

May 27, 2010 Planning Board

**PLANNING BOARD MINUTES - BOROUGH OF BERNARDSVILLE**

**May 27, 2010**

**7:30 PM - Public Meeting, In Meeting Hall (may begin as pre-meeting review in conference room.)**

1. Statement of Adequate Notice by Presiding Officer; Roll Call.  
Board Members present: Chairman Lawrence, Vice Chairman Graham, Mr. Knudsen, Ms. Totten, Ms. Rochat, Mr. Simoff, Ms. Paluck, Ms. Foster and Ms. Thompson  
  
Board Professionals present: Board Attorney Mr. Hoffman, Board Engineer Mr. Brightly and Administrative Officer and Asst. Engineer, Mr. Mondok  
  
Board Professional absent: Board Planner Mr. Zimmerman
2. Approval of Minutes - March 4, 2010; March 25, 2010.  
Due to late distribution, Minutes were carried to June public meeting
3. Communications not Related to Agenda.: No communications.
4. Business of Visitors not Related to Agenda.: No business of visitors
5. Pending Applications/Public Hearings:

- A. Site Plan Appl. #SP-198, Hampshire Co./30 Olcott Square; Block 66, lot 17: Consider corrective form of Resolution (as memorialized Dec. 14, 2006) regarding ownership.

Mr. Hoffman reported that he received an email from the applicant's attorney that he is accepting of the corrective Resolution. Mr. Lawrence questioned Condition #4D. Mr. Hoffman noted that this NJDOT permit will still have to be satisfied.

Motion to accept draft supplemental corrective form of Resolution: Mr. Knudsen

Second: Ms. Paluck

Roll Call:

Aye: Mr. Graham, Mr. Knudsen, Ms. Totten, Ms. Rochat, Mr. Simoff, Ms Paluck, Ms. Foster, Ms. Thompson and Mr. Lawrence

- B. Review, clarify and/or modify Certificate of Incorporation regarding use of Open Space, Washington Corner Assoc., LLC, "The Preserve", Washington Corner & Hardscrabble Rds.; Block 7, lot 4; Major "Open Space Residential Development" subdivision Appl. #M-88.

Michael Ostermann, Esq. appeared on behalf of the applicant, Washington Corner Associates. Mr. Ostermann began with a brief recap and summary of the application. An agreement with neighbors has been ratified as was expressed in a letter submitted in February and since then a separate agreement with the Passaic River Coalition has been entered into by the neighbors.

The application is now seeking to amend the approvals for The Preserve, to change the purpose of the Open Space Lot in accordance with the municipal ordinance. This Open Space was first to be used for passive recreation, one of the permitted purposes in the ordinance. Now the Applicant is looking to change the use of the Open Space lot from passive recreations to conservation of

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environmentally sensitive feature, which is another permitted use. To accomplish that change, Mr. Ostermann asks that two notes on the final recorded subdivision plat and to revise the Open Space Lot Deed accordingly. If approved Washington Corner Associates intends to convey the Open Space lot to the Passaic River Coalition.

The Passaic River Coalition has been in discussion with neighbors about restricting public access to the Open Space lot, pursuant to the a private agreement.

As a condition of the requesting amending approval, the applicant will agree to a further restriction that within the Open Space Lot the installation of any structures or hiking/walking trails will be prohibited in perpetuity and appropriate Deed Restriction will be recorded. Any restrictions will apply to the residents as well as the public. Note, no of the lots have been sold.

Mr. Brian Fahey who represents some of the neighbors was invited to speak. Mr. Fahey said that he is appearing as legal counsel, from the firm Fahey and Fahey, Bedminster, New Jersey. Mr Fahey represents neighboring property owners, more specifically Christian and Kristine Crammer. Mr. Fahey represented that his clients have no opposition and offer support of this use of the Open Space. Mr. Fahey on behalf of his clients thanked the Board for their time and consideration in this matter.

Mr. Knudsen questioned Mr. Ostermann about what rights if any will the public will have? Mr. Ostermann answered that the residents and the public would have limited access rights. Mr. Ostermann noted the restrictions regarding use, structures, trails, etc. Mr. Ostermann further noted that Passaic River Coalition could impose additional restrictions for conservation.

Discussion ensued regarding legalities of the Passaic River Coalition possible restrictions. Mr. Ostermann referred to his February 11, 2010 letter regarding conservation and noted that all restrictions run with the land. Also to remove a conservation easement, it takes the approval of the State of New Jersey, Department of Environmental Protection.

Questions from the public to Mr. Ostermann.

Sally Rubin, Great Swamp Watershed inquired if there are real estate tax assessments on this property if it will not be opened to the public. Mr. Ostermann responded that because it will restrict public access, real property taxes will be imposed

Sherry Frawley. 70 Carriage House Road questioned if this agreement will be accessible for review. Mr. Ostermann stated that the agreement between Passaic River Coalition and neighbors would be recorded.

No further questions from the public.

Next witnessed Mr. Ostermann introduced were Dr. Ella Flippone, Executive Director of the Passaic River Coalition, 330 Speedwell Avenue, Morristown, New Jersey

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Dr Flippone acknowledged that the Passaic River Coalition does have an agreement with the neighbors. It is the desire of the neighbors to keep locale in natural state and compliment PRC obligations. The area has extensive wetlands and PRC staff will access the area to address removal of evasive plants and inventory and protect endangered species with qualified consultants.

In addition Dr. Flippone that the Deed will be with the acceptance of the neighbors and therefore will be a public record. Neighbors who are members of the Friends of the India Grove Bird Sanctuary will participate in the decision process. No lots have yet been sold, but future property owners will know of this agreement.

Regarding future maintenance, Dr. Flippone noted that the PRC currently maintains 1,100 acres. This will be their 40<sup>th</sup> acquisition. Funds and maintenance managers are in place to address this very concern.

Ms. Thompson question if fencing will be located on the site. Dr. Flippone said it is not their intention to post fencing materials, rather appropriate signage.

The time is 8:45PM. There were no further questions for the witness,.

Motion to approve specific amendment: Ms. Paluck

Second: Ms. Rochat

Roll Call:

Aye: Mr. Graham, Ms. Totten, Ms. Rochat, Mr. Simoff, Ms. Paluck, Ms. Foster, Ms. Thompson and Mr. Lawrence

Nay: Mr. Knudsen

- C. Bernardsville Centre, 80 Morristown Road; Block 64, Lots 1.01 & 23; Site Plan Application #SP-213 for proposed building addition & related site improvements (continued from 3/4/10; 3/25/10).

Ms. Rubnight acknowledged revised plans and stated that Mr. Tom Quinn from EKA Engineering will address these changes. However, prior to testimony Ms. Rubright did acknowledge Mr. Hoffman's May 27, 2010 letter regarding the various variances that would be required.

Mr. Quinn testimony highlights the following site plan changes:

The gross square footage has been reduced and the second story eliminated.

Reduction of 19 parking stalls, however the 4.8 stall ratio will remain the same.

Elimination of two free standing lighting fixture in the rear of the building, rather fixtures will be attached to the building to illuminate this area.

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Slight change to landscaping plan, mostly in response to plants on berm.

Upon conclusion of his testimony, there were Board or Public questions for Mr. Quinn.

Next witness called was Mr. Kaufman, AIA, who had previously been sworn in. Mr. Kaufman addresses the plan changes as a result of the elimination of the second floor. Sheet A-200 – Elevation was presented, showing a more harmonious front facade. Glass will no longer be facing the East. The former tower was been reconfigured. It is no longer round, rather square and protrudes only one foot.

Next, Sheet A-201 was presented. The east side will now be all brick with a 4-5' section with glass one the corner. This greatly reduced illumination.

It was agreed that if mechanicals are to be installed on the roof in the rear of the building a screener will block the mechanicals.

The Board had no questions. Public questions:

Mr. Mark Cozin, 41 Old Colony questioned elevation of parking area and water collection. Mr. Quinn noted that parking lot water will be collected via a scupper and drain underground to basin.

Next witness, Robert Ferrante, Landscape Architect who has been previously sworn in addressed the revised plans per Sheet S6, revised may 14, 2010.

Highlights to Mr. Ferrante's testimony included:

Removal of lesser number of trees than previous plan.

Reduction of plants on the berm.

Infill will remain Meadow with wild flowers. The flowers will be cut each fall.

Screening to neighboring properties will be Norway Spruce and select small flowering shrubs.

Overall landscape ration has a fractional increase.

Regarding Signage:

Sheet 7 was presented noting project and directional signs and location of said signs.

Exhibit A34 – Sign Rendering – Bernardsville Center with will be in the same location as the existing sign and LCD strips will illuminate main entrance and exit signs. Ms. Foster suggested that signs not be parallel, rather perpendicular with Route 202.

No questions from Board or public were raised for Mr. Ferrante.

General discussion and questions.

Mr. Simoff questioned the new truck turning template with the changes to the rear wall and compared it with the former template. In conclusion it was agreed to recalculate the template to factor WB62 trucks.

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Discussion regarding changing the separate entrances for deliveries was answered by Mr. Mr. Quinn that he was only to design with the existing parameter and not change the driveways.

Exhibit A35: Updated list of merchants hours of operations and deliveries, as of January 27, 2010.

Mr. Quinn then addressed site lighting. Sheet 5 of 12 revised May 14, 2010 was presented. In summary, six flood mounted light fixtures will be removed and replaced with six new poles. Each pole will be 25' with 214 wattage. Four new poles have been added to the plan along with five wall mounted lights which will be mounted at 15'. The current dusk to dawn lighting schedule will remain the same. Mr. Simoff questioned if schedule perhaps could be changes to reduce some fixtures after 11:30 PM. This reduction is esthetically more pleasing and energy efficient.

Exhibits A22 and A23 were presented showing 25' lighting fixtures.

Mr. Simoff questions if the continuation of downtown sidewalk project could front the mall. Ms. Rubright requested that she would first need to know how the sidewalk improvement was funded or was it a special assessment. Perhaps this frontage could be considered in second phase a municipal improvement.

Mr. Mark Cozin, 41 Old Colony questioned what is the height of the existing lights in the rear of the building? Mr. Quinn stated the height is between 16-18'. Mr. Cozin noted that illumination from these lights is visible at his property and would appreciate any reduction in illumination. Mr. Brightly answered that new wall mounted fixtures will have a lesser throw of light. The illumination will be downward.

Question regarding snow removal was posed. Currently snow mounds are located on the vacant land, but with future addition where will the mounds be stored? After brief discussion it was agreed that the applicant will examine this subject and bring plan back to the Board for their consideration.

Exhibit A 36 – Section View Drawing was presented.

Time is 10:59. This hearing will continue June 24 without further notice.

6. Report of the Subdivision & Site Plan Review Committee - Draft Report attached.  
Motion to accept reports: Ms. Thompson  
Second: Ms. Paluck  
Voice Vote: All members present voted in the affirmative.
7. Report of the Evaluation Committee- Draft Report attached.  
Motion to accept the report: Ms. Thompson  
Second: Ms. Paluck  
Voice Vote: All members present voted in the affirmative.
8. Old Business. None

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9. New Business:  
Payment of Vouchers:  
Motion to approve the Bills: Mr. Knudsen  
Second: Ms. Thompson  
Roll Call: Aye: Mr. Graham, Mr. Knudsen, Ms. Totten, Ms. Rochat, Mr. Simoff, Ms. Paluck, Ms. Foster, Ms. Thompson and Mr. Lawrence  
Nay : None
10. Business of Visitors, Second Opportunity: No business
11. Adjourn to Executive Session, if necessary, to discuss pending litigation or personnel matters.  
*No Executive Session*
12. Reconvene; perform any relevant action as needed.
13. Adjournment of public meeting.  
Time is 11:01 PM  
Motion to adjourn: Ms. Paluck  
Second: Ms. Thompson  
Voice Vote: All members present voted in the affirmative.

Respectfully submitted,

Teresa Lyons, Recording Secretary

Minutes approved: \_\_\_\_\_

Keywords:minutes-planning-board-SP-198-hampshire-30-olcott-square-washington-corner-associates-the-preserve-bernardsville-centre-80-morristown-road-sp-213

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CC: Barry Hoffman, Esq.- agenda only by fax, full package mailed.  
Robert Brightly, PE.- agenda only by fax, full package mailed.  
P. David Zimmerman, PP. - agenda only by fax, full package mailed.  
Michael Osterman, Esq.- agenda only by fax, 647-7721  
Susan Rubright, Esq, agenda only, by fax 973-618-5557  
Historic Committee, agenda only, by fax.  
Anthony Suriano, agenda only, by e-mail  
Theresa Lyons  
Henry Ney, PE. - agenda only by fax, for information, attendance not necessary.  
James Cosgrove, PE. - agenda only by fax, for information, attendance not necessary.

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**Distributed with the May 27, 2010 Agenda:**

1. Draft minutes of March 4, 2010 (if not attached - will be emailed.)
2. Draft minutes of March 25, 2010 (if not attached - will be emailed.)
3. April 21, 2010 letter from Barry Hoffman, Esq.- Hampshire Co. / 30 Olcott Square LLC
4. Draft resolution - Hampshire Co. / 30 Olcott Square LLC (if not attached - will be emailed.)
5. Feb.11, 2010 letter from Michael Osterman, Esq.- Cert. of Incorp./use of open space - The Preserve
6. Oct. 19, 2009 letter from Michael Osterman, Esq.- Cert. of Incorp./use of open space - The Preserve
7. Page 4 of 12/4/08 resolution M-88F granting final approval (referred to in above letter) - The Preserve
8. Paragraph 5 "Ownership and Maintenance of Conservation Open Space or Common Open Space" of paragraph (a) "Open Space Residential Development", of 12-25.2 "Conditional Uses Permitted"
9. May 14, 2010 letter from Thomas Quinn, PE, of EKA Assoc. - B'ville Centre.
10. May 19, 2010 letter from Howard D. Cohen, Esq./GSWA - B'ville Centre.
11. May 19, 2010 email from Susan R. Rubright, Esq. regarding above letter - B'ville Centre.
12. Draft report of the Subdivision & Site Plan Review Committee.
13. Draft report of the Evaluation Committee.
14. Draft Ordinance #10-1545, \$15,000, Recreation Capital Improvement Fund for storage shed.
15. Draft Ordinance #10-1546, \$37,000, Sewer Utility Capital Improvement Fund for Plant Assessment.
16. Flyer regarding 6/5/10 document shredding.
17. Notice of Adoption of Bernards Township Master Plan update.
18. The New Jersey Planner, April 2010.

**The following items were previously distributed and are **not** attached - Please advise if you need copies:**

1. Feb. 24, 2010 report by Robert Brightly, PE. - B'ville Centre.
2. Zoning report revised March 2, 2010 - B'ville Centre.
3. Feb. 9, 2010 report by P. David Zimmerman, PP. - B'ville Centre.
4. Feb.16, 2010 report by Henry Ney, PE. - B'ville Centre.
5. Feb.11, 2010 (rec'd 2/16/10) letter from Thomas J. Quinn, PE. - B'ville Centre.
6. Jan. 29, 2010 memo/report from Lou Matlack, Shade Tree Comm - - B'ville Centre.
7. Revised Comments from Environmental Comm., dated 2/23/10 - B'ville Centre.
8. Feb. 24, 2010 letter from Susan Rubright, Esq. - B'ville Centre
9. March 3, 2010 email/report of the Fire Prevention Bureau - B'ville Centre.
10. March 3, 2010 letter from Howard Cohen, Esq. With 3/3/10 report of Princeton Hydro- B'ville Centre
11. Fax of 3/17/10, Barry Hoffman, Esq. to Carl Kempf, Esq. with copy of Mr. Kempf's fax- B'ville Centre
12. Traffic Impact Study by Maser Consulting dated Feb. 23, 2010 - B'ville Centre
13. March 5, 2010 letter from John Jahr (Maser) to Henry Ney, PE - B'ville Centre
14. March 23, 2010 letter/report from Henry Ney, PE. - B'ville Centre.
15. Excerpt, 3/26/09 resolution, appl. #SP-205, ShopRite, 9' wide spaces w/hairpin striping - B'ville Centre.
16. Excerpt [conditions 8(j) & 8(k)], 9/12/02 resolution, appl. #SP-187, ShopRite, hours - B'ville Centre
17. Excerpt, 1/25/07 resolution, appl.#SP-203, Starbucks (findings - hours & deliveries) - B'ville Centre
18. April 2, 2010 letter from Susan Rubright, Esq., alleged deficiencies - B'ville Centre
19. April 2, 2010 letter from Susan Rubright, Esq., Escrow, Planning & Traffic Consultants - B'ville Centre
20. April 5, 2010 letter from P. David Zimmerman, PP., response to above - B'ville Centre
21. April 6, 2010 letter from Susan Rubright, Esq., response to above response - B'ville Centre
22. April 7, 2010 letter from James Cosgrove, PE - B'ville Centre.



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23. April 20, 2010 letter from Carleton Kempf, Esq. - B'ville Centre.