

TOWNSHIP OF OCEAN  
PLANNING BOARD  
REGULAR MEETING  
April 7, 2011

Meeting began at 7:00 PM

The meeting of the Township of Ocean's Planning Board was held on the above date and time. The meeting was called to order.

**Pledge of Allegiance**

**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 Press of Atlantic City and the Asbury Park Press. Notice was posted on the bulletin board in the Administration Building.

**ROLL CALL**

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

Professionals Present: Steve Yost, Attorney, Wayne McVicar, Engineer, Scott Taylor, Landscape Architect

Chairman Anepete asked for a motion to take action on the minutes of the Regular Meeting of March 3, 2011. Mr. Avellino made the motion to approve the minutes. Mr. Eckert seconded the motion. Roll Call: (aye) Avellino, Eckert, Lachawiec, Sweeney, Tredy, Bonamassa, James, Anepete.

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

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

**BOARD COMMENTS**

Chairman Anepete spoke about the possibility of having four alternates on the Planning Board. There are cases that come up where several of our members would need to recuse themselves, it would be beneficial to have a larger pool of alternates. He passed along to the Township Committee members for their consideration.

A presentation on the Bay Branch Trail was introduced by Andy Strauss and turned the presentation over to Mr. Rob Molloy of the Ocean County Engineering Office. Highlights of the Phase IV construction were presented. The area behind the Wawa was a safety concern for trail users. The solution was presented to the board. Wells Mills Road there will be an island for people to cross half way if walkers cannot make it all the way across. The cut-through from Railroad Avenue to Route 9 will be eliminated. Phase II by Country Lane is going to house a building for restrooms and a display area. The building will be secured at night. It will be just south of the Lighthouse Tavern. Mayor Lachawiec asked if the restroom facilities may be better served at the Clearwater Drive location instead of where currently proposed. Mr. Molloy would investigate into that possibility. Mr. Sneddon spoke of the inconvenience of closing the cut-through. An extension of the trail to provide access to the ball fields may be an option for the residents that ride their bikes to the fields. School buses were also discussed that use the cut-through. Between Route 532 up to the Town Center there is a trestle bridge that will

be refurbished and used. Mr. Knowles mentioned that the Environmental Commission would like to have dog bag stations installed.

Mr. Rott, 179 Wells Mills Road asked if the plans could be made available at Town Hall for residents to view. Chairman Anepete asked for a set for the Planning Board as well. Mr. Molloy said they could take care of that.

Chairman Anepete waived the topics by the board professionals.

## **OLD BUSINESS**

### **Tradewinds at Waretown, Preliminary & Final Major Site Plan, Block 131, Lot 4, Route 9, Docket No. 10-10-PB, carried from March 3, 2011.**

Mr. Sneddon and Mr. Knowles recused themselves and left the meeting due to conflicts.

Mr. Doyle, attorney for the applicant approached and reintroduced himself. Since last month, the professionals have gotten together and resolved many issues raised in the initial reports. Scott Kennel, reminded that he was still under oath by Mr. Yost, approached. Mr. Kennel is the Traffic Engineer. The number of parking spaces was discussed. Mr. Kennel took into shared parking that will exist between the residential and retail uses on the site. Our ordinance suggests that there be four parking spaces per 1,000 SF. It has been Mr. Kennel's experience that in other areas locally 2.5 or three vehicles per 1,000 SF is sufficient. Therefore, taking that into consideration also with the shared parking, there would be a maximum peak parking of 360 spaces and the site provides 372 as currently proposed. As it stands now the proposal is 19 less than is absolutely required and greater than what Mr. Kennel felt would be needed.

Mr. Yost asked Mr. Doyle to speak that the applicant had changed their notice regarding variances. At the last meeting, the notice for the meeting was followed by statement that no variances were needed in accordance with the reports filed. At the last meeting, there was a suggestion that lofts created a half of a story. Building code and Redevelopment ordinance standards differ. And although the applicant disagrees with the 3.5 determination instead of a 3 story determination, to make sure there was no question, the paper was noticed that a variance would be sought. Similarly with regard to the parking, the absolute need based on square footage is 391 spaces. The applicant provides 372. The Redevelopment ordinance says you should recognize shared parking. When that is taken into consideration, 360 would be sufficient and 372 are proposed. To be on the safe side, the applicant noticed that if 391 are required, a variance is sought for 372. Finally, the ordinance would require balconies on certain units. As the applicant's Architect, Mr. Barlo, testified, no one wants a balcony overlooking Route 9 and so there were none provided on the proposed plan. To be certain, if balconies are required, the applicant noticed to seek a variance for this as well.

Because Mr. Kennel needed to leave to attend another meeting, Chairman Anepete asked for anyone in the audience to approach and speak with any questions. There were none. Mr. Kennel left the meeting.

Mr. Macfarlane, Engineer & Planner approached and was reminded by Mr. Yost that is still under oath. Mr. Macfarlane had met with Wayne McVicar and Scott Taylor and went over their reports in detail. Mr. Macfarlane picked up reviewing the report where it was left off from the previous hearing. Beginning at storm water management, Mr. Macfarlane reviewed each item. Mr. Macfarlane believes the proposed sign will need a design waiver which they are requesting. A-8, Site Plan Revised March 28, 2011 was admitted into evidence. Mr. Macfarlane spoke regarding A-8 and gave detail as to why the 16' sign is proposed. It has opening underneath to provide driver visibility below the sign.

Mr. Macfarlane gave an overview as to the revisions made as a result of the meeting with the board's professionals, Mr. McVicar and Mr. Taylor. Sidewall widths have been adjusted to accommodate planting by the sides of the four A buildings, reconfigured the overall component associated with the wet ponds. Two of

the bio-retention swales have been reconfigured slightly. It was clarified that all on-site sidewalks will be either 4' or 6' wide. Planters have been revised in the front of the site in the plaza areas. The applicant added a kiosk/bus shelter and added a fence detail along the parking areas that have frontage on Route 9. Mr. Macfarlane gave the status update of the outside agency approvals. Mr. Doyle went back through Mr. McVicar's letter and items that were addressed at the last meeting. With respect to the variance for the absence of the balconies on the units on Route 9, Mr. Macfarlane felt there would be no harm done to public good if those particular units were without balconies. It provides a better zoning alternative. With respect from the number of stories, the dimensional requirement is met. Mr. Macfarlane feels the loft maintains consistency of the overall goal of the Redevelopment plan which regulates the dimensional requirement of the building height. The lofts will not impair the intent or purpose of the zone plan and will not create any detriment to the public good. Mr. Taylor spoke on the story issue. It is clear that that the 2004 Redevelopment plan is clear that the maximum permitted stories of three stories. Mr. Taylor quoted a section of the plan called "Relationship of Plan to the Land Development Regulations". There is no new definition of story in the Redevelopment plan. It was our interpretation and established at the last meeting that this does not meet the zoning definition. It is not a full story, it is a half story. Any habitable area above a floor is considered either a full or half story. The Redevelopment plan does not supersede the definition of stories. Mr. Doyle appreciated Mr. Taylor's comments and stated that is why we noticed and put testimony with respect to if a variance. 80% of the units, this is not an issue.

Chairman Anepete spoke that he feels a variance is required to allow the half story. Deputy Mayor Tredy also agreed that a variance is required but the applicant has satisfied notification requirements for this. The board had further discussion of the loft areas. Under the building code, it will be considered habitable space and occupied as a study, a den, a variety of any of those uses. It is not an attic. Mr. Taylor gave the genesis of the lofts and how they came about. Mayor Lachawiec spoke about the loft being occupied as bedrooms and this could create possibly 24 more cars. Habitable space vs. living space could be an issue. The opportunity for misuse is there. Mr. Taylor asked if the applicant would agree to specific language in the HOA documents that state no lofts may be used or converted to bedrooms. Mr. Doyle spoke that the Homeowners documents are where it becomes restrictive such as the sales documents, contracts, deeds, restrictive covenants and the applicant has no problem at each of the those levels to define a loft is not to be converted into a bedroom. Mr. Bonamassa asked if the homeowner's documents would restrict the number of people living in each townhouse. Mr. Doyle answered that he doesn't know the answer to that at this time. His guess is that there will be some limitation as to the use of the structure that will mean there will be some limitation as to how many people could actually use it on a permanent basis. Mr. Taylor spoke that if someone purchases a unit, they may rent that unit to one family – they cannot occupy a portion of it and rent out a room because it is still a single family attached unit. It needs to be self-policed through the HOA or if there is a violation through municipal enforcement.

Mr. Barlo approached and was reminded by Mr. Doyle that he was still under oath. Updated architectural drawings (entire set) were submitted into evidence as A-9 by Mr. Yost. By construction code, the lofts cannot be called a bedroom because they are not designed to be a bedroom. They are habitable space but a bedroom requires an egress window and these lofts do not have that. The loft is open to the floor below for 12' so that it overlooks the living room space. The window in that room is across the roof area – you cannot reach the window from the loft. It is only being used for light to come through the space. Technically it cannot be a bedroom. Deputy Mayor Tredy addressed the Financial Impact Statement and agrees that although the proper procedures that are recognized by state, county and local government and engineers, the report does not seem to reflect the real number of children that would occupy this project which is what prompted the letter from Ms. Barneman. The lofts will have no door and be partially open to the floor below. Mr. Taylor asked that the deed restriction state that they are not permitted to be enclosed. If they are permitted to be enclosed even as a study, then you are more likely to have it used as a living area. We would recommend that the sales, contract and HOA document state that the loft much remain open to the floor below and may never be used as a bedroom.

Mr. Barlo moved on to the issue of the balconies and a variance needed possibly. Mr. Barlo does not feel it is appropriate to have balconies on the commercial units along Route 9 on the second floor. Mr. Barlo feels windows would be more appropriate. The ordinance requires that the units have balconies. Mr. Taylor explained that 2004 Redevelopment Plan had a requirement in that balconies be provided in that area the size of 64 SF. One of the reasons is to create the vision of a very walkable town center. Balconies are part of that. However, this is still Route 9. Mr. Avellino suggested the possibility of a decorative balcony that could not be used. Mr. Barlo offered they could create a railing and a sliding glass door that you really could not walk on to but it would appear to look like a balcony. Mr. Avellino stated that it would look nice from Route 9. Mr. Yost feels that a decorative balcony would still require a variance because it will not comply with the code that requires a fully useful balcony. Chairman Anepete added that we are only asking for an architectural treatment to be aesthetically pleasing.

Mr. Barlo moved to the trash management system. Each floor has a centrally located trash room which will have two shoots for trash and recycling. On the lowest level there will be compactors. There is an area in those rooms for cardboard as well. The shoots will be cleaned as part of their maintenance and privately operated.

A break was taken at 8:50 PM.

(9:05) Deputy Mayor Tredy inquired about Mr. McVicar's letter regarding the lighting around the pool and exercise area. There is a concern if the area is well lit then it could become a hang-out where vandalism could possibly take place. Lighting is not being proposed around the sport port or pool area answered Mr. Macfarlane. The facilities will not be open for the residents to use at night. There will be security lighting, enough so it will not be an isolated dark area. There will be a fence around the pool and the sport port. There would not be a lifeguard for a facility of this size; however it would be up to the homeowner's association. Mr. Macfarlane clarified that the facilities will be open till dusk, 8:30-9:00 PM.

Mr. Doyle spoke about Ms. Barneman's letter to the Planning Board and how the author of the fiscal analysis report arrived at his student calculation estimate. Mr. Yost commented that the board received March 8, 2011 was marked as PB-1, and the spreadsheet that followed as PB-2. All board members as well as Mr. Doyle's office received this information. This is an administrative hearing and the strict rules of evidence do not apply. The board has to decide how much weight to give them and what the applicant is saying is that Ms. Barneman is not here to cross-examine so items can not be brought out. The board can consider this, but Mr. Yost clarified that the board would have to consider what weight and consideration should be used when evaluating. Mrs. Sweeney brought the report to Ms. Barneman because she felt the figures were old. Mrs. Sweeney stated that they can absorb anything in the school, but clarified that the School Board is in a sending/receiving relationship with Southern Regional. Southern 7-12 grade students are hard money out of the school's budget. Mayor Lachawiec added that the board is entitled to accurate numbers, Mr. Avellino agreed.

Mr. Barlo approached. Mr. McVicar inquired as to the noise from the waste management system. Mr. Barlo indicated that the trash room is not in the hallway, it is in a room. The walls around the trash room are insulated and the shoot is not up against any walls – it is in an open area that goes into the lower level container room on the first floor. Mr. Barlo has experience with these and has had no problems with noise in the past. There will be two shoots – one for trash, one for recycling. Separately they will collect cardboard on the lower level in the utility room. Garbage disposals may be installed in the kitchens, they are not sure yet. Mayor Lachawiec was concerned about the odors. Mr. Barlo added there is definitely maintenance involved in this type of system. The commercial units – the adequacy of the closure between C & B1 – one trash unit for both buildings was discussed. Mr. Barlo feels this will be adequate, but they would increase the frequency of pick-ups if the tenants who occupy these units create a large amount of trash. Mr. McVicar asked about signs. Mr. Barlo said they estimated there to be 9 tenants and estimated 60 square feet per unit which is still less than the 10% of the façade area. Mr. Barlo stated that they will comply with the sign ordinance. Mr. Avellino inquired about storage. Any vehicles such as personal watercrafts will not be allowed on site. Indoors there are several closets, adequate storage for these size units. Mr. Taylor asked if there would be a restriction in the HOA

documents stating there is no boat, RV or Trailer parking. Mr. Doyle spoke that he felt this would be necessary to make these units as marketable and up-scale as the applicant intends them to be. There will be assigned parking spaces for each unit.

Mr. Bryce Bennett was sworn in previously. Mr. Bennett went through the items that were changed as a result of the meeting with Mr. Taylor. A-10 was marked into evidence – 3/28/11 Revised Landscaping Plan. Mr. Taylor summarized that the applicant agreed to comply with items 24-34 in Mr. Taylor's letter. The revised plans get them 95% of the way there. There are a few minor technical items that can be worked out with the applicant. Mr. Taylor wanted to specifically address a recommendation regarding irrigation. Mr. Bennett spoke that the Redevelopment Plan calls for minimization of the use of irrigation and drought plantings on the site. Mr. Bennett has taken the effort to match the type of plant species to the water requirements. Beyond a period of establishment which typically is the first growing season, most if not all plants will be quite happy with the moisture nature provides. Mr. Bennett said they could go further in terms of beefing up the soil with materials that retain the moisture better. Mr. Bennett had discussed with Mr. Taylor at their meeting that they could possibly do irrigation along Route 9 so that there is a good green appearance there. The remainder of the site would not need irrigation. Mr. Taylor added that his recommendation, at a minimum, would be the perimeter of the property and from a water conservation standpoint maybe entire irrigation would not be appropriate but at minimum it would be appropriate that the heavily travelled road frontage as well as all the areas immediately surrounding the non-residential buildings which will be visited by the public that those areas be irrigated. Mr. Doyle spoke that they would not disagree with that deduction. It is Mr. Taylor's understanding that the applicant would agree to sod the front portions of the site. Mr. Doyle agreed that they will do that. The sod would only be appropriate in the areas that are irrigated. Without irrigation the sod will not survive.

There is no proposed phasing at this point. If at any point the applicant did decide to phase, that they would come back with a Phasing Plan. If any physical changes were required for access to a building those plans would have to be submitted to the board to make sure adequate access and public safety is met. Floor plans and elevations will be needed as a condition of approval for all facades and all buildings. Mr. Taylor stated that his office as was the board pleased with what has been shown so far. All facades will be treated similar to the front of the buildings. The open space area will not be dedicated to the township. They are proposing a small landscape wall along the frontage but may contemplate a grading solution instead. If the applicant chose to do the grading instead, it would be handled as a field change. Complete details are still needed regarding the sitting areas. The applicant does propose a 16' tall free standing sign. Mr. Doyle stated that because of traffic and public safety reasons given by the engineer along Route 9, the height of the sign is appropriate. Mr. Taylor reviewed minor details of his letter that were agreed to. Post box details will be needed on the plan and place in logical locations – subject to the approval of the Post Master and Board Professionals. That concluded Mr. Taylor's letter.

Chairman Anepete asked for more detail regarding the 16' sign. Mr. Doyle answered that at a minimum probably the number, possibly the name "Tradewinds". An anchor tenant will probably want to have their name on the sign. Beyond that, you don't want to have so many names on the signs that the letters are small. That is a decision that will have to be based on who and how many tenants there are. The sign will be backlit.

Chairman Anepete asked for a motion to open to the public. Mrs. Sweeney made the motion, seconded by Mr. Eckert. All in favor: (aye).

## **PUBLIC COMMENT OPEN**

Seeing None.

Chairman Anepete asked for a motion to close to the public. Mr. Avellino made the motion, seconded by Mrs. Sweeney. All in favor: (aye).

## **PUBLIC COMMENT CLOSED**

Mr. Doyle in closing thanked Chairman Anepete and the board. He appreciates that this is a significant part of what Waretown looks forward to in its Redevelopment Area. There is a significant obligation to provide ratables, jobs, and housing. He appreciated the board's questions and the intensity and depth and detail of the questions shows the significance with which how the board treats their responsibility to make sure that Waretown gets what is best for it. The project has been made better by the process and the questions and hopefully by the applicant's answered. At this point, Mr. Doyle requested an approval subject to all of what was discussed and representations made, all the work done with the professionals so this project will be what it is intended to be.

Chairman Anepete asked for a motion to take action on this application. Mr. Eckert made a motion to approve the application with the representations that have been made. This motion was seconded by Mrs. Sweeney. Chairman Anepete clarified that this motion and second include any and all variances that were required. Roll call: (aye) Eckert, Sweeney, Avellino, Lachawiec, Tredy, Bonamassa, James, Anepete.

**RESOLUTION 13-11:** Authorizing the Township of Ocean's Planning Board to retire into Closed Session for the purpose of discussing matters of pending or possible litigation

A motion was made by Mr. Eckert, seconded by Mrs. Sweeney to move into Closed Session.

## **CLOSED SESSION**

A motion was made to return to Open Session by Mr. James, seconded by Mr. Bynoe. All in favor: (aye).

## **OPEN SESSION**

Chairman Anepete asked for a motion to take action on the settlement that was brought to Mr. Yost to bring MSC before the board again to hear their application. A motion was made by Mr. Bynoe, seconded by Mr. Eckert. Roll call: (aye) Bynoe, Eckert, Avellino, Lachawiec, Sweeney, Tredy, Bonamassa, James, Anepete.

Mr. Avellino made a statement that if the Township Committee is going to pass or change a resolution that affects the Planning Board, could the resolution be brought to the board and explained so that the board would have the opportunity to speak on the issue. Mr. Avellino was speaking of the Certificate of Occupancy issue.

A motion to adjourn was made by Mr. Tredy, seconded by Mr. Bonamassa. All in favor: (aye). Meeting was adjourned at 10:34 PM.

Respectfully submitted,

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Beth O'Connor  
Secretary