

**TOWNSHIP OF OCEAN
REDEVELOPMENT COMMITTEE**

OCTOBER 8, 2009

6:00 PM

1. CALL TO ORDER

- ROLL CALL

Joseph Lachawiec _____ X _____ Robert Kraft _____ X _____

FLAG SALUTE

OPEN PUBLIC MEETING ACT – PURSUANT TO THE PROVISIONS OF THE NEW JERSEY OPEN PUBLIC MEETING ACT, ADEQUATE NOTICE OF THIS MEETING WAS PROPERLY PROVIDED BY SENDING COPIES OF THE NOTICE OF MEETING TO TWO NEWSPAPERS, THE ASBURY PARK PRESS AND THE PRESS OF ATLANTIC CITY. THE NOTICE WAS POSTED AT THE OFFICE OF THE TOWNSHIP CLERK AND ON THE BULLETIN BOARD OF THE ADMINISTRATION BUILDING.

MEETING MINUTES:

Approval of the Meeting Minutes of April 23, 2009

Motion of approval moved by Committeeman Lachawiec, due to the fact Committeeman Lachawiec is the only voting member who was at the meeting who is able to vote on the minutes.

Township Attorney McGuckin inquired if Committeeman Lachawiec reviewed the minutes and do they accurately reflect what occurred at the meeting?

Committeeman Lachawiec stated yes.

Roll Call: Lachawiec: Yes.

Approval of the Meeting Minutes of July 9, 2009

Motion of approval moved by Committeeman Lachawiec, seconded by Mayor Kraft.

Roll Call: Lachawiec: Yes, Kraft: Yes.

REGULAR MEETING

NEW BUSINESS

- Town Center
 - o Nathans & Bruster's Ice Cream (PAD Site)

Vincent Delea, Attorney for applicant, 4 Greentree Center, Suite 300, Marlton, NJ

Mr. Delea stated the applicant has reviewed the letters from the township's professionals and are in concensus with them. Tonight the applicant is asking for the town's recommendation that the amended site plan be approved administratively. There are only minor changes to the existing permitted site plan.

Brian Lutz, KZA Engineering, is sworn in. Mr.Lutz is a licensed Landscape Architect and Professional Planner in the State of New Jersey. A drive-thru lane around the building was proposed on the previous site plan. That has been revised so that the entire drive-thru lane is internal to the site. The building will front on the road and the drive-thru will not circulate around the entire building. There was concern that the trash will be carted too far across the parking area. An additional trash enclosure was added much closer to the building. The building will still provide outdoor seating at the front of the building. It is not segregated from the bike path by the drive-thru lane anymore. The circulation remains the same. Additional landscaping was added to enhance the aesthetics of the site. Headlights will be screened as cars are coming around the drive-thru lane with evergreen shrubs of medium height and larger evergreen trees to help shield the menu board. Parking remains the same. There is a handicap space near the front of the site and will serve as the loading zone for Nathans. The deliveries will be off hours. The handicap ramp and space will serve as a convenient place for trucks to unload.

The landscaping intent would be to match what is already out there, a combination of evergreen and deciduous material. The applicant will meet with Scott Taylor to go over specific varieties to be used.

Mayor Kraft inquired about the couple of steps in the walkway connecting the seating area toward the bike path.

Mr. Lutz stated the steps were on the originally approved site plan. There has always been a need for the steps to overcome the grade change.

Mayor Kraft inquired if site field exams have been done. A ramp instead of steps would be preferred.

Mr. Lutz stated there are significant restraints in that area, particularly with the County right-of-way. There are underground pipes that are being used for stormwater management that are already installed. Shifting that and taking up more room could be problematic. If steps are provided, there would be handrails.

Mayor Kraft requested testimony pertaining to the retaining wall from Volunteer Way regarding design or detail.

Mr. Lutz stated the retaining wall is shown conceptually in three tiers as it comes across the area where the parking is currently constructed. Some areas are two tiers, some areas are three tiers. Planning it creatively adds some visual interest. As the applicant gets into the actual grading of the site, it could be fine-tuned. The applicant will work with the town's professionals to make sure it is visually attractive for the primary corridor.

Mayor Kraft wants to be sure there isn't a six-foot block retaining wall when you turn the corner. Will the wall be built the same time as the building?

Mr. Lutz stated at the same time or a little before, depending on the final design and how the construction needs to be phased.

Committeeman Lachawiec inquired who will be giving testimony on hours of operation.

Mr. Lutz stated there will be another witness.

Scott Taylor, Township Landscape Architect, inquired what will be between the restaurant and Volunteer Way.

Mr. Lutz envisions a foot or two of space from the building, then a three-foot wall.

Mr. Taylor stated the wall will have to extend further East and run all the way up to the building.

Mr. Lutz stated the retaining wall will continue around across the face of the building.

Dave Roberts, CMX Engineering, stated the main change is due to the reorientation of the building. The Phase I Redevelopment Plan provides for zero setback from Volunteer Way, which allowed the applicant to turn the building around and bring the side almost on the right of way of Volunteer Way. The signage needs to be fine-tuned. The Redevelopment Plan allows for 10% of the façade area, one sign per use. There are two uses sharing one building and a third use occupying the retail building along Route 9. There is one sign for Nathans, one sign for Brewster's and one sign for the third use. More detail is needed from the applicants in terms of percentages. The tightness of the radius of the drive-thru needs to be confirmed to make sure that turn can be made safely and that the window can be approached by the average driver. The sidewalk next to the handicap parking space is a little tight. There is a door shown for the retail building in the narrow part of that sidewalk, making it even tighter. Mr. Taylor and Mr. Roberts

had asked for elevations of the other two facades. In the retail building the architectural elevations show a fairly consistent window treatment all the way across. There is a rear door for Nathans/Brewster's, with a footpath for employees to bring trash out. There is not a similar door for the retail store.

Mayor Kraft inquired the width of the sidewalk next to the handicap parking space.

Mr. Lutz stated six feet. Six feet is the minimum for a walkway. That can be widened another two feet.

Mayor Kraft requested testimony on the architecture.

David Lisa, Coastal Development Partners, is sworn in. The plan submitted to the town depicts only two elevations of the building, Route 9 elevation and Volunteer Way elevation. The top corner of the building on Route 9 and Volunteer Way is dry. The applicant will create a four-sided feature to give the building a little more prominence and decrease the height on the other side to balance the building out.

Mr. Taylor stated the peak, on the far right of the bottom elevation, when looking at the top elevation, it would be on the far left. That is where you would see that angle on Volunteer Way.

Mr. Lisa stated the stone would increase and wrap around the building, increasing along the Route 9 elevation and the Volunteer Way side of the building.

Mr. Taylor inquired if the treatment is a similar modulation. The town wants to make sure a similar treatment carries around the rest of the building.

Mr. Lisa intends to submit those elevations. The glass windows will be consistent with what is out there now. It will look the same as the windows at Dollar Depot. Mr. Lisa thinks the windows are divided in the upper area and single below. The materials will be the exact same materials used along Memorial Drive.

Mayor Kraft stated the issue the town wants to affirm is the drive-through concept.

Committeeman Lachawiec requested testimony on the hours of operation.

Dave Ragone, Coastal Development Partners, is sworn in.

Mr. Ragone stated Tom Parks, Franchise Operator for Nathans and Brewster's is not in attendance. The hours of operation are consistent with the center hours. This type will probably be operating from 10:00 am – 11:00 pm. Employees will probably be working in two shifts and possibly a third shift during the Summer months. Each shift will probably have about four employees.

Mayor Kraft inquired what kind of use will occupy the adjacent store.

Mr. Ragone stated the leasing program has been successful. Ninety-three percent is leased. Nathans and Brewster's is a good attraction. Mr. Ragone is confident there will be a good lease in there. Some retailers have not been accommodated due to their size. Once this application is secured, other retailers can be sought.

Mayor Kraft does not have a problem with the use and likes the way the building has been turned. There are outstanding issues that have to be addressed.

Mr. Roberts stated this is a portion of a previously approved site plan. This intersection is the most prominent in the Redevelopment Area of the Town Center. The drive-thru is the main concern. The changes that were made address the main concerns. The pedestrian focus has remained and the automobile has been accommodated at the same time. The real issue is with the fine grading plans. The grade changes that occurred when the site was developed surprised the township. There was a difference between the Route 9 elevation and the finished elevation at the top of the center. The town is dealing with that through the retaining walls. The pedestrian plaza will be relocated to the corner. All these details can be worked out going forward.

Committeeman Lachawiec stated the testimony heard this evening seems to be an acceptable solution to the design plan. Committeeman Lachawiec administratively supports it.

Township Attorney McGuckin stated this is a representation of Nathans and Brewster's. If the tenant is different, the applicant will have to come back. The applicant will also have to come back once the retail center is confirmed.

Mr. Ragone stated yes, understood.

Township Attorney McGuckin stated the initial site plan approved for the site had a sit-down restaurant.

Mr. Roberts stated yes, it was in the exact location of the original orientation of the application. The only difference was the drive-thru around the building.

Township Attorney McGuckin inquired if Mr. Lutz thinks it is appropriate to do it administratively or does it require additional amended site plan approval.

Mr. Lutz respectfully submits that this could be done administratively. Everything in the previous site plan was approved, drainage, parking, footprints. This is a minor adjustment. Rather than require a full Planning Board hearing, Mr. Lutz respectfully submits this be worked out with the professionals.

Mr. Roberts stated the footprint proposed tonight is a little bigger than it was on July 9, 2009. Turning the building from one corner to another is probably an administrative change, but the size of the building being larger may not be administrative.

Mr. Taylor stated the Planning Board has approvals and resolutions identifying the number of parking spaces, square footages of buildings. It's not an amended approval, but bringing the grading and structural issues in front of the Planning Board may be necessary.

Mr. Lisa would like to submit a memo to the new professionals showing what was approved at the Planning Board level, that all the of the bulk requirements have not changed, and that this application has not caused any change to any of those bulk requirements.

Mr. Taylor stated the sign details will still need to come back before the board. The directional signs, menu board, special boards have not been determined.

Mr. Lisa stated in the lease agreement, the signage details will be submitted by Mr. Parks, as the operator.

Mr. Taylor recommended Mr. Parks come back with a sign package. The resolution needs to reflect that all these changes need to be made. The engineers need to sign off on the plans and get a date so the township engineer or landscape architect have the plans, when they do the final inspection.

Mr. Lutz stated the ultimate result of the administrative process would be a signed plan.

Township Attorney McGuckin stated if the Governing Body agrees to not go for amended final site plan approval from the Planning Board, this Governing Body should see that plan. If it is an amended plan, the Planning Board Chairman needs to sign it.

Mr. Lutz submits this application as an administrative change.

Township Attorney McGuckin stated the town would want to do a resolution indicating the terms and conditions of the amendment. The Governing Body would approve that resolution in written form at a later date.

Mr. Taylor stated there are still a number of outstanding items to the site improvements. There were timelines set forth for several of those improvements. One is the plaza at the intersection of Route 9 and Volunteer Way. Mr. Taylor will forward those to tie them to building and permits for C.O.'s for this structure.

Mr. Lisa requested not linking the Nathans/Brewster's to that C.O. process. Getting Nathans/Brewster's started helps clean up that corner, which helps the C.O. process.

Jim Oris, CMX arrived at 6:25 pm. Mr. Oris did review the plans. The revisions work very well. This application received site plan approval from the Planning Board, with it being a restaurant. The applicant is asking to change the use in this building and the size. The original resolution and approval from the Planning Board should reflect that. That needs to be amended so when the Zoning Officer reviews all the documents, it matches what the Planning Board approved. If the onsite improvements were bonded, the bond should be amended as well.

Mr. Lutz stated the resolution tonight should be the use of the drive-thru and retail, so there will be no use questions in front of the Planning Board.

PUBLIC COMMENT

Motion to open to the public was moved by Committeeman Lachawiec, seconded by Mayor Kraft.

Roll Call: Lachawiec: Yes, Kraft: Yes.

Michele Rosen, 29 Bradley Beach Way, the Redevelopment Agreement indicates only Shop Rite can have regular deliveries from large trucks. The Redevelopment Agreement indicates the only facility that can have a drive-thru is the bank. Is the town required to amend the Redevelopment Agreement to allow the trucks and the drive-thru? Ms. Rosen stated there is a secured portion of the pilot payment that goes toward the bond and the unsecured portion of the pilot can be used however the township wishes. As of July 29, no payment has been made on the unsecured portion.

Mr. Lisa stated the unsecured portion of the pilot payment commences when the C.O. is issued for the project. There is an interim payment that is made. Until the C.O. is issued interim property taxes are being paid. Those taxes have been paid and are current.

Mr. Ragone stated Tom Parks reported at the last meeting that Nathans/Brewster's receives one truck a week at 10:00 pm or 11:00 pm at night and provides a key to the back door to the truck driver.

Mr. Lisa does not recall the truck issue being applied to the whole property, just the Shop Rite. If something needs to be done to the Redevelopment Agreement for these trucks, he will do it.

Township Attorney McGuckin stated it was contemplated that there would be tractor trailer deliveries for the rest of the site. The idea was to keep them away from the driveway entrance. Township Attorney McGuckin will review the Redevelopment Agreement and report back.

Mr. Roberts stated the Redevelopment Plan had a provision regarding overlay usage. The concept plan, which is part of the economic amendment, clearly showed this exact layout, with the exception of the changes in the corner. There was anticipation in the concept plan that there would be a fast food restaurant, next to the bank, with a drive-thru. It would be the agreement that would have to be amended.

Motion to close to the public was moved by Committeeman Lachawiec, seconded by Mayor Kraft.

Roll Call: Lachawiec: Yes, Kraft: Yes.

Township Attorney McGuckin confirmed the applicant is seeking approval from the Redevelopment Committee the concept and use that is proposed. The Planning Board will deal with it as either administrative approval or site plan approval.

Mr. Lutz requested the Township Attorney recommend the Planning Board approve it administratively.

Township Attorney McGuckin stated the Governing Body has the right to administratively approve this proposal and recommend the Planning Board handle administratively.

BOARD COMMENTS

A motion for administrative approval of the application was moved by Committeeman Lachawiec, seconded by Mayor Kraft.

Roll Call: Lachawiec: Yes, Kraft: Yes

Township Attorney McGuckin stated there will be a resolution at the next meeting indicating the Governing Body administratively approves this concept. The Planning Board will make the final decision.

ADJOURN

Motion to adjourn meeting was moved by Committeeman Lachawiec, seconded by Mayor Kraft.

Roll Call: Lachawiec: Yes, Kraft: Yes

Signed and Submitted:

Diane B. Ambrosio, RMC
Township Clerk

Date