants a waiver or variance affecting the plans and/or exhibits submitted by the Developer, this approval or the conditions attached to it, then the Developer 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.

3. 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 Developer or its successors 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.

4. The Developer, its successors, assigns, agents and tenants shall comply with Township ordinances regulating the storage and recycling of waste, both during construction and for the duration of occupancy.

5. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Developer and its witnesses during the public hearing, all exhibits introduced by the Developer, and all terms and conditions of this resolution, all of which have been relied upon by the Board in rendering its decision. The Developer shall be bound to comply with the representations made before this Board by the Developer and its professionals and the conditions imposed by the Board at the public hearing and the same are incorporated herein and are representations upon which this Board has relied in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval. Prior to the commencement of any land disturbance or building construction, the Developer shall have submitted and received approval for all corrections, revisions, amendments and/or additions to the filed plans and reports required by this approval. Construction permit(s) shall not be issued until the Board Engineer determines that the construction documents submitted for permits conform to all Board approval requirements.

6. The Developer shall pay all outstanding taxes, application fees, technical review fees, inspection fees and performance guarantees that may be required hereunder or by the Board Engineer or Township Engineer. The Developer shall pay any additional fees or escrow deposits which may be due and owing within twenty (20) days of notification or this approval shall be deemed withdrawn.

7. One set of revised plans and reports incorporating all additions, amendments and corrections made a part of this approval as indicated during testimony and as required by the Board, the Board's professionals, and/or any other agency having jurisdiction in the matter, shall be submitted to each of the Board Secretary and the Board Engineer. All changes from the previously filed plans shall be clearly identified. Said plans and reports shall be delivered within thirty (30) days of (i) the date of this resolution or (ii) receipt of final approval from all other agencies with jurisdiction over the project, whichever last occurs; provided, however, that in no event shall such revised plans and reports be submitted more than one year from the date of this resolution. In the event the Developer does not comply with these deadlines, it shall apply to the Board for an extension. Errors and omissions by the Developer in the submission process will not be deemed to be a valid basis for extension requests of the aforementioned timeframes.

8. Upon written confirmation from the Board Engineer and Township Engineer that the required plan and report revisions are acceptable, a total of six (6) sets of such final plans and reports, together with the applicable fee, shall be delivered to the Board Secretary no later than thirty (30) days from the date of said written confirmation for signatures by the Board. Said submission shall be

accompanied by the Developer's sworn affidavit attesting that the submitted plans fully comply with all requirements of the Board. The signed plans will then become the official plans for the project.

9. Prior to the commencement of any new land disturbance or building construction, the Developer shall arrange for and attend a pre-construction meeting with the Township Engineer, and such other Township Officials as the Township Engineer shall designate.

10. The terms and conditions of this approval shall be binding upon the Developer, its successors in interest and assigns. Each of the terms and conditions of this approval is a material element of the approval, such that the non-compliance with any term or condition by the Developer, its successors or assigns may be deemed a material default subjecting the Developer to revocation of this approval. By reason of the fact that all conditions are integrally related to the approval, a request to change one or more conditions shall open the entire application for re-consideration by the Board, including the possible imposition of new terms and conditions in connection with any re-approval of the application, which new terms and conditions may be in addition to the terms and conditions set forth in this Resolution.

11. All conditions of the Preliminary Resolution pertaining to the subject property shall remain in full force and effect, except as otherwise provided herein, and the Developer shall comply with all terms and conditions of the Preliminary Resolution related to the subject property.

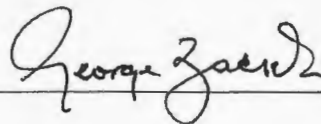
12. All performance requirements set forth in the findings of fact of this Resolution shall be satisfied by the Developer as a condition of this approval, whether or not repeated at length as a separate Condition of this Resolution.

13. Except as otherwise noted herein, the Developer shall comply with all comments in the Professional Reports, as detailed in the responses of Owen Dykstra, P.E. dated November 5, 2019.

14. The within approval shall not affect in any respect the obligations of the Developer under the terms and conditions of the 2017 DVA, which shall remain in full force and effect. In the event the Township determines that any modification of the 2017 DVA is required by reason of the within approval, the Developer shall execute and deliver any reasonable amendment to the 2017 DVA as may be required by the Township.

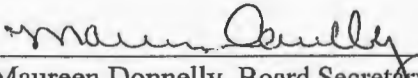
ALL NOTES INCLUDED IN THE APPROVED PLANS, INCLUDING NOTES REQUIRED BY THIS RESOLUTION, SHALL BE DEEMED TO BE CONDITIONS OF APPROVAL HAVING THE SAME FORCE AND EFFECT AS CONDITIONS EXPRESSLY SET FORTH IN THIS RESOLUTION.

The undersigned, Chairman of the Township of Sparta Planning Board, hereby certifies that the above is a true copy of the resolution duly adopted by said Board on December 18, 2019 to memorialize action taken on November 6, 2019.



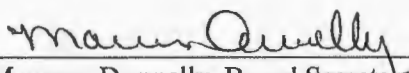
George Zacsek, Board Chairman

Attest:


Maureen Donnelly, Board Secretary

In favor:
Oppose:
Abstain:

I hereby certify the within is a true copy of a resolution passed by the Sparta Township Planning Board a regular public meeting held on December 18, 2019.


Maureen Donnelly, Board Secretary


George Zacsek, Board Chairman

Dated: December 18, 2019

Prepared by: *David Burton Brady, Esq.*
Brady & Correale, L.L.P.