

**BOROUGH OF MAGNOLIA
PLANNING BOARD MINUTES
SEPTEMBER 6, 2007**

The meeting was called to order by Chairman Lawrence Barrar at 7:10 PM. The public statement was read by the Chairman, followed by the flag salute.

ROLL CALL - CH-Chairman, VC-Vice Chairman, C-Council, MD-Mayors Designee, A-Alternate

Lawrence Barrar	CH	Present	Richard Krause	MD	Absent
Joyce Albrecht		Absent	Arthur Loder		Present
Robert Brown		Present	John Wolf, Jr.		Present
Nick D'Amico	C	Absent	John Lattany	A1	Absent
John DiBartolomeo	VC	Present	Joseph Conway	A2	Absent
Jim Hannold		Present	VACANT	A3&A4	

ALSO

David Kreck	Engineer	Present	Michael Ward	Solicitor	Present
Chris Mecca	Zoning Off.	Absent	Denise O'Kane	Secretary	Present
Stephen Bach	Redev. Engineer	Present	Craig Reilly	Shropshire Assoc.	Present

FINAL MAJOR SUBDIVISION & FINAL SITE PLAN

Center 48 Limited Partnership, Magnolia Holdings L.P. and National Retail Associates L.P. Applicant was represented by Attorney William O'Hagan and Michele Clark of Stout & O'Hagan and seeking approval for a Final Major Subdivision and Final Site Plan application, being the Preliminary approval was granted at a prior meeting. Mr. O'Hagan presented the following for testimony: Adam Benosky of Bohler Engineering; Brian Zappala of Bohler Engineering; John Orrico of National Realty and Development Corp and Kenneth Mackiewicz of TRC Raymond Keyes. Mr. O'Hagan reviewed the Exhibit List for the record to include Exhibits "A-40" through "A-59". Mr. Benosky presented Exhibit "A-45" titled "Overall Site Plan". He discussed the layout of the shopping center showing the current updates as of August 9, 2007. The board inquired about the retention water basin behind Pizza Hut. Mr. Kreck stated; the soil boring was not deep enough and would have to be addressed again. Mr. Zappala presented Exhibit "A-46" titled "Magnolia Site Exhibit".

Mr. Kreck reviewed his letter dated September 1, 2007 with the applicant starting with:
Preliminary/Final Subdivision Plat

- #1-Confirm new Lot numbers from the Tax Assessor
- #23-Egg Harbor Road has been vacated and King St. will be Hammerhead for turning availability
- #24-Dedication of Right-of-Way to be forwarded to the Borough Engineer and any legal description required will be prepared by the applicant
- #27-Has been resolved; as deeds are prepared they should be forwarded to Mr. Ward for review
- #28-Provisions have been accounted for and now is up to the property owners to comply. A copy of the "ECR" to be forwarded to the Board Secretary and Mr. Ward
- #29-Confirming the Final Plat should be submitted to the Borough Engineer

Zoning Related Comments

#7 & #8-No sign proposed and No Use Variance Proposed at this time

Redevelopment

- Imp #1-Make sure DOT Plans to date are reflected accurately under the Site Plan
- Imp #2- #5-Trash enclosure details to be provided, #12-OK with 85% to be indicated on plans

Site Layout & Grading

- D-OK with curb radii
- I-Agrees with spot elevations
- J1-Signed, Sealed Plans & Structural Calculations go to the Borough Engineer and the Construction Dept.

Site Layout & Grading

K-Storm water design will work

Q-Has been dropped

John Orrico stated; not required to widen under the Preliminary approval, only to Hammerhead King St.

Imp #2 Comments: B1, C3, J, L, N & O- All OK with

Imp #4 Comments: E-Done

Drainage and Stormwater Management

Applicant agrees to comply

Utilities

Inter-local agreement is in the works

E-Will be addressed

F-New Jersey American Water needs an easement

Demolition

All environmental issues are located in Somerdale and will be addressed accordingly

Miscellaneous

#10-Vehicle Circulation Plans, trucks will use the service road behind Pizza Hut and Wal-Mart. The trucks for the Garden Center, will use the access road and signage will be provided by the applicant

Outside Agency Approvals

Applicant has obtained DEP approval, wetland approvals, Camden County Soil Conservation approval. Bureau of safe drinking water permit is at the DEP, so approval should come in soon. The Camden County MUA, along with the treatment works are in the process.

The Camden County Planning Board application has been approved with some issues to be addressed.

Mr. Kreck ended his review of his letter dated September 1, 2007.

The board asked if the drainage problem on the White Horse Pike will be improved? Mr. Zappala referred to Exhibit "A-46" stating the new design should reduce some of the problems.

Mr. Mackiewicz discussed the application status to the DOT and referred to Exhibit "A-56". This is a two part application; First part is a concept application which has been approved; Second part is the detail plans, the design drawings are in and the applicant is waiting for a response deeming the application complete. That may take some time, the DOT works at a much slower pace, but we see no reason why the DOT will not approve the application.

Mr. Kreck stated; I just received today, the DOT Roadway Improvement Plans for review.

Mr. Mackiewicz stated; the Borough Traffic Engineer and Mr. Kreck will be notified of the date for the DOT meeting.

Mr. Kreck requested the status of the Traffic Analysis Report. Answer: at this time there is no timeline or detail discussion, the review process is still underway with DOT, but they will take comments from the County and the Borough regarding improvements recommended by the applicant. Under the NJ Highway Access Code the applicant is required to remit escrow monies to DOT, which can be held for up to ten (10) years for improvements toward the intersection. The board was concerned if it could take ten years to complete, how can we give Final Approval? Mr. Ward stated; the ten year limit is for the escrow monies only.

Mr. O'Hagan stated; this is just one of the towns involved with this project; it is located in a Redevelopment Area and this project has a provision for low to moderate income housing. These matters should require DOT to review this in the very near future.

Mr. Mackiewicz stated; we can not build the Municipal roadway without the DOT permit, acknowledging that we have met our obligation at White Horse Pike and Evesham Avenue. Once DOT approves the application, then permits are issued; the Developer Agreement with the DOT is signed, showing construction details and escrow needed and then the application is deemed complete. Mr. Ward asked

where is Exhibit "A-56" should this be on the list? Craig Reilly of Shropshire Associates, has not received any application or correspondence. Mr. Ward stated; the Traffic Impact is and has been a great concern for this borough and Mr. Kreck, only this morning, received a copy for review and the applicant must submit copies to Mr. Feranda of Shropshire Associates. Mr. Ward questioned; should the Traffic Impact Exhibits "A-53" through "A-56" be on the list tonight, if we do not have it and it is not part of the record?

Mr. Mackiewicz presented the updated Exhibits "A-53" and "A-54" for the board and the concept plan that was presented, DOT had no problem with the location of the Municipal road intersection. Mr. O'Hagan stated; we will submit Exhibit "A-53" through "A-56" tonight, with the current revisions for the record, to the Board Secretary. The board was concerned again, about granting Final Approval without the Board Engineer reviewing the items submitted tonight. Mr. Ward stated; if the traffic study has been revised, Mr. Kreck will need time to review and the Traffic Engineer has not seen revisions.

Mr. Bach asked; what changed between the presentation from the Preliminary approval, regarding the Right-of-Way with DOT and configurations of the location of the light, is that all the same? Mr. Mackiewicz stated; nothing has changed in this report, the DOT report has more details. Mr. Bach requested the applicant to come back before the board if any changes are made from the DOT approval, as a condition under the Final approval. Mr. O'Hagan read the resolution from the Preliminary approval stating; the applicant is to come back to the board for any changes and the applicant will comply. Mr. Bach clarified that any changes to the Right-of-Way be part of the Final approval and the applicant would have to come back before the board. The applicant agreed.

Mr. Ward asked about Exhibits "A-48" through "A-51", Ms. Clark stated; the borough should have them, but they will submit again tonight along with Exhibit "A-52" and Mr. Kreck and Bach Engineers have already received copies of all outside agency approvals.

Mr. Ward requested as a condition of Final approval, that Mr. Reilly our Traffic Engineer sign off or review a letter regarding the plans for DOT for any changes from the Preliminary approval.

Mr. Bach stated; all of the outstanding issues presented in the August 20, 2007 letter from Leah Furey of BACH Assoc. have been addressed.

The board inquired about the fire hydrant location behind Pizza Hut, being enclosed behind a 4' fence. Mr. Zappala stated; they will move the fire hydrant to the other side of the fence for emergency access.

Being no further discussion, motions were made to open the meeting to the public.

OPEN PUBLIC

William Anderson, 125 E. Jefferson Avenue; was concerned about the traffic plans for the neighborhood.

Answer: The applicant is required under the Preliminary approval to perform a local road study of the traffic, three months after the opening and the study will be submitted to the borough for review.

Mayor BettyAnn Cowling-Carson, 438 W. Evesham Avenue; stated approximately 14 years ago, Mr. Hannold prepared a road study on conditions regarding the intersection at White Horse Pike and Evesham Avenue and we met with the state numerous times and they promised the world. Six years ago they came back to us again and promised us the world and we are still waiting. I just wanted the board to know DOT is very slow, it is all about money and things may not happen overnight.

Deanna Ballinger, 236 E. Washington Avenue; at the light where the Grease & Go and the Auto Place are located, will a "No U turn" sign be on the White Horse? Answer: Yes. Question: will you be able to turn left on to Evesham Avenue going north bound on the White Horse Pike? Answer: Yes, the proposal is equal and opposite, separate left turn lanes on the White Horse Pike.

Question: where will that land come from? Answer: we would need 10 or 11 feet, which could be split or created on one side at the intersection only and some taking for a Right-of-Way would need to take place.

Mr. Anderson, Question: what will stop the traffic on Evesham Avenue going toward the White Horse Pike from turning right before the light and driving through the town to get to the Pike again? Answer: The intersection will be improved and limit the need for traffic to cut through the town and if the borough is not satisfied, the applicant will be requested to look at it again. Mr. Anderson, could this board postpone Final approval until the Developer agreement is ready for review?

Being no further discussion, a motion was made to close the meeting to the public.

Mr. O'Hagan addressed the suggestion, regarding the postponement of the Final approval and the applicant will not agree to do so. He requested the board to act upon the application, according to Land Use Law, which is within your jurisdiction and not wait for outside agency approvals.

The board asked Mr. Ward, do we have the right to ask for a postponement? Answer: Mr. O'Hagan position is; if they submitted an application for Final approval and it is deemed complete, they are entitled to a decision from the board within 45 days under the municipal land use law. He is correct in stating; that the board does not have the ability to delay the vote on his application, without his consent simply because an outside agency with jurisdiction has to act in any shape or form.

Chairman Barrar stated for the public; the board depends heavily on our Professionals for advice, that is why we have an Engineer and a Solicitor and other Professionals to understand the plans. They have done so and have come back with their reports; they have contacted the applicant and their professionals. On a Final approval; once all of the preliminary details are worked out and agreed upon by the applicant and the Preliminary approval has been made, then those details are acted upon by the applicant and when the applicant requests to come back for a Final; as long as the Final is legal under our ordinance and the state municipal land use law, we can not postpone it or turn it down, we have to approve it.

Mr. Ward stated for the public; there is an issue with respect to whether or not the information that was provided to this board and its Professionals was timely provided. This board has the ability to make it a condition of Final approval, if so granted tonight and the applicant agrees to it, to give our Professionals sufficient time to address the specific submissions, where there are issues concerning whether or not they are consistent with the Preliminary approval. The Chairman has explained what our duty is tonight; it is to take a look at what was done under Preliminary and see if those conditions have been satisfied. If they are satisfied and the board is satisfied with the submissions tonight, then we are duty bound to vote for Final approval. We are not rubber stamping anything tonight; there are real issues that have been raised here tonight that need to be addressed. This board has the ability to condition both the Preliminary and Final approval on the location of the traffic intersection and the location of all other attributes to the roadway improvement on the White Horse Pike. Mr. Bach identified earlier, condition our approvals on those being consistent and being approved by DOT, because they intimately and intricately affect the approval we gave under Preliminary. We agreed to do specific things for the portion that is in the Magnolia borough, because we knew that the intersection would be there and as a result, our portion of the project was going to be affected. That is what we believed and voted conditionally under Preliminary and was the proper vote, as a matter of law and a matter of fact. We can still do that tonight, but what we can't do is delay the applicant's legal entitlement to a vote on Final, simply because other outside superior agencies with jurisdiction, that we don't have, haven't acted. We can't indefinitely delay a vote, until those agencies say they have been approved.

Mr. Kreck asked Mr. Mackiewicz, with the possibility that the DOT doesn't improve Evesham Avenue, concurrent with the construction of the Lions Head Plaza; has any traffic study been done in the interim, what would be the effect if the Evesham intersection is not improved? Answer: Yes, it is part of the DOT report and the traffic will increase delay approximately between 5-8%

A motion was made to grant Final approval conditioned upon:

- The applicants compliance with the agreements of the Engineering concerns of Mr. Kreck and the Planning concerns of Mr. Bach
- Mr. Reilly, our Traffic Engineer is to review and sign off his approval of the plans for DOT, for any changes from the Preliminary approval
- The Right-of-Way on the White Horse Pike will not change as presented on the plans
- If the applicant does not obtain DOT approval for the Traffic Plan that was proposed during the Preliminary process and if anything changes from the approved plans presented tonight, the applicant must come back before the board with a revised plan for review and approval.

The motion was seconded and approved by roll call vote. AIF-Motion approved.

ADJOURNMENT

The Chairman requested a motion to adjourn the meeting. A motion was made to adjourn the meeting at 9:50 pm. AIF-Motion approved.

*DEP - Department of Environmental Protection Agency

*DOT - Department of Transportation

*ECR - Easements with Covenants and Restrictions Affecting Land

Respectfully Submitted by: Denise O'Kane, Planning Board Secretary



Unofficial Copy

Official copies should be requested through the Borough Clerks Office by completing an Open Public Record Act Request Form. Contact us at (856)783-1520 for additional information.