

TOWNSHIP OF OCEAN  
PLANNING BOARD  
REGULAR MEETING  
January 6, 2011

Meeting began at 7:30 PM

The meeting of the Ocean Township Planning Board was held on the above date and time. The meeting was called to order by Chairman Anepete.

**Pledge of Allegiance**

Chairman Anepete announced the time change for all meetings in 2011. All meetings will now begin at 7:00 PM instead of 7:30 PM.

**STATEMENT:** Pursuant to the provisions of the New Jersey Open Public Meetings Act, sending copies of the notice of the meeting properly provided adequate notice of the meeting to the Asbury Park Press and the Atlantic City Press. Notice was posted on the bulletin board in the Administration Building.

**ROLL CALL**

Members Present:	Anepete	Eckert	Sneddon	Bonamassa
	Avellino	Knowles	Sweeney	
	Bynoe	Lachawiec	Tredy	

Members Absent: James

Professionals present: Steve Yost, Wayne McVicar and Scott Taylor.

Chairman Anepete asked for a motion to take action on the minutes of the Regular Meeting of December 2, 2010. Mr. Avellino made the motion to approve the minutes. Mrs. Sweeney seconded the motion. Roll Call: (aye) Avellino, Sweeney, Bynoe, Eckert, Knowles, Sneddon, Tredy, Anepete.

Chairman Anepete asked for a motion to take action on the voucher list. Mr. Bynoe made the motion to approve the vouchers. Mr. Knowles seconded the motion. Roll Call: (aye) Bynoe, Knowles, Avellino, Eckert, Lachawiec, Sneddon, Sweeney, Tredy, Anepete.

Correspondence is available in the board office for anyone wishing to view.

**BOARD COMMENTS**

A brief discussion took place as to whether the Topics from the Professionals segment should continue. All agreed it was very informative and should be continued.

**OLD BUSINESS**

**MSC Enterprises, Amended Final Major Subdivision, Block 57, Lot 13 (now Lots 13.01-13.06), Morey Place Road, Docket No. 06-10-PB, CARRIED from the November 4, 2010 meeting.**

Mr. Yost explained that the board will have to make some factual findings on some of the issues involved. There are two witnesses that were unavailable to come tonight. Since they are not available until February, Mr. Yost suggested and the applicant consented that the hearing be carried to the February meeting with the expectation that we could do everything in one session.

A motion was made by Mr. Bynoe and seconded by Mrs. Sweeney to carry the application until February 3, 2011. Roll Call: (aye) Bynoe, Sweeney, Avellino, Eckert, Knowles, Lachawiec, Sneddon, Tredy, Bonamassa, Anepete.

## **NEW BUSINESS**

### **Waretown Associates, Block 241.11, Lots 12.04 and 12.05, Preliminary Major Site Plan, Docket 08-10-PB.**

Mr. Visotcky, attorney for the applicant approached. The project is situated on 6.2 acres of land and will be approximately 270,102 SF. The parcel is 400 feet north of Seminole Avenue. The application is for Preliminary approval for a Major Site Plan in order to construct the shopping center on the subject tract. The applicant proposes to construct three separate buildings, a total of 19,310 SF of commercial space broken up into 15,182 of flexible retail space. The larger building would be 10,700 SF and the back building would be 4,482 SF. They are proposing in a separate phase to put a bank on the last parcel and that would be 4,128 SF. There are no variances being sought. Everything will comply with the zoning ordinance. Two waivers are being sought, one for parking spaces and one for loading spaces. This application has already been before the Redevelopment Entity. Mr. Visotcky listed their witnesses that will testify.

All the witnesses were sworn in by Mr. Yost.

Mr. Frank Baer, Engineer approached. Before the witness went further Mr. McVicar addressed a housekeeping issue concerning a completeness review item. Mr. McVicar had recommended that an updated survey be waived for completeness and be addressed in the final application.

Mr. Knowles made a motion, seconded by Mr. Eckert that this item completeness item be waived until the final application is submitted. There was discussion on the motion. Roll call: (aye) Knowles, Eckert, Avellino, Bynoe, Lachawiec, Sneddon, Sweeney, Tredy, Anepete.

Chairman Anepete accepted Mr. Baer's credentials. Mr. Baer described the property. Landscape Plan was admitted into evidence as A-1. Properties to the north and south are vacant parcels. The site is located on the Eastern side of Route 9. Property to the east of the site behind it is a residential subdivision. The approximate distance is 200' from the back property line to the first building. A-2 was marked into evidence and identified as Sheet 2 of 4 of the Site Plan (colorized). Property has 625 foot of frontage along Route 9. At its deepest point it is 467 ft. There are areas of wetlands to the south, which will remain in a natural state. The rear of the property that butts up against the residential neighborhood will also be left in its natural state. Up to 10 individual units can be located in the flex space within the two buildings. The third building is shown as a proposed site for a bank with two drive-up windows. The applicant plans to build in two phases. The flex space and parking area would be first and then the bank would be phase two.

Mr. Baer and Mr. Visotcky reviewed Mr. McVicar's engineering review letter. Design waivers were discussed. Parking would need 97 spaces. The bank use was broken out separately by Mr. McVicar,

he made an assumption of three tellers and applied the municipal ordinance requirement for parking in addition to the shopping center which brings the number up to 100 spaces. It's a deficiency of three spaces. The applicant feels the parking will be more than sufficient. The design waiver for the loading zone was then discussed. The ordinance requires a total of 5 10x45 foot loading spaces whereas the applicant has one large 10x83 and another of 12x20 feet to service the flex/retail spaces. Because of the type of units that are anticipated here, which would be the smaller 1100 to 1900 SF type of retail, the deliveries anticipated would be from FedEx, UPS, or the smaller box trucks. There is access to all units through the walkway, the loading area and the single loading area to the rear of the proposed flex space building. The applicant feels they are providing an adequate loading zone for the proposed use. The idea was to create a courtyard effect with the buildings in a "U" shape and the parking in the center courtyard. A potential restaurant area has been provided for and would be located towards the Route 9 end of the building. Parking would be later in the day for restaurant clientele. Any documentation regarding the DOT will be provided to Mr. McVicar's office by the applicant. A preliminary submittal has been made to the DOT. As soon as the applicant hears back regarding the preliminary, a formal application will be made to the DOT to address the highway access. At this time no confirmation can be made on the number of tellers that would be working during the course of a day at the proposed bank. Applicant feels that even if there were more tellers there still would be adequate parking to serve the entire site. Although no firm commitment has been made by a restaurant, the applicant does not wish to preclude a potential restaurant use from the site. If a restaurant would go in, the hours of operation in the project description would have to be amended. There are currently no firm commitments for any of the retail/flex space yet. Once preliminary approval is received by a township, it makes it easier to market a site and get commitments from retailers and receive funding for the site. Cross access was discussed. Pedestrian access to the sidewalk will be maintained at some point on the site. Trash receptacle will be relocated slightly and the isle width will meet 24 feet. There is no intended tractor trailer access. Fire and First Aid have been solicited for their comments. Applicant has not heard back from the Fire Company but has received correspondence from First Aid indicating that they reviewed the plan and can supply service to the site. Appropriate signage will be installed. Times and frequencies of deliveries are guesstimated for some at once a week, and there may be daily deliveries through UPS or FedEx. It is hard to determine at this point since no retailers have given a firm commitment.

Mr. Taylor if the applicant would be agreeable to no overnight deliveries since there are residences nearby. The applicant agreed.

Mr. Yost felt since this was the first meeting of the year that the professionals also be sworn in. Mr. McVicar and Mr. Taylor were then sworn in by Mr. Yost.

Loading zone will be striped and identified. The sidewalk along Route 9 will not be used as a bike path. However, there will be bike access and a bike rack within the site. Mr. McVicar stated that it would make sense to have a joint-usage path as it is in front of the Shoprite. Mr. Baer said this is something they can accommodate. Concrete is proposed for the sidewalk. Mr. Taylor would like to double check the circulation element, a plan had been done a few years back by T&M. Mr. Taylor would also like to check a few of the projects that came through Redevelopment that are on each side of the road. It would make sense to revisit that issue to determine consistency. Mr. Baer said he would work with Mr. Taylor's office on whatever the standards are. Mr. Baer returned to A-2 to speak about storm water management. The designed system would be able to contain all storm events, including the 100 year storm before any water is discharged from the site. The site contains 2 storm water infiltration basins, roof recharge systems located front and back of the buildings. Those systems will take the run-off that actually hits the roof areas and carry to a subsurface system, where the water

is then recharged directly into the ground. The courtyard itself is permeable paving so that the rainwater as it hits the pavement goes through the permeable pavement into a sand bed located below. All storm water up to the 100-year storm will be held on-site. An operation and maintenance manual has been created. Mr. McVicar asked about the option of concrete pavers over poured pavement. Mr. Baer said they are reserving a decision on that based upon the cost of materials. Either system will work satisfactorily. The decision will be based on a cost factor. There is a 23-26 elevation contour running across the site and generally finished site proposing 26-27 feet for finished site. The center of the street is 25-26 so this will be a relatively flat site. Grading will be adjusted as Mr. McVicar requested in his letter.

A discussion took place regarding the acorn lighting. Lighting will conform to the ordinance per Mr. Baer. If the lights along the highway are placed in the DOT right-of-way, then the municipality pays for the maintenance and the utility company is responsible for maintenance. Mr. Taylor suggested placing the lights one foot onto the applicant's property then the applicant would be responsible for them including maintenance of replacing bulbs. Mr. Baer said the applicant will work with Mr. Taylor's office. Chairman Anepete recommended to Mr. McVicar that from this point forward it be noted that, we designate what lights we want as a typical, but also that lighting shall be approved by the engineer. One of Mr. McVicar's comments in his review letter is to confirm that the lights will be maintained by JCP&L. Now that we are getting away from that aspect if the lights are being set-back one foot onto the property, then the township would want then would be a fixture that is an acorn style fixture and it doesn't matter who the manufacturer is but it would have to be approved by the engineer because it'll be maintained by the applicant.

Refuse on site will be hauled by a private company. Mr. McVicar inquired about waste oil. Mr. Baer agreed that if there is a restaurant all waste oil will be stored internally.

A monument sign is proposed. There will be no separate monument sign for the bank. There would only be a sign on the bank building. All signage would meet the local required ordinances. Signs would not be lit after 11:59 PM. A pavement maintenance sign is needed to maintain the permeable pavement, a safety precaution. Detail will be provided on the plan. Signs will be put on the plans.

Outside agency approvals were reviewed.

Mr. Yost spoke in detail about granting preliminary approval and the rights that the applicant receives as a three-year protection period. Mr. Yost wanted the board to understand that preliminary approval does give vested rights for most things for a three year time period. When you are evaluating this if you are thinking of something that can be looked at later, you have to be specific and make sure that it is flushed out because it may not be something that can be looked at later.

Mr. Tredy corrected Mr. Visotcky that in his opening statement indicated that the Redevelopment Entity had given approval to this project. Actually what the Redevelopment Entity did was to give them a Letter of No Interest which in effect endorses the concept but just the concept, nothing else. Everything else is up to the Planning Board. Mr. Tredy felt it important that this was not misunderstood. Mayor Lachawiec agreed with the Mr. Tredy and read from the minutes of December 2009 that "no further action" was being taken by the Redevelopment Entity. Mr. McVicar will revise his comment in his letter as well that shows an approval from the Redevelopment Entity.

Mr. Baer addressed some of the comments on Mr. Taylor's review letter. Mr. Sneddon referred to the other vacant commercial properties in town. Based on what is within a mile radius of the project, how

would this project survive? The market area can be vague because of the type of road that Route 9 is. Mr. Baer felt as economic conditions turn you will see a lot more of these units fill up and new ones to be occupied. Users will bring other users with them. Phase 2 could happen concurrently with Phase 1.

A brief discussion took place regarding another project next to this one which was originally before Redevelopment. That project was not approved by Redevelopment and therefore no plans to connect future pedestrian paths, or driveway interconnections between loading areas should be considered. Mayor Lachawiec said that you cannot rely on the development of that project because no decision has been made. Mr. McVicar said it is possible to ask the applicant for a cross-access easement for a situation such as this which when it is unknown what is going to happen with an adjacent site in the future. Mr. Baer said he had no problem doing that.

Applicant will work with Mr. Taylor's office regarding wheel stops on several areas of the site. Sign lighting will be externally illuminated.

Mayor Lachawiec raised the issue that he felt the parking spaces are inadequate. The applicant feels the peak hours of operation for a restaurant are different from the retail peak hours. Mayor Lachawiec feels there are not enough spaces and that matter has not changed from when they appeared before the Redevelopment Entity. Mayor Lachawiec also asked the applicant if they had thought about solar panels. The architect will address when he testifies. The spaces would be 9x18 size parking spaces which is the norm for smaller retail centers. Seating capacity if there was a restaurant could be anywhere from 30-60 patrons per Mr. Baer. A restaurant would probably use about 2500 SF. Mr. McVicar reviewed the project two ways. If the entire site is considered a shopping center, 5 spaces for 1,000 SF which is what the ordinance allows, gets you to the 97 spaces. Mr. McVicar looked at it focusing if there was a restaurant there. The ordinance would have double of the number of spaces required for that particular use then what you would need for a shopping center. As the Mayor indicated, you could have a situation where the restaurant would take up the bulk of the spaces and might choke out during the peak, spaces available for the adjacent retail uses. Any restaurant outdoor patio will not be covered or sprinkled. Mr. McVicar suggested that the board could restrict the size of a possible restaurant because of the parking spaces. Mr. Saropoulos approached and responded that in another restaurant he owns, he has 100 parking spaces with 300 capacity and there is no problem with parking. Deliveries will be controlled via lease agreements with tenants that no tractor trailers make deliveries. Box trucks will be delivering to the rear of the buildings. There is spot and walkway in the rear.

Mr. Imants Smildzins, Landscape Architect for the project approached. Chairman Anepete accepted Mr. Smildzins credentials. Mr. Smildzins addressed, clarified and agreed to items 20-36 in the landscaping section of Mr. Taylor's review letter. The area of clearing has no significant large trees.

A break was taken at 9:23 PM and the meeting resumed at 9:34 PM.

Additional evergreen material will be placed at the end of the long access drive to prevent minimize impact of headlights from the residences behind the site.

Mr. Craig Brearley, Architect approached. Chairman Anepete accepted Mr. Brearley's credentials. Mr. Brearley gave an overview of the project. The building will be a traditional seashore style. The façade will be broken up. A-3 was marked into evidence as the South and West Elevation 6/16/09 colored rendering. The rear of the building will be one flat plane, but it will be pitched. No dormers. Second floor is only attic/storage space. Instant hot will be installed directly beneath the sinks, there is

no need for a tank, having just a single bathroom in each unit. If there is a higher water usage for a unit such as a nail salon, then there would be an on demand unit added. The way the building is situated, it is not conducive for applying solar panels to the façade without ruining the aesthetics of the building. Some of the architectural elements would have to be taken away. The roofing is shingled or metal. Cost is not feasible or cost effective to use a newer type of solar panel that is more like a shingle. Awnings shown are fixed, not roll up. Signs will be provided above all awnings with gooseneck style lighting, externally illuminated signage. They will not exceed code of 32 SF per store and not more than 5% of the building facade.

Mr. Smildzins added that regarding fertilizer, the project will adhere to those regulations that have been enacted for fertilizer use. The plant material selected are native plants of NJ, they will need a lot less fertilizer than ornamental plants. Mr. Baer previously testified that the storm water management system will be consistent with township regulations and the State of New Jersey regulations and also CAFRA. Irrigation water will be well water. Mr. Tredy addressed a few errors in the Community Impact Statement. Page 4 – Route 9 does not connect Greenbriar and the Town Center. The ordinance that refers to facilities impact, “public water and library facilities”, does not make sense and will need to be looked at.

Mayor Lachawiec spoke about the outside agency approval letters that were sent with the error that misrepresented the Redevelopment Entity’s approval of the project vs. their no interest. Deputy Mayor Tredy added that it is also shown on page 7 of the Environmental Compliance Statement as approved.

Mr. Saropoulos approached and was identified as the managing member and property owner of Waretown Associates, LLC. Chairman Anepete had brought up when Mr. Saropoulos anticipated any construction to start. Mr. Saropoulos stated it could take two or three years, but if the economy moves faster, it would be sooner. Mr. Visotcky added that there are several approvals that Mr. Saropoulos needs to get before they could come back for a final approval anyhow.

Mayor Lachawiec stated for the record that the minutes from the Redevelopment Entity of December 2009 refer to Mr. Saropoulos as a Restaurateur and he is offering to put a café on site.

Chair entertained a motion to open to the public. Mr. Avellino made a motion to open to the public, seconded by Mr. Eckert. Roll call: (aye) Avellino, Eckert, Bynoe, Knowles, Lachawiec, Sneddon, Sweeney, Tredy, Anepete.

## **PUBLIC COMMENT OPEN**

Mr. William Rott, 179 Wells Mills Road approached and was sworn in by Mr. Yost. Mr. Rott thanked the applicant for proposing a business in Waretown. Mr. Rott had questions regarding a possible access lane and deliveries from tractor trailers, and fire hydrants.

Mr. Andy Kessler, 22 Pennsylvania Avenue approached and was sworn in by Mr. Yost. Mr. Kessler was concerned with the limitation of their only being one entrance and exit to Route 9. He also asked about the permeable pavement and how things filter into the ground water.

Seeing no other comments, Mr. Tredy made a motion to close to the public, seconded by Mrs. Sweeney. Roll call: (aye) Tredy, Sweeney, Avellino, Bynoe, Eckert, Knowles, Lachawiec, Sneddon, Anepete.

## **PUBLIC COMMENT CLOSED**

Mr. Avellino asked about a left hand turn onto Route 9 and whether it would be allowed. Mr. Baer answered he didn't see a reason why DOT wouldn't allow it.

Deputy Mayor Tredy stated that he feels comfortable with this particular project. It is retail, hopefully a bank, a restaurant. Mayor Lachawiec feels the application is incomplete. Mayor brought up again about the letters that were sent to outside agency approvals that misrepresented the Redevelopment Entity as approving this application. Evidence of the approvals have to be submitted to the office prior to the signature of any final plans. Nothing has to be done by tonight. Mr. Yost stated the board could require the applicant to send a corrective letter out to everyone on the outside agency approval list. Mr. McVicar said he would be looking for a letter from a particular agency indicting their approval of the plan. Further discussion took place about the outside agency letters and that they are required prior to plans being signed. This project is only in its preliminary stage. Mr. Yost could state this specifically in the draft resolution that new letters go out. Mayor Lachawiec expressed his concern, as Chairman of the Fire Department, regarding the Fire Department's vehicles and if they felt they could adequately handle a fire at this location. Mr. Yost's view is that these letters do not need to be present here tonight to take action on this application. Mr. Yost could fashion a resolution that would encompass that. Mr. Yost reiterated that Mr. Visotcky has agreed to put another letter out to clarify Redevelopment's position on this application.

Clarification was made regarding the interest in the Redevelopment Entity in this application at this point which is that the Redevelopment Entity gave a letter of no interest.

Mr. Bynoe made a motion to approve the application as discussed and agreed to by the applicant, seconded by Mr. Eckert. Roll call: (aye) Bynoe, Eckert, Avellino, Knowles, Lachawiec, Sneddon, Sweeney, Tredy, Anepete.

A motion to open to the public was made by Mr. Bynoe, seconded by Mr. Tredy. All in favor: (aye).

## **PUBLIC COMMENT OPEN**

Seeing None.

A motion was made to close to the public by Mr. Avellino, seconded by Mrs. Sweeney. All in favor: (aye).

## **PUBLIC COMMENT CLOSED**

Resolution 01-11 was read into the record by the secretary to move into Closed Session.

## **CLOSED SESSION**

A motion to re-enter open session was made by Mr. Knowles, seconded by Mr. Avellino. All in favor: (aye).

## **OPEN SESSION**

Mr. McVicar thanked the board for reappointing Remington, Vernick & Vena.

A motion to adjourn was made by Mrs. Sweeney, seconded by Mr. Knowles. All in favor: (aye).

Meeting was adjourned at 11:28 PM.

Respectfully submitted,

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Beth O'Connor  
Secretary

## **CLOSED SESSION NOTES – January 6, 2011**

Bayfront Grill – Mr. Yost went to bankruptcy court and the judge ruled that we cannot discriminate against someone who has filed bankruptcy and not hear the application. The bankruptcy may go away, but monies for fees and escrows still need to be posted. To date, they have not been. They owe over \$40,000 in taxes. Mr. Yost suggested the township hire a possible bankruptcy attorney to protect their interests.

Green Application – The applicant has requested transcripts and it looks like there will be litigation for this application down the line.

MSC – There have many emails made by Martin Miller. Diane told Steve Yost that Mayor Kraft had asked Diane to sign his name to this letter, which she did not do. It is important to make decisions on factual evidence. Mr. Shea wants to bring in JCP&L. Township Committee didn't feel the lighting change was a problem. \$75,000 was agreed to instead of having to build the road. An ordinance should be put in place for off-site improvements.

It looks at though Ken Mosca in the emails said he would pave the road. Steve spoke about these emails and will cross-examine.

Chairman Anepete stated they have the letter that says then can put them in be it right or wrong. He would like to settle the \$75,000 first before the lighting. Discussion took place on what a judge might say if this were to end back up in court.

A few lawsuits on the horizon, pick your battles.

The board discussed providing a case to the prosecutor.

Ms. Garofalo needs to be cross-examined.

Witnesses at this point will be Martin Miller and Steve will cross-examine Michele Garofalo.

The board discussed other real business coming in before the board and if this needs to be adjourned again it should be at the convenience of the board and not just at the next meeting.

The board discussed putting exhibits in the rear of the meeting room also so that residents can view them. Require one full set for the public to view from now on.

Ocean North – back to trial, Steve will know more after his conference call with Judge Grasso tomorrow.

A motion to come out of closed session was made by Mr. Knowles, seconded by Mr. Avellino. All in favor: (aye).

/boc