

**TOWNSHIP OF WEST ORANGE
PLANNING BOARD
MINUTES
September 5, 2012**

The Township of West Orange Planning Board held a regular meeting on September 5, 2012 at 8:00 P.M., in Council Chambers, 66 Main Street.

Chairman Bagoff called the meeting to order at approximately 8:04 P.M. It was announced that notification of this meeting was given to the Township Clerk, the West Orange Chronicle and posted on the Township Bulletin Board on January 4, 2012 in accordance with the requirements of the "Open Public Meetings Act".

Chairman Bagoff requested all persons in attendance stand for the Pledge of Allegiance.

PRESENT: Chairman Bagoff, Joanne Carlucci, Jerome Eben, Tekeste Ghebremicael*, Gerald Gurland, Vice Chairman Ben Heller, Lee Klein, Councilwoman Susan McCartney, Ron Weston

ABSENT: Jason Lester, William Wilkes II

*Mr. Ghebremicael left meeting at approximately 9:19 P.M.

ALSO PRESENT: Eric Keller, P.E., P.P., Omland Engineering Associates, Inc.
Debbie Dillon Audio Transcription Service, LLC
Patrick Dwyer, Esq., Board Attorney
Robin Miller, Board Secretary

ROLL CALL

Chairman Bagoff, Joanne Carlucci, Jerome Eben, Tekeste Ghebremicael, Gerald Gurland, Vice Chairman Ben Heller, Lee Klein, Jason Lester, Councilwoman Susan McCartney, Ron Weston, William Wilkes.

ADOPT MINUTES

DISCUSSION

The Board voted on adopting the minutes of the August 1, 2012 meeting as follows:

Motion: Chairman Bagoff

Second: Vice-Chairman Heller

Carlucci	Y	Eben	N	Ghebremicael	-
Gurland	N	Heller	Y	Klein	Y
Lester	-	McCartney	Y	Weston	Y
Wilkes	-	Bagoff	Y		

ANNOUNCEMENTS

A special Planning Board meeting will be held on **September 6, 2012** in Council Chambers, at 7:00 P.M.

The next regular Planning Board meeting will be held on **October 10, 2012** in Council Chambers, at 8:00 P.M.

SWEARING IN

Eric L. Keller, PE, PP, Omland Engineering, was introduced as a professional planner and professional engineer hired by the Township.

RESOLUTION(S)

PB-12-17T/HEHA LLC d/b/a Sefarat Kebab
Block: 152.22; Lot: 1420.01; Zone: B-1
458-460 Pleasant Valley Way
Technical Site Plan to lease retail space for a restaurant.

DISCUSSION

Chairman Bagoff announced the Application; Samuel Rosenberg, Esq., attorney for Applicant appeared before the Board.

Chairman Bagoff gave a brief description of the Application for a forty-eight (48) seat Turkish restaurant that had been approved with conditions at the August 16, 2012 Technical Review Subcommittee meeting.

There was brief discussion regarding the interior site plans, the number of seats and employees, and the condition of the rear exterior property. The Board expressed concern that occupancy of up to fifty-four (54) persons might create a hazardous condition. The Board and Applicant agreed to revise the resolution to reflect that there would be a total of forty-three (43) patron seats, and no more than six (6) employees for a total occupancy of forty-nine (49) persons at any one time.

Chairman Bagoff called for a vote on the Resolution.

The Board voted on the Resolution as follows:

Motion: Chairman Bagoff

Second: Mr. Ghebremicael

Carlucci	Y	Eben	N	Ghebremicael	Y
Gurland	Y	Heller	Y	Klein	Y
Lester	-	McCartney	Y	Weston	Y
Wilkes	-	Bagoff	Y		

PB-12-20T/Moskovitz Family LP t/a Pleasantdale Plaza/Regal Bank
Block: 152.22; Lots: 1420, 1420.03; Zone: B-1
641-649 Eagle Rock Avenue/440 Pleasant Valley Way
Technical Site Plan for a change of tenancy with renovations to existing space without variances.

DISCUSSION

Chairman Bagoff announced the Application; Robert C. Williams, Esq., attorney for Applicant appeared before the Board.

Mr. Williams gave a brief description of the Application that had been approved with conditions at the August 16, 2012 Technical Review Subcommittee meeting. Mr. Williams introduced Richard Adelsohn, P.E., the Applicant's engineer. Mr. Adelsohn was sworn in and accepted to be an expert witness.

The Board and Mr. Adelsohn discussed the proposed interior renovations for a Regal Bank at the site of the former Sweet Basil's Restaurant.

Chairman Bagoff called for a vote on the Resolution.

The Board voted on the Resolution as follows:

Motion: Chairman Bagoff

Second: Ms. Carlucci

Carlucci	Y	Eben	Y	Ghebremicael	Y
Gurland	Y	Heller	Y	Klein	Y
Lester	-	McCartney	Y	Weston	Y
Wilkes	-	Bagoff	Y		

APPLICATION(S)

PB-12-09/Prism Green Urban Renewal Associates IV, LLC

Block: 66; Lots: 1, 5 & 7; Zone: E-MU

175-177 Main Street

Amended Preliminary and Final Major Site Plan.

Carried from the August 1, 2012 meeting.

EXHIBITS:

A-1 – Disc, Power Point Presentation entitled “West Orange Redevelopment Project Phase I”

A-2 - Material Board

A-3 – Color Rendering (two panels)

A-4 – Color Rendering of Main and Charles Street façade

A-5 – Site Plan – Drawing 20.01

A-6 – Traffic Impact Study dated July 10, 2007

A-7 – Parking Structure Design Guidelines

DISCUSSION

Francis X. Regan, Esq., DeCotiis, FitzPatrick & Cole, LLP, attorney for the Applicant appeared before the Board. Mr. Regan said the testimony for the Application was a continuance from the July and August meetings.

Mr. Regan re-introduced the Applicant's traffic expert, William G. Lothian, P.E., Langan Engineering & Environmental Services. Mr. Lothian was advised he was still under oath.

Mr. Regan said Mr. Lothian would provide additional testimony regarding issues the Board did not deem sufficiently addressed at the August 1, 2012 Planning Board meeting; specifically the adequacy of the project's proposed garage.

Mr. Lothian advised the Board that the level of service for the proposed parking garage had a User Comfort Factor (UCF) rating of excellent to acceptable. The width of the proposed stalls was nine (9) feet, the length eighteen (18) feet. He opined there was very good level of service for the parking garage.

Mr. Lothian discussed the Residential Site Improvements Standards (RSIS) regarding access to the site via the parking lot; the access would be through the parking garage entrance on Charles Street, there would also be access to the site's parking garage via the pedestrian entrance on Main Street.

There was further discussion between Mr. Lothian and the Board regarding the traffic study. Mr. Lothian testified that there would be approximately 141 exiting vehicles in the A.M. and approximately 161 entering vehicles in the P.M. The garage was not expected to empty or fill at any one time. The garage was designed with single lane ingress/egress; the width of the opening was twenty-five (25) feet, a median divider, and isles with widths of nine (9) or (10) feet.

The Board and Mr. Lothian discussed how vehicles would exit the garage in the case of an emergency, and access to the site for emergency vehicles. Mr. Lothian advised the Board that large emergency vehicles would not access the garage; a sprinkler system would be utilized. The garage elevator would be large enough to accommodate a hospital stretcher. The Board advised there should be signage identifying stretcher accessibility.

The Board asked Mr. Lothian for details regarding accident data for Charles Street and Main Street, and Lakeside Avenue and Main Street. Mr. Lothian advised the Board that Municipal Engineer Lepore performed an accident analysis for 2009, 2010 and 2011; based on Director Lepore's information, a traffic signal was not warranted.

The Board asked Mr. Lothian for further details regarding parking garage usage, the number of spaces for retail customers and for residents; the hours the garage be accessible to retail customers and how the garage would be accessible to residents.

Mr. Lothian advised the garage had a total of 642 spaces; 134 spaces on the first level (retail level), of which 90 spaces would be specifically designated for retail customers. Mr. Regan asked Mr. Lothian to further detail the garage separation usage. Mr. Lothian said the residential entry/exit starts on the second level of the garage.

Eugene R. Diaz, Principal, Prism Capital Partners, LLC, appeared before the Board to provide additional testimony regarding the parking garage. Mr. Diaz was advised he was still under oath.

Mr. Diaz told the Board the Applicant was obligated to provide 90 retail parking spaces; the first floor deck was in excess of that number; there were 134 spaces total. Mr. Diaz advised that if a problem arose with the retail spaces, the management company would put a plan in place to address the issue. Mr. Diaz stated the parking plan would be in compliance.

The Board inquired as to the type of security system to be implemented in the garage. Mr. Diaz said the security measures would be discussed with the West Orange Police Department; decisions would be made as the garage was put to use; it would be an ongoing process.

Patrick J. Dwyer, Esq., Board Attorney, confirmed with Mr. Diaz that the number of retail parking spaces would be marked. Mr. Diaz said the current plan would be for 90 marked retail spaces, but would comply with all future zoning requirements.

Harvey Grossman, Esq., Public Advocate, asked Mr. Lothian if the Applicant had considered any discussion regarding public transportation drop-off demand (jitney service). Mr. Lothian said that there was no plan in place for an off-site or on-site jitney. Mr. Lothian advised an on-site jitney service would not be an efficient use of service; he further stated that since a jitney study had not been prepared, he could not answer questions regarding service. Mr. Grossman said that a jitney service had been presented to the Planning Board as part of the 2007 Application; however, the current testimony presented stated that if a jitney was needed in the future it would be considered at a later date. Chairman Bagoff advised Mr. Grossman that the Board would take in to advisement the question of a jitney service.

Eric L. Keller, PE, PP, Omland Engineering, stated that he recognized the uncertainty of a jitney service, but wondered if a pedestrian crossing study had been done. Mr. Lothian said that there were currently pedestrian crossings but a pedestrian crossing study had not performed. Mr. Keller queried if an increase in pedestrian crossing would create a need for traffic signals.

There was further discussion between the Board and Applicant on the subject of whether there was a current need for a jitney service. Mr. Diaz ascertained that a jitney service might be a future consideration; he reminded the Board that the 2007 Traffic Report and the most recent addendums were for the entire Redevelopment Project, not just for this current Application.

Chairman Bagoff asked the members of the public if they had questions for Mr. Lothian or Mr. Diaz regarding the heard testimony.

Councilman Joe Krakoviak, 20 Grandview Avenue.

Mark Meyerowitz, 19 Howell Drive.

Chairman Bagoff announced a brief recess at approximately 9:19 P.M.; he re-convened the meeting at approximately 9:33 P.M.

Chairman Bagoff noted that Mr. Ghebremicael departed the meeting at 9:19 P.M.

Chairman Bagoff asked if other members of the public had questions for Mr. Lothian or Mr. Diaz regarding the heard testimony.

Rosary Morelli, 22 Ralph Road.

Robert Raskin, 35 Oakcrest Road.

Mr. Regan introduced P. David Zimmerman, a New Jersey licensed Professional Planner, to testify on behalf of the Applicant. Mr. Zimmerman was accepted by the Board to be an expert witness.

Mr. Regan asked Mr. Zimmerman to address the Board regarding the Township Planner's (Director Borg) Report dated May 24, 2012. Mr. Zimmerman read Director Borg's comments regarding the amended plan triggering a request for a deviation; the 280 units in the Battery Building exceeded the 255 unit limit in the Downtown Redevelopment Plan. It was Mr. Zimmerman's opinion that the deviation is minor; the plan promoted the principals of mixed-use and the changes represented benefits and would advance the principals of the Downtown Plan.

The Board requested Mr. Zimmerman explain the plan's ratio of parking. Mr. Zimmerman referenced Director Borg's report; the unit type mix and number of proposed bedrooms determined the parking demand. While the number of residential units had increased from the previous plan, the formula for calculating the parking requirements indicated fewer parking spaces were needed in the new plan. Under RSIS, the proposed unit type, mix and bedroom count calculated forty-four (44) less required spaces compared to the previous configuration.

The Board asked Mr. Zimmerman to comment on the plan's appeal to mass transportation. Mr. Zimmerman said the appeal would be in public buses and trains.

There were no questions from the Public Advocate or Public for Mr. Zimmerman.

Chairman Bagoff asked for comments on the Application from the Public Advocate.

Mr. Grossman said he was concerned about traffic congestion on the Main Street corridor and the lack of a jitney service. He said the project should make provisions for mass transportation and suggested the Board request the Township engage a traffic engineer to conduct a study for traffic in the area; he also requested a jitney service for the area.

There were no questions for Mr. Zimmerman from the Public Advocate or the Public. Testimony concluded.

Chairman Bagoff asked for comments on the Application from the Public.

Rosary Morelli, 22 Ralph Road.

Councilman Joe Krakoviak, 20 Grandview Avenue.

Chairman Bagoff thanked the Public Advocate and the Public for their questions and comments.

The Board deliberated on the Application.

Conditions:

1. The Applicant shall comply with all applicable Township, County, State and Federal laws, ordinances, regulations and directives.
2. If another governmental entity or agency grants a waiver or variance affecting the plans and/or exhibits submitted by the Applicant, the Applicant shall re-apply to the Board.
3. If other required regulatory approval conflicts with the terms and conditions, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.
4. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the

public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this Resolution.

5. The Applicant shall pay all outstanding taxes, application fees, technical review fees, inspection fees and performance guarantees that may be required hereunder and/or by applicable law. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of notification or this approval may be withdrawn.
6. Applicant shall obtain approval from the West Orange Historical Preservation Commission and/or such other similar bodies which shall have jurisdiction over the project.
7. Applicant shall comply with all recommendations made by the Board's Planner and Engineer.
8. Applicant shall submit a parking anagement plan which will include parking, circulation, gate access, marking of the 90 retail spaces and other aspects of the operation of the parking garage subject to the review and approval of the Board Engineer. Applicant shall create additional spaces in the southeast corner of the lowest level of the parking garage and shall move handicapped parking spaces closer to the walkway access to Main Street; and should provide a divided entry to the garage.
9. Applicant to address the comments of the West Orange Fire Sub-Code official in his letter dated May 8, 2012.
10. Upon issuance of Certificates of Occupancy for 168 of the units in Phase I Applicant shall provide an updated traffic study to the Board and the Township Engineer. If the Township Engineer then determines that (i) traffic conditions are unfavorable, (ii) traffic conditions would be improved by the institution of a jitney service serving the project to a nearby public train station, and (iii) jitney service is warranted based upon demand in the area of the project, then the Applicant shall either (i) pay monies annually to the Township for the purpose of having the Township jitney service stop near the project to serve the project and its surrounding area, said monies to be in an amount similar to the amounts paid by others for such service, or (ii) provide its own private jitney service. The Township Engineer may at any time thereafter request an updated traffic study from Applicant for the purpose of evaluating whether there exists a continued need for jitney service. For the purposes hereof "jitney service" shall mean transportation by bus and/or van to the public train station in either Orange, South Orange or Montclair of the type and frequency similar to that provided by the Township of West Orange at this time. Included within any traffic study conducted by the Applicant shall be an evaluation and recommendation whether Charles Street should be converted to a one-way street.
11. Applicant to submit revised plans to include all changes made during the hearing and approval process.
12. Applicant to submit an engineer's estimate in accordance with the Infrastructure Construction Agreement with the Township.

13. Applicant to submit an operations and maintenance manual for the stormwater management plan with annual reports filed annually by April 1 with the Township Engineer.
14. Applicant to till and test soil in the courtyard at least 24" deep. Applicant to perform percolation tests in planting pits in the courtyard area.
15. Applicant to submit a lighting plan showing adequate lighting at all exterior doorways and uplighting of the evergreens adjacent to the parking garage, all subject to the review and approval of the Township Engineer.
16. Applicant shall reconcile any conflicts for sanitary manholes and landscaping.
17. Applicant to reconcile all conflicts between its utility plan and landscaping plan subject to the review and approval of the Board Engineer.
18. Applicant to comply with all other agreements with the Township, including but not limited to, agreements pertaining to the affordable housing obligations for this project.

The Board voted on the Application as follows:

Motion: Chairman Bagoff

Second: Mr. Eben

Carlucci	Y	Eben	Y	Ghebremicael	-
Gurland	Y	Heller	Y	Klein	Y
Lester	-	McCartney	Y	Weston	Y
Wilkes	-	Bagoff	Y		

MEETING ADJOURNED at approximately 11:26 P.M.

Minutes adopted October 10, 2012

Robin Miller, Planning Board Secretary

**** A SPECIAL MEETING OF THE PLANNING BOARD WILL BE OCTOBER 24, 2012 AT 7:30 P.M. IN COUNCIL CHAMBERS ****

****THE NEXT REGULAR MEETING OF THE PLANNING BOARD WILL BE NOVEMBER 7, 2012 AT 8:00 P.M. IN COUNCIL CHAMBERS ****