

# TOWNSHIP OF MIDDLETOWN

Planning Board  
3 Penelope Lane  
Middletown, NJ 07748-2504

JOHN DEUS  
Chairman



Organized December 14, 1667  
"Pride in Middletown"

SANYOGITA S. CHAVAN, P.P., A.I.C.P.  
Director of Planning

DEBRA YURO  
Planning Board Secretary

Tel: (732) 615-2102  
Fax: (732) 615-2103

## PLANNING BOARD MEETING MINUTES July 12, 2017

A Regular Meeting of the Planning Board of the Township of Middletown was held in the main meeting room at Town Hall, One Kings Highway, Middletown, New Jersey, at 6:30 P.M. on July 12, 2017.

The Notice Requirements provided for the Open Public Meetings Act have been satisfied. Notice of this meeting was properly given by transmission to the Independent, the Star Ledger and the Two River Times and by posting at the Middletown Township Municipal building and filing with the Township Clerk on November 28, 2016.

All notification for this meeting was given pursuant to the Open Public Meetings Act at least 48 hours prior to this meeting.

Roll call was taken with the following members present: Messrs. Gail Carrol (6:40 p.m.), Joseph Cauda, Jr., Mark Davis, John Deus, Rick Hibell (6:35 p.m.), John Little, Jr., Anthony Perry, Jr., Carl Rathjen and Kevin Settembrino. Mses. Gail Carroll and Greta Siwiec. Also present: James Gorman, board attorney, Robert Keady, board engineer and Sanyogita Chavan, Amy Sarrinikolaou and Thomas Incorvaia, board planners.

A salute to the flag followed.

### APPROVAL OF MINUTES

Motion was made to approve the minutes of June 7, 2017. Motion was seconded and approved with an all in favor vote.

### RESOLUTIONS

Motion was made to approve the resolution for #2016-401 – American Properties at Middletown II, which was a denial for a major subdivision and conditional use. Motion was seconded and approved with the following roll call vote:

### **Many Neighborhoods. One Middletown!**

Belford ◦ Chapel Hill ◦ Fairview ◦ Harmony ◦ Leonardo ◦ Lincroft ◦ Locust ◦ Middletown Village  
Monmouth Hills ◦ Navesink ◦ New Monmouth ◦ North Middletown ◦ Nut Swamp ◦ Oak Hill ◦ Port Monmouth ◦ River Plaza

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Motion was made to approve the resolution for #2016-205 – 889 Route 35 Associates, which was an approval for a minor site plan for fence height and lot coverage. Motion was seconded and approved with the following roll call vote:

Ayes: Davis, Rathjen, Siwec, Wilton  
Nays: None  
Absent: Carroll, Hibell

Motion was made to open the meeting to the public for non-agenda items. None appearing the public portion of the meeting was closed.

#### ADMINISTRATIVE MATTERS

Motion was made to approve 17 vouchers in the amount of \$10,403.80 for James Gorman, Esq.; 0 vouchers in the amount of \$00.00 for T&M Associates; 1 voucher in the amount of \$130.00 for Hoder Associates; and 8 vouchers in the amount of \$3,874.00 for Planning Board Professionals. Motion was made to approve a total of 26 vouchers in the amount of \$14,407.80 Motion was seconded and approved with an all in favor vote.

#### Extension of Time

#2009-212 – Meadowview, LLC; Block 281, Lots 14 & 15; 628 Main Street; located in the RMF-1 Zone.  
Applicant is seeking a second one year extension of time to meet the conditions of the site plan approval.

Mr. Gorman reviewed the extension of time for the board.

Motion was made to approve the extension of time. Motion was seconded and approved with the following roll call vote:

Ayes: Cauda, Davis, Deus, Little, Perry, Rathjen, Settembrino, Siwec, Wilton  
Nays: None

#### Ordinance Review

Review of Ordinance 2017-3199 Amending Chapter 540 of the Planning and Development Regulations, Performance Residential Development.

Ms. Chavan reviewed the changes to the Ordinance for the board. Mr. Cauda stated that the density is the same for the minimum dwelling units and the maximum can't be more than that fixed number. Ms. Chavan replied yes and reviewed. Mr. Cauda stated it has to be 8 units not more not less why not have fewer and referred to the Oxley property. Ms. Chavan replied that Oxley was different they had six units and asked for 17 and reviewed they wanted more units than less. Mr. Cauda and Ms. Chavan continued to discuss the ordinance.

Mr. Gorman stated you are right the maximum and minimum are the same number. Mr. Davis asked what the rationale was to change it from 5 acres to 35 acres. Ms. Chavan reviewed. Mr. Davis asked how many locations in town this will apply to. Ms. Chavan replied five or six and we have had the conditional use for 20 years. Mr. Davis stated this takes cluster off the table very few spots you can do it now is the net effect. Mr. Gorman stated the role of the Planning Board is to determine if the ordinance is consistent with the Master Plan. Mr. Davis stated that he agrees if the Master Plan cluster this goes against and takes out bonuses a constraint on developers. Mr. Gorman stated there is a subjective nature to the conditions. Ms. Chavan stated it leaves the discretion to the Planning Board. Mr. Davis stated the bigger issue is whether we should change the Master Plan. Mr. Gorman stated the Board can say it is not consistent and the Township Committee would need a super majority to adopt. Mr. Perry stated that we've been discussing this for 4-5 months this is a good clean-up of the ordinance it doesn't affect any existing plans and the board always had the discretion we should approve.

Mr. Cauda stated that the PRD Zone incentivizes people to cluster instead of cutting down trees there is no incentive in here. Mr. Perry stated we are here to say whether it is consistent with the Master Plan. Mr. Cauda replied that it is not consistent. Mr. Perry stated it increased from 5 to 35 acres so we preserve land the threshold to use this ordinance is greater. Mr. Cauda stated there is less of an incentive to use this ordinance. Mr. Gorman stated the incentive is far fewer costs for infrastructure and reviewed. Mr. Wilton stated our role is it consistent with the Master Plan.

Motion was made to find the ordinance consistent with the Master Plan. Motion was seconded and approved with the following roll call vote:

Ayes: Carroll, Deus, Hibell, Perry, Rathjen, Settembrino, Siwiec, Wilton

Nays: Cauda

#### Appointment of an Independent Traffic Consultant for the Village 35, L.P. application

Ms. Chavan stated that the board received three proposals and reviewed her recommendation. Ms. Chavan stated that Stantec meets and goes beyond what is required they are working on Exit 109 and this is an independent way to look at this project. Ms. Chavan stated Stantec gave a detailed description and that she would like to make a recommendation but the final decision is the board's.

Mr. Rathjen asked if the area is wider than Village 35. Ms. Chavan stated that we cannot go beyond the scope of this application but we recommended Kaness Lane, Tindall Road, Kings Highway and the four intersections. Mr. Deus stated that having reviewed the proposals that he agrees with Ms. Chavan's conclusion.

Motion was made to appoint Santec as the independent traffic consultant for the Village 35, L.P. application. Motion was seconded and approved with the following roll call vote:

Ayes: Carroll, Cauda, Deus, Hibell, Perry, Rathjen, Settembrino, Siwec, Wilton  
Nays: None

OLD BUSINESS

#2015-206 – Village 35, L.P., Block 825, Lots 53-57; 59-69; 72-79 & 81; 376-380 Kings Highway East; located in the PD Zone. Applicant is seeking preliminary and final major site plan & preliminary and final major subdivision to construct a commercial shopping center.

Mr. Deus stated that he would give Village 35 2 hours or until 9 p.m. as there is another application on the agenda.

Mr. Gorman stated that this is a continued public hearing from February 15, 2017 and the applicant has re-noticed for this meeting.

Marc Policastro, applicant's attorney, appeared once again and provided testimony in support of this application for the board. Mr. Policastro stated there was one exhibit from the February meeting, Exhibit A-1 and that he would like to recall Mr. Fitamant.

Ron Gasiorowski, attorney for Minding Middletown, LLC, appeared and stated that he would like to raise a procedural issue. Mr. Gasiorowski stated that this board does not have jurisdiction to hear this he has reviewed the documents and the GDP made a clear representation by the applicant that there would not be a use greater than 45,000 square feet it is reflected in the resolution and he traced the emails for a period of several months there is a give and take between the board and Mr. Policastro. The applicant had buyer's remorse there was an agreement with the board with different numbers a flurry of emails between Mr. Policastro and Mr. Gorman. The resolution was a settlement the public relied on the representation of Mr. Orrico it wasn't challenged by the public or the applicant.

Mr. Gasiorowski read the emails between Mr. Policastro and Mr. Gorman and stated that the applicant now has a user for Wegmans and 130,000 square feet which is not a surprise when you read the emails. In 2015 they knew they would have an end user greater than 45,000 square feet and read into the record the transcript about Walmart and sizes of stores during the GDP hearing and that it would not lend itself to a super Walmart this store will have the same demand as a Walmart.

Mr. Gasiorowski stated that this applicant cannot have it both ways if they want to after that they have to come back to this board.

Mr. Policastro stated there was no settlement we are seeking relief from the GDP approval, site plan, subdivision and variances we noticed for that this board is empowered to hear it and asked Mr. Gasiorowski, should we go home?

Mr. Gasiorowski stated that he did not have to response to Mr. Policastro. Mr. Gorman asked what do you want us to answer. Mr. Gorman stated a full hearing the superior court or a full hearing on the GDP and reviewed. Mr. Gasiorowski stated the applicant is looking to have protection of the GDP the site plan is just for the commercial he is not bound by the GDP the residential and commercial are interlocking pieces the GDP intent was to be heard together there is no application pending by Toll Brothers the interconnecting road is on Toll Brothers site but built by this applicant and the basins.

Mr. Gasiorowski stated look at the notice for tonight and read it into the record. Mr. Policastro stated our four page notice is not sufficient. Mr. Gorman stated that he reviewed the notice and the approximately 130,000 square foot Wegmans it talks about the relief they are seeking what is the process or jurisdiction that is the boards when do they make that decision. Mr. Policastro wrote a letter and Mr. Gorman agrees with the general conclusions the board has to make that decision we have to hear it otherwise we are hearing it in a vacuum it has to be dealt with in context and make a decision at the end not piece meal and continued to discuss about going to court and unchartered waters. Mr. Gorman stated that Mr. Gasiorowski is asking for that decision up front. Mr. Gasiorowski stated that he doesn't want to do it on a piecemeal but it is. Mr. Gorman stated we can't make Toll appear and reviewed. Mr. Gasiorowski stated for the record let me finish and he continued to review the notice and stated that the notice is faulty. Mr. Policastro stated we don't have to. Mr. Gorman stated you can discuss it with the judge and he reviewed the notice and it is sufficient to give the public an idea what is going on. Mr. Gorman stated the GDP states separate or potentially separate. Mr. Gasiorowski stated he read and re-read the notice. Mr. Gorman stated let a judge decide it is not up to the board. Mr. Gasiorowski stated that he appreciates that the board let him put it on the record. Mr. Rathjen stated please believe we will have a plethora of questions. Mr. Gasiorowski stated that this is a very conscientious board.

Mr. Gorman stated that the board has a March 6, 2017 letter from Mr. Gasiorowski about the members of Minding Middletown and those people can only be represented by Mr. Gasiorowski. Mr. Policastro asked if that list is accurate. Mr. Gasiorowski replied as far as he knows.

Mr. Gasiorowski stated the board is retaining a traffic consultant and asked for a copy of that report. Mr. Gorman discussed when a traffic report would be done and that Mr. Policastro is not putting on a traffic consultant tonight. Mr. Deus stated that it makes sense.

Mr. Gorman stated that there was no cross-examination of Mr. Fitamant in February.

Gerard Fitamant, applicant's engineer, appeared once again and provided testimony in support of this application for the board.

Mr. Policastro stated that last month Mr. Fitamant completed his testimony. Mr. Fitamant replied correct, yes.

Mr. Policastro stated that revised plans were submitted on 6/5/17. Mr. Fitamant replied yes.

Mr. Policastro asked Mr. Fitamant to mark his exhibit. Mr. Fitamant entered Exhibit A-2, color subdivision sheet 3 of 4 dated June 5, 2017 and Exhibit A-3, color subdivision sheet 4 of 4 dated June 5, 2017 and handed out 11 x 17 copies for the board.

Mr. Policastro asked if any of the lot lines changed. Mr. Fitamant replied no.

Mr. Policastro asked if any of the roadways or jug handles changes. Mr. Fitamant replied no.

Mr. Policastro asked if certain changes were made. Mr. Fitamant stated that five changes were made 1) tax map; 2) locations of the water and sewer utilities; 3) he revised the zoning table; 4) proposed residential basin access and maintenance easement; and 5) modified geometry easement at Woodland Drive and reviewed the changes.

Mr. Policastro asked Mr. Fitamant to look at the engineer and planner's letters.

Mr. Keady asked which basin are you referring to. Mr. Fitamant replied basin #7. Mr. Keady stated on the residential lot. Mr. Fitamant replied yes and an easement to access the signal.

Mr. Policastro asked if there were any carryover questions. Mr. Fitamant replied that he had no exceptions to the comments.

Mr. Gorman asked Mr. Fitamant to go back to Exhibit A-3 and asked about the area in green at the Bassett Furniture property. Mr. Fitamant replied that he will go into that. Mr. Policastro stated that you take exception to some of the comments. Mr. Fitamant stated the title block for Bassett Furniture lot will be conveyed to NJDOT and reviewed the T&M and planner's letters. Mr. Fitamant stated that this is under the DOT jurisdiction and not municipal Planning Board jurisdiction for the Sleep Shop and appliance store.

Mr. Fitamant stated that they are going to vacate a portion of existing Kanes Lane shown on Exhibit A-3; Village 35 will remove the pavement and plant grass and it will revert to the adjoining neighbors Mountain Hill and Bassett. Mr. Rathjen asked who will pay the cost. Mr. Fitamant replied the applicant. Mr. Perry asked if there are other portions that will be adjoined with other businesses is there an agreement with that business. Mr. Fitamant replied yes, with Bassett. Mr. Perry asked if there is any other place. Mr. Fitamant reviewed and stated not with respect to the Township. Mr. Perry asked any other properties. Mr. Fitamant replied no.

Mr. Fitamant continued to discuss the vacation. Mr. Gorman asked Mr. Fitamant to represent the colors. Mr. Fitamant reviewed. Mr. Rathjen stated does the green area remain grass or can it become a parking lot. Mr. Gorman stated go back Mr. Fitamant didn't get a chance to answer who's going to own that green. Mr. Fitamant replied Mountain Hill. Mr. Gorman stated that's their proposal. Mr. Fitamant stated let me clarify we would give our portion to Bassett. Mr. Fitamant stated the brown is an access easement and we need the Town to make a decision. Mr. Gorman and Ms. Chavan stated Block 825, Lot? Mr. Fitamant stated ultimately Mountain Hill and then transferred to Bassett.

Mr. Rathjen asked if Bassett will be able to put a roadway. Mr. Policastro stated they would have to come to the board.

Mr. Gorman understood and stated let's talk about the light purple, the road gets vacated half to Mountain Hill and half to Bassett the deed runs to the center line and continued to review Kanes Lane. Mr. Fitamant reviewed Kanes Lane. Mr. Gorman stated he understood it now.

Mr. Perry asked if there is a residence across from Bassett. Mr. Fitamant replied it will be eliminated as part of this application.

Mr. Policastro asked if there are other issues in the letters. Mr. Fitamant replied yes and reviewed the planner's letter and pointed out the old NJDOT right-of-way. Ms. Chavan stated on page 7 that portion will be vegetated. Mr. Fitamant replied yes. Ms. Chavan stated section 1D page 8 the disturbance of steep slopes and the need for a waiver. Mr. Fitamant replied that is a site plan issue.

Mr. Policastro asked if anything is being conveyed to Wells Fargo. Mr. Fitamant replied no.

Mr. Policastro asked if that is all you have on the subdivision. Mr. Fitamant replied that's it.

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Mr. Gorman asked about the light purple lot on Exhibit A-2 and the relocation of Kings Highway East to be dedicated to the Township for future right of way and future basin the Planning Board can't speak for the governing body that is subject to the Township Committee as well as the street vacation. Mr. Deus stated procedurally how does that happens. Mr. Gorman stated the subdivision plat is filed and formal action by the governing body. Ms. Chavan stated a Developer's agreement. Mr. Gorman replied it could. Mr. Deus asked if it could be turned down. Mr. Gorman replied yes. Mr. Deus stated that leaves us where. Mr. Gorman stated the applicant struggling to put a basin somewhere else but he has never seen a Town not agree does the Town want a basin on their property. Ms. Chavan replied and the maintenance of that basin. Mr. Gorman replied in February they said they would maintain it. Mr. Policastro replied yes. Mr. Gorman stated a preliminary inquiry if that is okay this isn't typical.

Mr. Perry stated on the opposite side of existing Kanes Lane the Bassett Furniture property maintained by Mountain Hill that 70 foot carve out Bassett has 2 entrances and exits does it line up. Mr. Fitamant stated it has nothing to do with anything on the other side of the street. Mr. Perry stated the interconnect past the Bassett Furniture and the first residence and there is another one is that owned by Mountain Hill as well. Mr. Fitamant brought up page 2 of 4 of the subdivision plan and Mr. Perry stated that the structure on the other side and another past the interconnect. Mr. Fitamant replied that Mountain Hill does control all those properties on that side of Kanes Lane.

Mr. Fitamant asked if there were any more questions on the subdivision. Mr. Policastro stated let's introduce the site plan.

Mr. Fitamant entered Exhibit A-4, a rendering of the landscape plan and reviewed for the board. Mr. Fitamant stated that the Alta Survey is now signed on both sheets and he is here. Mr. Policastro asked if there are any changes. Mr. Fitamant replied no, just that it is signed.

Mr. Policastro asked Mr. Fitamant to address what has not changed. Mr. Fitamant reviewed sheet 64 of 64 of the site plan and stated that the major change is the 130,000 square foot Wegmans.

Mr. Policastro asked if there were any changes on the Kings Highway East jug handle. Mr. Fitamant replied no change.

Mr. Policastro asked if there is any change to the Wells Fargo site. Mr. Fitamant replied no.

Mr. Policastro asked if there is any change to the entrance to the Shopping Center. Mr. Fitamant replied no.

Mr. Policastro asked if there is any change to basins 1; 1B; 5; and 7. Mr. Fitamant replied no.

Mr. Policastro asked if there is any change to the Woodland Drive jug handle. Mr. Fitamant replied no.



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Mr. Policastro asked if there was any change to the access easement with Community Appliance. Mr. Fitamant replied no.

Mr. Policastro asked if there was any change with the Bassett access easement. Mr. Fitamant replied no change.

Mr. Policastro stated obviously there were certain changes. Mr. Fitamant replied yes, there are. Mr. Policastro asked Mr. Fitamant to take us through the changes.

Mr. Fitamant reviewed page 64 of 64 of the site plan with overlay. Mr. Fitamant reviewed the changes to the southern end of the site the retail layout for retail 5, 6, 7 and 8 and stated that the building sizes were 338,875 square feet and has been reduced to 332,591 square feet retail 5, 6 and 7 have been rotated and are now Wegmans. Mr. Deus stated that you keep referring to retail 5. Mr. Fitamant replied retail 6, 7 and 8.

Mr. Fitamant stated that the access to the site remains the same; sidewalks have been extended the entire length of the interconnect on both sides and lighting was also added; trees and plantings were added to the interconnect and wetlands; A-4 shows the trees along the wetlands interconnect; retail 1 parking was shifted; a 5 foot landscape buffer; building #4 the theater was shifted further to the south to allow for a 50 foot buffer; parking field was reduced; parking field to the west revised to include a curb island; eliminated a waiver; the theater shift eliminated a variance for a buffer; screening was added around the refuse area to eliminate a waiver for retail 2 and building 3; endcaps doubled in size and lost some parking and increased the landscaping between buildings 2 and 3; added landscaping; parking stalls; truck loading areas added and parking behind building 5; eliminated a parking field and added a pedestrian friendly area; restaurants 9 and 10 were eliminated; restaurant 7 was originally restaurant 11; the parking and loading areas were reconfigured which eliminated a variance; a waiver was eliminated for refuse screening; added a sidewalk along shopping center drive; added trees from the interior road interconnect to Highway 35 and eliminated a design wavier; added tress along Kanes Lane to Woodland Drive; added trees along Route 35 frontage 30 feet on center; that is generally the revisions.

Mr. Hibell asked about the truck deliveries to building 5. Mr. Fitamant reviewed. Mr. Perry asked if it is a private road. Mr. Fitamant replied no, truck circulation templates will be submitted and he will get into that further.

Mr. Rathjen asked about the freshwater area behind building 5 so close to the garbage disposal units is that a smart thing to do. Mr. Fitamant stated those are concrete pads with curbed islands and fenced in and reviewed for the board on Exhibit A-4 and stated that he did not see it having an impact they are protecting. Mr. Rathjen stated that he hates to see anything blowing in the wetlands. Mr. Deus stated that curbing won't protect if there is sloppy pick up. Mr. Fitamant stated there will be a maintenance protocol. Mr. Rathjen asked the height of the fence. Mr. Fitamant replied 6 feet with privacy slats. Mr. Deus stated between the dumpster and the wetlands.

Mr. Deus stated while we are there Wegmans or retail 6 where are their deliveries. Mr. Fitamant reviewed the loading on both sides of the building. Mr. Rathjen stated there is a long stretch between building 5 and Wegmans. Mr. Fitamant stated there is a landscaped walkway. Mr. Rathjen asked a wide walkway. Mr. Fitamant replied yes. Mr. Rathjen asked if you need any warning lights it will need signage. Mr. Fitamant replied we have signs. Mr. Deus stated that is the law. Mr. Fitamant replied yes.

Mr. Settembrino stated that Mr. Fitamant discussed the elimination of design waivers and asked if he could review the waivers and variances that are requested. Mr. Fitamant replied he will review at the next meeting. Mr. Settembrino asked about any new design waivers or variances. Mr. Fitamant stated that he would rather prepare an exhibit. Mr. Deus stated that is pretty simple what waivers have been added. Mr. Policastro stated a sign waiver for Wegmans. Ms. Chavan stated that is a variance. Mr. Settembrino stated that waivers that were eliminated no new required. Mr. Fitamant replied no. Mr. Settembrino stated the only variance you are requesting is the sign ordinance. Mr. Gorman stated there is a stamped June 13<sup>th</sup> list of variances and design waivers he's going to update that. Mr. Settembrino stated he understands that and asked if he could highlight since he brought up the elimination.

Mr. Policastro stated that is all we have on direct. Mr. Gorman stated there should be some kind of process if Mr. Fitamant is coming back how do we cross wait until he's finished allow questions of Mr. Fitamant tonight. Mr. Policastro replied tonight and new testimony. Mr. Deus stated that he agreed. Mr. Keady asked what about addressing our letters. Mr. Deus stated that he thought that was going to be day two. Mr. Policastro replied yes.

Mr. Perry asked if there is any designated employee parking. Mr. Fitamant replied no. Mr. Policastro stated that Wegmans will have designated employee parking.

Mr. Deus asked how I access Community Appliance. Mr. Fitamant reviewed. Mr. Deus asked if it the same as Walt's Sleep Shop. Mr. Fitamant reviewed.

Mr. Rathjen asked about public bus stops to make it easy for customers. Mr. Fitamant replied that there are two bus stops and Mr. Pehnke will provide testimony.

Mrs. Siwec stated this is a huge development here if it was an application for Restaurant 1 we would hear all the details are we going to have an opportunity to hear those details bus stops, traffic signals this is big get into the detail fill me in on those dropped details. Mr. Deus stated Mrs. Siwec asked an excellent question you don't have tenants she's right like we did with Moe's. Mr. Fitamant stated those details are made available we'll come before the board if significant changes. Mr. Gorman stated the smaller pieces don't get the detail it is up to the board and the professionals any time you want to discuss it you have that right it looks overwhelming at times the intent is to build as shown unless a tenant wants something different. Ms. Chavan stated that is why they need to go through our letters at the next meeting we would address that.

Mr. Gorman stated Mrs. Yuro brought up a good point Mr. Fitamant wasn't crossed in February we already missed one in his opinion you are going to have endless cross-examinations the applicant made the recommendation to cross each time. Mr. Policastro stated he will be back. Mr. Perry stated it is very hard for the public to wait month to month while its fresh and he doesn't usually disagree with Mr. Gorman but he thinks the cross should be done on the night.

M. Gorman stated you want to stop at 9 and do we start the next time with the rest of the people what do we do with the people who can't talk tonight I'll leave it to the applicant and the board wants to do. Mr. Deus stated if that occurs tonight we are not closing the open portion. Mr. Gorman stated it becomes unlimited cross each time he testifies. Mr. Rathjen stated the public should be able to talk tonight get it on the record. Mr. Wilton stated this is for questions of Mr. Fitamant not comments. Mr. Deus asked if the board had any additional questions.

Mr. Gasiorowski stated that he agreed with Mr. Gorman there will be continual changes if many of those are addressed the plans are not yet complete there will be less cross. Mr. Wilton asked Mr. Gasiorowski to do his cross and it may eliminate some of their questions. Mr. Deus stated it is easier to control you than the public and that he was giving him attorney privilege.

Motion was made to open the meeting to the public for questions of Mr. Fitamant. The following persons appeared and asked questions of Mr. Fitamant:

Diana,

Diana asked if it is a done deal that this is going to be a Wegmans. Mr. Fitamant replied we are proposing. Diana stated its proposed not decided. Mr. Deus stated no decision has been made the board can't deny a tenant. Diana stated the size is up to you the ordinance says they can't have 130,000 square feet. Mr. Deus stated that 330,000 square feet one place theoretically.

Diana asked if the green area along Kings Highway East the 50 foot buffer isn't much is there any chance that can be enlarged. Mr. Fitamant stated 50 feet is what is required and reviewed and stated that he will have other exhibits and testimony more appropriate to wait.

Anna Cascallano, Kings Highway East

Mrs. Cascallano asked what is going to happen to the traffic on 35 this will be a bathtub in an ocean. Mr. Deus stated this is not the time for comments. Mrs. Cascallano stated she wants to know about traffic. Mr. Deus stated he didn't testify about traffic. Mrs. Cascallano asked about the value of their homes. Mr. Deus stated he didn't testify we have to proceed on the testimony provided save questions for later you can grill his traffic guy. Mr. Wilton stated your questions are for other witnesses. Mrs. Cascallano stated these are all important questions. Mr. Deus stated you can ask the questions at the appropriate time and asked Mrs. Cascallano to sit down.

Judy Musa

Mrs. Musa asked how many variances and waivers. Mr. Fitamant stated that he will provide but he is not prepared to discuss tonight.

Mrs. Musa asked how many employees a 130,000 square foot Wegmans would have and how many employee parking spaces there will be. Mr. Fitamant replied that is for another witness.

Mrs. Musa asked about the green space and number of trees to be removed and replaced. Mr. Fitamant stated that the documents are on file with the Township.

Mrs. Musa asked about the DEP process. Mr. Fitamant replied we have a GP #6. Mrs. Musa stated you are putting garbage by the wetlands. Mr. Policastro stated we have approvals.

Candace Cade

Mrs. Cade asked if the 2015 settlement from appeal generated the GDP and the largest tenant permitted is 45,000 square feet and if they are asking for a waiver or a variance. Mr. Policastro stated they are asking for relief of that condition there was no settlement. Mr. Gorman stated there has been no litigation on this application. Mrs. Cade asked about the GDP agreement again. Mr. Policastro stated the GDP application is for 45,000 square feet the largest permitted we are asking for 130,000 square feet waiver or amendment. Mrs. Cade stated that is a 188% increase that is why she is asking and wants to put it on the record a 188% increase.

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Mrs. Cade asked what burden of proof the board has to ask for and vote. Mr. Deus stated they can ask. Mrs. Cade stated any criteria or they ask and you vote. Mr. Gorman stated good question there is no ordinance that restricts it. Mrs. Cade stated it says it in the resolution. Mr. Gorman stated what is the burden of proof. Mr. Policastro stated it lays it out in his memorandum what right does the board have to say no. Mr. Rathjen stated you are making comments. Mrs. Cade stated it is on the site plan. Mr. Policastro stated it is not for this witness. Mr. Gorman stated it is a legal issue. Mrs. Cade asked what it is called, the board has to vote on it. Mr. Gorman replied yes.

Edward Mock

Mr. Mock asked how many acres there are. Mr. Fitamant replied 52 acres. Mr. Mock asked the number of parking stalls. Mr. Fitamant replied approximately 1786. Mr. Mock asked if that meets the Township plan. Mr. Fitamant replied yes. Mr. Mock stated 1700 plus odd number of cars in that parking lot.

Lisa Walsh

Mrs. Walsh stated she had a question on the interconnect and what kind of safety concern with the movie theater and people loitering will there be additional lighting a blue light for drugs and kids. Mr. Fitamant stated we will provide additional testimony. Mrs. Walsh stated I is a dark back road. Mr. Deus stated they haven't testified we'll ask.

Robert Phelan

Mr. Phelan stated it was testified that you received a DEP permit GP #6 for the wetlands and asked when that occurred. Mr. Fitamant replied last year. Mr. Phelan asked about the State Historic Preservation Board. Mr. Fitamant stated that another party has made contact with SHIPO. Mr. Phelan asked if the DEP permit could be revoked. Mr. Perry stated that part of the DEP does look at SHIPO. Mr. Phelan if this impacts historic does the DEP get involved. Mr. Policastro stated we have the approvals.

Julia Evans

Mrs. Evans stated the exhibits have small labels are the large ones available to us. She was directed to the Planning Board office to review the exhibits.

John McGarry

Mr. McGarry stated when you put this together were you aware of the 45,000 square feet. Mr. Fitamant replied yes. Mr. McGarry stated a 188% increase. Mr. Policastro stated that is not for this witness. Mr. McGarry stated question for the board, someone must have seen value to put 45,000 square feet what basis would what's the reason for having any regulations. Mr. Deus stated there is no regulation limiting the size in this case you'd like a regulation you can only have this size footprint of a store there is no regulation.

Bill Kastning, 4 Tuscaloosa Drive, Holmdel, Monmouth Conservation Foundation, 625 Middleown-Lincroft Road.

Mr. Kastning stated there are excessive parking stalls. Mr. Fitamant stated we meet or exceed the requirement. Mr. Kastning stated that you exceed and asked by what number. Mr. Fitamant replied 1475 are required and 1786 are proved we exceed by 311. Mr. Kastning asked the size of a parking space. Mr. Fitamant replied 9 x 18. Mr. Kastning stated what area how many acres of space is not needed the excessive parking that is not required they should be used as open space why would you not. Mr. Fitamant stated that the tenant requirement may vary a shopping center is 4 ½ spaces per square foot it is suggested tenants such as restaurants require more and for marketing reasons. Mr. Kastning asked if each tenant comes before the board. Mr. Gorman stated does the board review each tenant no, it goes to the Zoning Officer if this is an approved plan and goes on to the Building Department.

Mr. Kastning asked if they thought of underground subsurface instead of storm basins. Mr. Fitamant stated we have underground. Mr. Rathjen stated that he is a member of the Environmental Commission and they have quite a few. Mr. Kastning stated is there more room to have subsurface. Mr. Fitamant stated that anything can be engineered. Mr. Kastning asked if they will do that. Mr. Fitamant replied no and reviewed. Mr. Kastning asked how you define best.

Mr. Deus stated it was 9 o'clock and the application will be carried to September 13, 2017.

A member of the audience asked if he could ask a question. Mr. Deus stated you can ask your questions next time.

NEW BUSINESS

#2017-200 – DeVimy Equities, LLC; Block 615, Lot 94; 1287 Highway 35; located in the B-3 Zone.

Applicant is major site plan approval and conditional use permit to construct a Learning Center, Dunkin Donuts; a retail space; and a Mavis Tire Center. This will require the following variances: 75 foot buffer; fence setback; retaining wall height; parking area setback from street or ROW line; safety island design; and parking setback from building.

Rick Brodsky, applicant's attorney, appeared and provided testimony in support of this application for the board.

Mr. Brodsky reviewed the site; former Steak and Ale; vacant for 10-11 years; redevelopment proposal; B-3 Zone; Highway 35; demolish the existing and construct two buildings; 10,000 square foot daycare center and a second retail building; variances majority are existing; and he has several witnesses.

John Palus, applicant's engineer and planner, was sworn in and provided testimony in support of this application for the board.

Mr. Palus entered Exhibit A-1, aerial of site plan dated 7//12/17 and A-2, color rendering landscape plan.

Mr. Brodsky asked Mr. Palus to walk the board through the existing and proposed. Mr. Palus reviewed Exhibit A-1; the site; 2.88 acres; B-3 Zone; existing conditions; vacant Steak and Ale under 6,000 square feet; existing 45 foot rear buffer; driveway; two drainage easements; sewer easement; wetlands; adjacent uses; heavily wooded wetlands; and Highway 35 uses.

Mr. Palus reviewed Exhibit A-2 the proposed development; two separate commercial buildings; a daycare facility; fenced play area; sidewalk; trash enclosure; conditional use requirements; Mavis Tire; 6 bays in front; retail 3600 square feet; small 1850 square foot Dunkin Donuts w/drive through; 10 to 11 cars; satellite facility; trash enclosure; 23 x 95 loading area striped; 89 parking spaces 77 required; employee spaces; front setback; maintain same driveway; will put in a concrete apron; holding parking aisle across the front; full by pass for drive through; bollards against the building; sidewalk across 35 frontage; sidewalk in front of building; cross walk between two buildings; zoning for daycare is inherently beneficial; Dunkin Donuts conditional use meet all conditions; two trash enclosures; no new bulk variances; 75 foot residential buffer; lot of wetlands behind them; improving parking setback in rear, child's play area is closer to the setback; deliveries; trash; Dunkin Donuts does not bake on the site; open 5 a.m. to 10 p.m.; deliveries will be before they open in a box truck.

Mr. Davis asked if this Dunkin Donuts will replace the other. Mr. Palus replied no. Mr. Deus stated that is the best location in the world. Mr. Davis stated that he just wanted to clarify that.

Mr. Perry asked about the number of trips this is going to generate and will the ingress and egress be maintained. Mr. Palus stated the traffic guy will testify.

Mr. Settembrino asked if the residential buffer is less and the property to the rear referenced as green space is it uplands or wetlands. Mr. Palus replied that it is wetlands. Mr. Settembrino stated that deliveries are always in small box trucks and after hours what are you going to state for the resolution. Mr. Palus stated that Dunkin Donuts will abide by the resolution. Mr. Settembrino stated 5 a.m. a small box truck and a number of times he has seen it comes out and takes up 27 spaces. Mr. Palus stated it will be in the resolution. Mr. Palus stated that Mavis has a designated area. Mr. Settembrino stated you understand. Mr. Brodsky stated it will be a condition in the resolution.

Mr. Palus reviewed the hours of operation for the Mavis Tire 8-6, Monday, Tuesday, Wednesday and Friday; 8-8:30 on Thursday ; 8-5 on Saturday and 9-5 on Sunday; 6 employees; tires, oil and batteries picked up daily.

Mr. Settembrino asked how you safely separate 2 varied uses. Mr. Palus stated one of our witnesses will testify. Mr. Settembrino stated I am asking you as an engineer about the proximity of the buildings two buildings on the site operating at the same time how you will handle the vehicular traffic. Mr. Brodsky stated that the traffic engineer will testify. Mr. Settembrino stated the question is to the layout that will dictate the movements how does the site promote safety if 25 people want coffee and the daycare. Mr. Palus stated that it functions and reviewed.

Mr. Rathjen asked if there is a do not enter sign. Mr. Palus replied yes, there is. Mr. Settembrino asked if it is a one way circulation. Mr. Rathjen stated but not in the front.

Ms. Chavan asked what is stored in the building. Mr. Palus stated tires, batteries and oil the trash is stored outside.

Mr. Perry asked about the number of parking spots on the left of the daycare. Mr. Palus stated there are 20 spaces. Mr. Perry stated you are over by 12 spaces. Mr. Palus replied correct. Mr. Perry stated that part of his concern if you were to eliminate the 12 parking spaces. Mr. Palus stated the employees turn over once a day it is not creating a traffic conflict.

Mr. Rathjen asked if there is a drop off area. Mrs. Palus stated we have someone to testify.

Mrs. Siwec stated the fence for the children it looks like there is a wall right behind the parking space. Mr. Settembrino stated that she is looking at the critical area map. Mr. Palus reviewed the parking spaces; bollards; sidewalk and fence. Mr. Settembrino stated that his colleagues comment is on the critical area map. Mr. Deus stated it is also on the landscape map. Mr. Palus stated that she is looking at an underground pipe. Mrs. Siwec replied thanks.



Mr. Keady asked if the bollards are in the curb. Mr. Palus replied no. Mr. Keady asked the distance from the backside of the curb to the fence. Mr. Palus replied it is a four foot sidewalk the fence and an internal walkway. Mr. Keady stated the fence ties in to the front of the building where does it tie in to the east side. Mr. Palus reviewed.

Ms. Chavan asked if Mr. Palus asked if he was going to go over the letters. Mr. Palus stated when they come back.

Mr. Hibell asked if they can redesign the parking lot it is very difficult to get to the Learning Experience and getting to Dunkin Donuts. Mr. Palus stated that they have feedback from the Fire Official as long as the building has sprinklers. Mr. Hibell stated a 50 foot truck and cars stacked it is an issue. Mr. Palus stated that he has to have a follow up with Mr. Drucker. Mr. Hibell asked if there is any way to make it flow better. Mr. Palus stated that he thinks it flows fine and reviewed.

Mrs. Siwec asked where the additional 12 spaces went and how were they distributed. Mr. Palus reviewed. Mrs. Siwec continued to discuss eliminating the additional 12 spaces. Mr. Brodsky stated we have extra spaces but it is an already developed area. Mr. Palus stated we have someone from the daycare.

Mrs. Siwec stated go through the whole site to drop off the kids. Mr. Palus reviewed. Mr. Rathjen asked if there will be signage to direct people.

Mr. Deus asked where is this do not enter sign. Mr. Palus stated to prevent people going into the drive through. Mr. Deus stated but I can park in front of the Dunkin Donuts. Mr. Palus replied yes.

Mr. Deus and Mr. Rathjen discussed the parking in the rear.

Mr. Palus reviewed the drainage; critical areas; two retaining walls; variance for retaining wall height; variance for fence location; landscaping; and lighting. Mr. Settembrino asked if all the lights are building mounted. Mr. Palus replied a mixture of poles and building mounted. Mr. Rathjen asked if there will be irrigation for the plants. Mr. Palus stated he would check. Mr. Rathjen stated the board likes to see that.

Mr. Brodsky told Mr. Palus to put his planner's hat on and address the mix of uses there is a common theme here that will thrive despite the internet uses. Mr. Palus stated that you are seeing that big box is struggling this is a daycare; people are going to get their tires changed and grab coffee a little more internet friendly and stable.

Ms. Chavan asked about the hours of operation. Mr. Palus stated we have to revise the plans and he would rather go through the letters next time.

Mr. Brodsky stated that we have someone who can come up for the daycare.

Matthew Jarmel, architect for the daycare center; child care expert, was sworn in and provided testimony in support of this application for the board.

Mr. Jarmel entered Exhibit A-3; prototypical rendering of a Learning Experience; 6 weeks of age to 6 years; licensed by Children and Families; DEP has to sign off; 6:30-6:30 Monday through Friday; drop off and pick up; parents drop off at convenience at different times; 3 hour period; procedure the parents park carry the children in 20-25% have siblings which reduces the traffic flow; 10% per day are sick; 5-6 minutes to drop off; ½ day; ¾ day; and full day; some leave at noon; exit is sporadic; operate 200 centers; 25,000 children a day; reviewed the architectural elevations; transitional commercial/residential look; reviewed the submitted architectural plan SA-2.1 with licensing chart; ratio of teachers to children; building has to be built and receive a certificate of occupancy prior to receiving a license; 167 children; 21 staff; electronic lock; sign in; playground in rear; fence for safety; security cameras; indoor playground; size of playground mandated by the state 40 children at one time separated by age groups; one side is turf the other side is rubber; both impervious surfaces ; picnic area with awnings; safe building per building code standards; sprinkler system throughout; two means of egress; coordinate fire drills with the local first responders. Mr. Hibell asked where the children would go. Mr. Jarmel stated that hasn't been determined yet. Mr. Hibell asked where the children muster. Mr. Jarmel stated we work with the local departments.

Mr. Rathjen asked if food is served. Mr. Jarmel stated there is no cooking once we reach 75 children then food is brought in we have commercial refrigerators and freezers and deliveries are around noon when the children aren't being picked up.

Mrs. Siwec asked about the traffic flow and Ms. Chavan stated that she has comments in her review letter. Mr. Brodsky stated that Mr. Jarmel will be back.


The application was carried to the September 13, 2017 meeting.

Motion was made to adjourn the meeting. Motion was seconded and approved with an all in favor vote.

The meeting was adjourned at 10:23 P.M.

#### ADJOURNMENT

Prepared by:

  
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Debra Yuro, Secretary