

**FEBRUARY 4, 2009, MINUTES**

A regular meeting of Planning Board of the Township of Roxbury was held on February 4, 2009, at 7:30 p.m. in the Municipal Building at 1715 Rt. 46, Ledgewood, N.J. with Chairman Scott Meyer presiding. After a Salute to the Flag the Chairman read the "Open Public Meetings Act".

**BOARD MEMBERS PRESENT:** Michael Shadiack, Larry Sweeney, Linda Lutz, Andre Verge, James Rilee and Chairman Scott Meyer

**ABSENT:** Richard Zoschak, Joseph Schwab and Steven Alford

**LATE:** Robert DeFillippo (7:38 p.m.) and Charles Bautz (7:42 p.m.)

**PROFESSIONAL STAFF PRESENT:** Tom Germinario, Esq., Russell Stern, P.P., Paul Ferriero, P.E.

Also present, Eugenia Wiss, Board Secretary.

**MINUTES: none**

**RESOLUTIONS:**

**PBA-08-016 Kikia Prudent Publishing Co. Block 9501, Lot 2, 400 Frontage Road**

**ROXBURY TOWNSHIP PLANNING BOARD  
RESOLUTION**

**Decided: January 21, 2009**

**Memorialized: February 4, 2009**

**IN THE MATTER OF KIKIA ASSOCIATES, LLC/PRUDENT PUBLISHING  
PHASE I FINAL SITE PLAN APPROVAL  
BLOCK 9502, LOT 2  
APPLICATION NO. PBA-08-019**

**WHEREAS**, Kikia Associates, LLC/Prudent Publishing (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for final site plan approval on 10/29/08; and

**WHEREAS**, the application was deemed complete by the Board, and a public hearing was held on 1/21/09; and

**WHEREAS**, it has been determined that the Applicant has complied with all procedural requirements, rules and regulations of the Board, and that all required provisions of procedural compliance have been filed with the Board; and

**WHEREAS**, the Board makes the following findings and conclusions based upon the documents, testimony and other evidence comprising the hearing record:

1. The property which is the subject of the application consists of 34.09 acres located in the LI/OR Light Industrial/Office Research District. By Resolution memorialized 5/9/01, Applicant was

granted preliminary major site plan approval with variances and design waivers to construct a 42,354 sq. ft. building addition in two phases. On December 5, 2007 the Planning Board granted approval to revise the phasing plan. Phase I would consist of 22,340 square feet of warehouse, Phase II 15,742 square feet of warehouse, and Phase III 4,277 square feet of office space. The Applicant is now before the Board seeking Phase I final site plan approval.

2. The development of the subject property to which the Board's decision herein pertains is depicted and described in the following drawings and/or plans:

Prepared by Killam Associates

- Sheet 4B, Phase I As-Built Plan,  
revised 9/19/08

Prepared by The Bilow Group

- Sheet A-101, Ground Floor Plan,  
revised 9/10/07

3. The Board's planning and engineering professionals and/or consultants submitted the following reports concerning their respective reviews of the application, which are part of the hearing record:

Russell Stern, PP, dated 1/16/09  
Paul Ferriero, PE, dated 1/17/09

4. Township Officials submitted the following reports concerning the application, which are part of the hearing record:

Michael Pellek, Fire Official, dated 1/20/09  
Ptl. Gregg Prendergast, Traffic Safety Bureau, dated 1/17/09

5. In the course of the public hearing, the Applicant was represented by Carl Kempf, Esq., and the Applicant presented the testimony of the following witnesses, which testimony is part of the hearing record:

Jaoquin Fernandes, PE, Applicant's engineer  
Bernard D'Avella, Applicant's President

6. The Board finds that the Applicant has constructed the project substantially in accordance with the approved preliminary site plans, subject to the completion of those items set forth in the conditions herein below.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board does hereby approve the final site plan as depicted and described in the drawings and/or plans referenced hereinabove.

This approval is subject to the following conditions which shall, unless otherwise stated, be satisfied prior to the issuance of a permanent certificate of occupancy:

1. The following items shall be completed prior to the issuance of a temporary certificate of occupancy:

(a) The as-built plan shall be signed by a licensed surveyor, or the survey on which the map is based shall be submitted for the Board's records.

2. The temporary certificate of occupancy issued pursuant to Condition 1 hereof shall expire 4/15/09, at which time a permanent certificate of occupancy may be issued, provided that all items

of Condition 3 hereof have been completed to the satisfaction of the Township Planner and the Board Engineer.

3. The following items shall be completed prior to issuance of a permanent certificate of occupancy:

- (a) "No Parking" striping shall be installed to the rear of the building in the vicinity of the generator and the easternmost truck-loading stall per the approved preliminary site plan.
- (b) A "No Parking" area shall be striped in front of the new sidewalk that leads to the break/patio area. A "No Parking" sign with a concrete footing shall be installed in this area.
- (c) All parking spaces to the north and south shall be striped.
- (d) The easterly embankment adjoining the easternmost parking stall bay shall be stabilized as required by the Township Engineering Department.
- (e) Bricks and other materials temporarily stored in the vicinity of the trash enclosure shall be moved to the area behind the northeast corner of the Phase I building addition, and that area shall be surrounded by 15' x 20', 6' high chain link fence. Storage shall not exceed a height of two pallets. (This is temporary storage which shall be removed upon completion of Phases II and III.)
- (f) A stop sign shall be installed at the intersection of the south building front drive with the west building front drive.

4. The following conditions from the Preliminary Site Plan Resolution are reiterated:

- (a) Condition 23 – No part of the building or the addition thereto shall be subleased.
- (b) Condition 24 – In the event that the Applicant does not enter into a contract with a duly licensed recycler who will recycle the plant's waste off-site, the Applicant shall locate containers for recyclables within the building.

5. The existing emergency driveway and gate shall be kept clear at all times and snow shall be removed when conducting plow operations. This is a continuing condition of final site plan approval.

6. Payment of off-site and off-tract contributions per Condition 30 of the preliminary site plan approval shall be verified, if applicable, prior to issuance of a permanent certificate of occupancy.

7. Applicant shall pay a mandatory development fee of 2.5% of the increase in equalized assessed value, per N.J.S.A. 40:55D-8.4A, prior to the issuance of a permanent certificate of occupancy. The Land Use Administrator shall verify full payment.

8. This approval is subject to all other approvals required by any governmental agency having jurisdiction over the subject property.

9. This approval is subject to the payment in full by the Applicant of all taxes, fees, escrows, assessments and other amounts due and owing to the Township and/or any agency thereof.

10. If the Soil Conservation District, Morris County Planning Board, or any other governmental body from which approval is necessary causes, through their examination of the plans as recited in this resolution, any revisions to said plans then, in that event, same shall be submitted to the

Planning Board Engineer. If the Planning Board Engineer deems said revisions to be significant, the Applicant shall return to the Planning Board for further review and approval.

The undersigned does hereby certify that the foregoing is a true copy of the Resolution of the Roxbury Township Planning Board memorializing the action taken by the Board at its meeting of 1/21/09.

A motion to approve the Resolution was made by Mr. Rilee, seconded by Mr. Sweeney. Roll Call: Mr. Shadiack, yes; Mr. Sweeney, yes; Mrs. Lutz, yes; Mr. Verge, abs.; Mr. Rilee, yes; Mr. Meyer, abs.

**PBA-08-016 Baiano Holdings, LLC. Block 6901, Lot 4, 64 North Dell Avenue**

**ROXBURY TOWNSHIP PLANNING BOARD  
RESOLUTION OF MEMORIALIZATION**

**Decided: January 21, 2009  
Memorialized: February 4, 2009**

**IN THE MATTER OF BAIANO HOLDINGS, LLC  
PRELIMINARY SITE PLAN APPROVAL  
BLOCK 6901, LOT 4  
APPLICATION NO. PBA-08-016**

**WHEREAS**, Baiano Holdings, LLC (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for preliminary site plan approval on 2/26/08; and

**WHEREAS**, the application was deemed complete by the Board, and public hearings were held on 10/15/08 and 1/21/09; and

**WHEREAS**, it has been determined that the Applicant has complied with all procedural requirements, rules and regulations of the Board, and that all required provisions of procedural compliance have been filed with the Board; and

**WHEREAS**, the Board makes the following findings and conclusions based upon the documents, testimony and other evidence comprising the hearing record:

1. The property which is the subject of the application consists of 1.581 acres (68,853 square feet) located in the I-3 Industrial District. The northerly portion of the site, fronting on North Dell Avenue, is developed with an approximate 1,500 square feet one-story industrial building and parking that was approved in 1991. In 1995 the Planning Board granted minor subdivision approval to add approximately 1.36 acres (59,2416 square feet) of a former vacant and graveled railroad right-of-way to the developed parcel. Condition 3 of the 1995 Resolution specifically stated "*No activity of any kind to take place on Lot 3 (now Lot 4) unless and until site plan approval has been obtained.*" The Applicant's former railroad right-of-way has never received site plan approval, although outdoor storage activity has occurred on this parcel. In 1995 the site had 76.16% impervious coverage (including gravel area), which has now increased to 83.3% (55% permitted).

2. The development of the subject property proposed by the Applicant comprises preliminary major site plan approval to utilize the former railroad right-of-way for outdoor storage of empty dumpsters, trucks and equipment. Twelve employee parking spaces, trash enclosure and a truck turnaround area are also proposed. Access to this area will be from a 24 feet wide driveway from North Dell Avenue.

3. The proposed development of the subject property to which the Board's decision herein pertains is depicted and described in the following drawings and/or plans:

Prepared by Careaga Engineering Inc.

- Sheet 1, Cover Sheet, revised 7/2/08, 11/17/08
- Sheet 2, Existing Conditions, revised 7/2/08, 11/7/08
- Sheet 3, Site Plan – Grading, revised 7/2/08, 11/17/08
- Sheet 4, Landscape Plan and Details, revised 7/2/08, 11/17/08
- Sheet 5, Soil Erosion & Sediment Control Plan, revised 7/2/08, 11/17/08

4. In support of the application, the Applicant submitted the following documents, which are part of the hearing record:

- Abbreviated Environmental Impact Statement, dated 7/19/08
- Letter of Jeffrey Careaga, PE, dated 11/20/08
- Preliminary Site Plan Application, dated 2/26/08

5. The Board's planning and engineering professionals and/or consultants submitted the following reports concerning their respective reviews of the application, which are part of the hearing record:

Russell Stern, PP, AICP, CLA, dated 10/10/08 and 12/15/08

Paul Ferriero, PE, PP, CME, LEED, dated 10/10/08 and 12/11/08

6. Township officials and/or agencies submitted the following reports concerning their reviews of the application, which are part of the hearing record:

Roxbury Township Environmental Commission, dated 10/15/08

Health Dept., Abigail Montgomery, Sr. REHS, dated 10/7/08

7. In the course of the public hearings, no exhibits were marked as part of the hearing record.

8. In the course of the public hearings, the Applicant was represented by Robert Gaccione, and the Applicant presented the testimony of the following witnesses, which testimony is part of the hearing record:

Stephano Montella, Manager of tenant,  
Montella Landscaping

Jeffrey Careaga, PE, Applicant's engineer

9. The development of the subject property as proposed by the Applicant involves continuation of pre-existing non-conformities with respect to the following:

- Minimum lot area: 3 acres required vs. 1.58 acres existing
- Minimum lot width: 300 feet required vs. 50.2 feet and 234.88 feet
- Minimum lot frontage: 300 feet required vs. 50.2 feet and 234.88 feet
- Maximum lot coverage: existing 83.3% exceeds 50% permitted
- Minimum side yard: 5.7 feet vs. 50 feet required

10. The development of the subject property as proposed by the Applicant requires relief from the following land use provisions of the Township ordinances:

(a) A variance is necessary from Section 13-7.816A, as the Applicant proposes outdoor storage within the I-3 District front, side and rear yard setbacks, which use is prohibited.

(b) A variance is necessary from Section 13-7.816B, as the Applicant has not provided a 25 feet setback of outdoor storage from rear and side property lines.

(c) Variances are necessary from Sections 13-7.3002D9 and 13-816E, as impervious coverage shall not exceed 55% while 57.14% is proposed.

(d) A variance is necessary from Section 13-7.816F, as outdoor storage will be visible from adjoining properties and streets until the evergreen trees have grown.

(e) A variance from Section 13-7.3002D10c is required with respect to setbacks of the existing gravel driveway on the southerly side of the existing building from the building and property line.

(f) A variance is necessary from Section 13-13-8.904B, as a 30 feet side yard setback is required from the southerly property line while a 9 feet setback for the monument sign is proposed.

(g) A design waiver is necessary from Section 13-8.602A, as a 40 feet wide pavement width (20 feet half-width) is required while 15 feet half-width exists on the southerly portion of the tract.

(h) A design waiver is required from Section 13-8.610C, as extended sidewalk will be closer than 5.5 feet from the road right-of-way.

(i) A design waiver is necessary from Section 13-8.700 C, as the Ordinance requires paved parking areas while the Applicant proposes 12 employee parking spaces on gravel.

(j) A design waiver is necessary from Section 13-8.700D, as the 12 employee parking spaces and driveway should be curbed with Belgian block, while the Applicant proposes concrete tire stops. Additionally, two end islands separating the employee parking and truck storage should be curbed and the islands provided with a 9 feet width.

(k) A design waiver is necessary from Section 13-8.707G, as an exposed concrete light foundation shall not exceed 2 feet above grade while the Applicant proposes concrete light foundations 3 feet above grade.

(l) A design waiver is required from Section 13-8.804A, as an existing street tree on the northerly end is proposed for removal.

(m) Design waivers from Sections 13-8.612K and 13-8.700D are required with respect to lack of paving and curbing for the existing gravel driveway on the southerly side of the existing building.

11. Based on the hearing record, the Board has made the following findings relative to the variances and design waivers sought by the Applicant:

(a) The outdoor storage variance is justified pursuant to N.J.S.A. 40:55D-70c(1), by reason of the exceptional narrowness, shallowness and shape of the subject property, which causes the front, side and rear yard setbacks to overlap one another, thereby leaving no conforming area for outdoor storage. The Board finds that the visual effect of this non-conforming outdoor storage will be mitigated by the surrounding fence and landscaping, as required by the approved plans and the conditions of this approval.

(b) The setback variance associated with the outdoor storage is justified pursuant to N.J.S.A. 40:55D-70c(1), by reason of the exceptional narrowness, shallowness and shape of the subject property, because adherence to the required 25 feet setback would eliminate the area required to maneuver vehicles within the storage area, thereby rendering it useless. The Board finds that relocation of the entrance gate and additional landscaping in accordance with the conditions of this approval will mitigate the visual effect of this non-conformity.

(c) The impervious coverage variance is justified pursuant to N.J.S.A. 40:55D-70c(1) and 70c(2), in view of the fact that the existing impervious coverage of 83.3% will be reduced to 57.14% by the proposed development of the property. The Board finds that the Applicant has reduced impervious coverage from 74% originally proposed, and that further reduction of impervious coverage would present exceptional practical difficulties in view of the area and configuration of the subject property.

(d) The variance for visibility of outdoor storage from neighboring properties is justified pursuant to N.J.S.A. 40:55D-70c(1), by reason of the exceptional narrowness, shallowness and shape of the subject property, which limits the buffer area available for landscaping and other screening. The Board finds that screening will improve over time as the evergreen trees required under this approval grow and mature, and with the upgrade and repair of the existing slatted chain link fence.

(e) The variance with respect to the setbacks of the existing gravel driveway is justified pursuant to N.J.S.A. 40:55D-70c(1), because the narrowness of the subject property in the area of the existing building leaves insufficient space to comply with the required setbacks.

(f) The variance with respect to the southerly sideyard setback of the monument sign is justified pursuant to N.J.S.A. 40:55D-70c(1), because the shallowness of the subject property in this area leaves insufficient space to comply with the required 30 foot setback. The effect of this variance has been mitigated by reduction in the size of the sign and increase in the setback from what was originally proposed.

(g) The design waiver for pavement width is justified because the existing pavement width of the section of Dell Avenue along the subject property's frontage equals or exceeds that of the adjoining sections to the north and south.

(h) The design waiver with respect to sidewalk distance from the road right-of-way is justified because the property configuration leaves insufficient space to provide the 5.5 ft. setback.

(i) The design waiver with respect to gravel employee parking spaces is justified by the associated benefit of limiting impervious coverage on the site.

(j) The design waiver associated with lack of curbing and end islands for the employee parking is justified by the associated benefit of promoting sheet flow of stormwater runoff, as recommended by the Board Engineer.

(k) The design waiver for exposed light foundations 3 ft. above grade is justified to protect the light fixtures from truck traffic in the storage area.

(l) The design waiver for removal of one street tree is justified by the exceptional property configuration and the additional landscaping provided by this approval.

(m) The design waiver for lack of paving and curbing associated with the existing gravel driveway is justified because such structures would impede existing sheet flow of stormwater runoff from the driveway.

In general, the Board further finds that the aforesaid variance and design waiver relief is warranted in view of the substantial upgrade and improvement to the subject property, as compared to

existing conditions, which will be realized by the proposed development. As a result of the proposed development, the site will be significantly improved in terms of both environmental and aesthetic factors.

The Board further finds that this relief can be granted without substantial detriment to the public good and that the granting of this relief will not substantially impair the intent and purpose of the zone plan and/or the zoning ordinance.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board does hereby approve the preliminary site plan approval as depicted and described in the drawings and/or plans referenced hereinabove. In connection with this approval, the Board grants relief from land use provisions of the Township ordinances in accordance with Section 11 above:

This approval is subject to the following conditions which shall, unless otherwise stated, be satisfied prior to the Board's signature of the preliminary site plan drawings:

1. Chain link fence to remain or to be removed shall be noted accordingly. Slatted fence shall also be noted where it exists and where it is proposed.

2. Existing and proposed curb within the property and along Dell Avenue shall be clearly identified on the drawings.

3. Any missing/damaged curb or sidewalk along the Applicant's road frontage shall be replaced. Location of Dell Ave. curb, sidewalk and street trees shall be verified.

4. The handicap parking space shall be provided with signage as required by ADA. Sign details shall be provided.

5. Faded parking spaces (including handicap space) shall be re-stripped.

6. The light detail on sheet 4 shall dimension a 3 feet high exposed concrete light foundation (6" shown). Total mounting height shall remain at 15 feet. The lighting fixture schedule shall be revised accordingly. Reference to a 20 degree tilt shall be eliminated, as it is not permitted by Ordinance.

7. Additional board on board fence trash enclosure gate details with dimensions are needed and shall include fence type, gate type, framing, lumber sizes, type of materials, gate latch, gate canes, hinges, bollards, post footing, etc. Overall dimensions depicted on Sheet 3 and the detail shall be corrected.

8. The following restrictions are continuing conditions of this preliminary site plan approval:

(a) Outdoor maintenance and repair is prohibited. All maintenance operations and repairs shall occur within the building.

(b) The dispensing of fuel or the filling of fuel cans and tanks is prohibited.

(c) Outdoor storage is only permitted in areas designated on the preliminary site plan as approved by the Planning Board. Outdoor storage in the turnaround area and driveway are prohibited.

(d) Retail activity is prohibited.

(e) Vehicle and equipment sales are prohibited.

(f) The property can only be occupied by one owner/tenant at a time.

(g) Nursery and/or plant material storage is prohibited.

(h) Food waste is prohibited within the open dumpsters.

(i) Outdoor storage shall only be allowed in conjunction with the principal use associated with principal building.

(j) Outdoor storage shall not exceed 6 feet in height.

- (k) The storage of road salt is prohibited.
- (l) No logs shall be brought to the site. Wood cutting and mulching operations are prohibited.
- (m) The storage of office/construction trailers and offices are prohibited.
- (n) Emergency spill kits shall at all times be kept in the garage and in the storage yard on site.

9. The following restrictions, as was testified by the Applicant at the October 15, 2008 and January 21, 2009 Planning Board hearing are continuing conditions of this preliminary site plan approval:

- (a) The site will provide storage for a landscaping/lawn maintenance, residential snow removal and dumpster rental operation.
- (b) Items to be stored outdoors are restricted to the Applicant trucks, landscape trailers, landscape equipment and dumpsters.
- (c) On-site dumpsters will always be empty.
- (d) No mulch, stone, salt, sand, or yard waste will be stored or brought to the site.
- (e) No storage of fuel or fueling activities on site.
- (f) No hazardous materials will be stored on-site.
- (g) No on-site washing of trucks.
- (h) Dumpsters stored on the site shall be used only for non-hazardous, non-putrescible bulk material, none of which shall remain in the dumpsters when they are on the site.
- (i) No more than 30 dumpsters will be on site at any time.

10. Existing street trees and landscaping shall be located and identified on the site plan/landscape plan. The information shown at a scale of 1" = 40' shall be enlarged so as to be readable.

11. The missing street tree on the southerly portion of the road frontage shall be provided.

12. 'SPB' shall not be planted in front of the monument sign, as it will obstruct visibility of the sign. An alternate landscape plan for the sign shall be provided.

13. Evergreen trees shown on sheet 3 shall be specified with a 6 to 7 feet height and identified as Norway Spruce.

14. A shade tree, such as Pin Oak, shall replace the proposed MSM (Magnolia), as shade trees are required within end islands.

15. Further detail/variety shall be added to the entry plantings (similar to original submission).

16. The Township Planner shall be contacted for additional landscape comments prior to revisions.

17. A revised landscape plan will be submitted and subject to the review and approval of the Township Planner.

18. Sheet 3 – Site Plan – Grading:

- (a) The driveway intersection details shall show the depressed curb and accessible sidewalk ramps where the sidewalk meets the curb.
- (b) Stop bars and stop signs shall be added at all driveway exits.

19. Sheet 4 – Landscape Plans and Details – A detail for the retaining wall shall be added to the plan.

20. Sheet 5 – Soil Erosion and Sediment Control Plan – A note shall be added that this plan will need to be certified by the Morris County Soil Conservation District.

21. The sign area of the proposed monument sign shall be reduced to 32 sq. ft. and its dimensions, setback and directional orientation shall be modified to the satisfaction of the Township Planner. Depth of the sign base shall be decreased to no greater than 18". A new sign detail, drawn to scale, including materials and colors and a detail for the uplighting, shall be submitted and approved by the Township Planner.

22. Dumpster storage stalls on the west side of the lot shall be 8 ft. wide and angled like truck stalls.

23. Applicant shall prepare an emergency spill response plan which shall be approved by the Board Engineer.

24. Revised plans shall provide for wheel stops in the gravel parking area to indicate the location of the 12 employee parking spaces. A shade tree shall be provided at either end of the wheel stops.

25. The entrance gate and associated fence shall be shifted westward approximately 12 ft., and additional landscaping shall be added to the grassed area between the gate and Dell Ave. as required by the Township Planner, in order to prevent encroachment of outdoor storage into the buffer area.

26. Height of evergreen trees screening the outdoor storage shall be increased to 6' to 7'. The site plan shall note that missing slats for the chain link fence around the storage area shall be replaced with matching slats.

27. Existing and proposed curbing and sidewalk shall be depicted on the plan along the entire Dell Ave. road frontage.

28. Use of the outdoor storage yard is prohibited until all improvements are installed and final site plan approval is granted.

29. As a condition precedent of this approval, Applicant shall obtain all required approvals, waivers, and/or exemptions with respect to the NJ Highlands Water Protection and Planning Act, the Highlands Regional Master Plan, and the COAH Scarce Resources Restraint applicable to Highlands municipalities, and shall submit to the Board evidence of such approvals, waivers and/or exemptions, which evidence must be deemed satisfactory by the Board Attorney, the Board Engineer and the Township Planner.

30. The following construction mitigation measures are hereby made applicable to this project:

- A. Elimination of anti-vandalism horns on equipment.
- B. Work hours shall be limited from 7:00 a.m. to 5:00 p.m. Monday through Saturday. No work shall take place on Sundays or holidays except on an emergency basis. The holidays which shall be observed for purposes of this condition shall be New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas. The Applicant shall maintain personnel on site to whom incidents of noise disturbance shall be reported and said personnel shall be authorized to take measures to minimize said disturbances. As used in this section, "work" shall include both interior and exterior construction.
- C. Anti-litter regulations shall be imposed on site.

- D. The Applicant shall establish regulations for the safe and proper transfer and transport of fuel on site.
- E. Tracking mats shall be located by the Morris County Soil Conservation District and the Township Engineer in such places as to minimize the tracking of dirt and mud onto Dell Avenue.
- F. Clean-up and wash-down of trucks and equipment shall be required before leaving the construction site.
- G. Adequate provisions for safe control of employee parking including employees of the contractors and sub-contractors shall be required on site during construction.
- H. During construction, all construction traffic shall enter and exit the site exclusively from Dell Avenue.
- I. Violation of any of these construction mitigation measures may result in a stop work order, which order shall remain in full force and effect until the condition is remedied to the satisfaction of the Township Engineer.

31. Prior to disturbance of the subject property, the Applicant shall comply, to the extent applicable, with the provisions of Ordinance Chapter XVII, "Soil Removal and Soil Relocation."

32. Prior to final site plan approval, the Applicant shall obtain from the Township Engineer a determination of required off-tract improvements and Applicant's pro-rata contribution with respect thereto, pursuant to Ordinances §13-4.6 and 13-4.7. Said contribution shall be paid in full prior to final site plan approval.

33. In accordance with N.J.S.A. 40:55D-8.4a, the Applicant shall pay a development fee equal to two-and-a-half percent (2.5%) of the total equalized assessed valuation of the nonresidential development prior to the issuance of a certificate of occupancy.

34. Applicant shall source separate and recycle all mandated material as required by the Municipal Recycling Ordinance and the Morris County Solid Waste Management Plan both during construction and for the duration of occupancy.

35. In the event that future additional dumpster enclosures are needed for the site, then upon the approval of the Zoning Officer, they shall be constructed.

36. This approval is subject to all other approvals required by any governmental agency having jurisdiction over the subject property.

37. This approval is subject to the payment in full by the Applicant of all taxes, fees, escrows, assessments and other amounts due and owing to the Township and/or any agency thereof.

38. If the Soil Conservation District, Morris County Planning Board, or any other governmental body from which approval is necessary causes, through their examination of the plans as recited in this resolution, any revisions to said plans then, in that event, same shall be submitted to the Planning Board Engineer. If the Planning Board Engineer deems said revisions to be significant, the Applicant shall return to the Planning Board for further review and approval.

39. Revised plans shall be submitted within 60 days and must be deemed complete to the satisfaction of the Board Engineer within 6 months of the date of memorialization. Failure on the part of

the Applicant to satisfy this or any other condition of this resolution will result in referral of this matter back to the Planning Board for purposes of deeming the approval null and void.

The undersigned does hereby certify that the foregoing is a true copy of the Resolution of the Roxbury Township Planning Board memorializing the action taken by the Board at its meeting of 1/21/09.

A motion to approve the Resolution was made by Mr. Rilee, seconded by Mr. Sweeney. Roll Call: Mr. Shadiack, yes; Mr. Sweeney, yes; Mrs. Lutz, yes; Mr. Verge, abs.; Mr. Rilee, yes; Mr. Meyer, abs.

**COMPLETENESS: no items**

**APPLICATIONS:**

**Etel Realty, LLC Block 9201, Lot 2 99 Route 206**

Application for approval for an Extension of Major Soil Removal/Relocation Permit approved February 20, 2008.

Attorney Peter McArthur, Esq. was here on behalf of the applicant. They were approved a year ago and had been pursuing Resolution compliance. He gave Mr. Ferriero DEP and DOT approvals tonight. The Permit Extension Act doesn't apply to this application because it is in the Highlands. Mr. Stern said there are no signed plans yet, there are still some outstanding architectural plans and landscaping issues. They need a one year extension.

A motion to grant a one year extension for the Soil Movement permit was made by Mr. Rilee, seconded by Mr. Sweeney.

Roll Call: Mr. Shadiack, yes; Mr. Sweeney, yes; Mrs. Lutz, yes; Mr. Verge, yes; Mr. Rilee, yes; Mr. Meyer, yes.

Mr. DeFillippo arrived at 7:38 p.m. Charles Bautz arrived at 7:43 p.m..

**PBA-08-005- Blue Vista, Block 9202, Lot 1,2,9 &10 269 Mountain Rd/Route 206**  
**Site plan for 2 medical buildings, restaurant and warehouse/flex building located in OR-5 zone.**

This matter was continued from the January 7, 2009 meeting. Atty. John Wyciskala appeared on behalf of Blue Vista. This was their seventh public hearing and the Board had heard testimony from Professional Engineer and Planner Stan Omland, Traffic Consultants Jay Troutman and Harold Malz and a professional architect and the plans have been revised and have evolved. At the last meeting there were 3 or 4 points that still needed to be addressed: signage clarification, the façade signs on the buildings, building height clarification (no variance is needed), sidewalk details and landscaping issues. They paid particular attention to buffering along the portions of the property that residents spoke about at the last meeting and made a new submission. They request a

waiver for the contribution aspect for the trees because of the increased buffering that included more plantings and the Conservation Easements.

Mr. Omland, offered Exhibit A-16, which was a breakdown of the off-Site Infrastructure Improvements to bring water and sewers to the site and install a traffic signal. The total cost of the improvements was \$1,694,000.00. They want the Board to be aware of these costs.

The height of three-story medical building discussed at the last meeting will comply with height ordinance.

Exhibit A-17, a color rendering, shows the sidewalks that the Board wanted. They have the ability to do the sidewalk but would prefer not to because of the loss of the landscaping. They can do the sidewalks on Mountain Road. There is no apparent need to link pedestrian traffic from the right or the left so they would like a waiver for the sidewalks, however, this is a Board decision. The retaining wall shown is modular block tapered to 5'. Mr. Rilee would like sidewalks to keep people off the street if possible. Their issues are the loss of landscaping and the aesthetics.

Mr. Ferriero said the grade change limits the sidewalks. Mr. Verge said they could stop the sidewalk before the curb and keep the shade tree at the end. The benefit of the sidewalk outweighs the loss of landscaping. The retaining wall is below grade so you will see a fence and guardrail.

Mr. Stern needs to see detail on ends of the sidewalk. Revised plans will be subject to Mr. Stern's approval and the Township. Where the sidewalk ends a pedestrian crossing will be shown to the next sidewalk. Exhibit A-18 suggests an alternate plan for an internal sidewalk. They will leave the pavement width 30' and stripe a 6' pedestrian lane on one side. This would be the linkage between the restaurant, two-story medical building and flex building.

Mr. Stern said appropriate signage would need to be posted. This area would be kept clear by plows. Because the lanes are narrower, it might slow the traffic down. It would just be in the area shown on the exhibit. The Board felt it was a good idea.

Renderings of signage were submitted to the Board since the last meeting. The directional 9.33 sf signs and were more tasteful, the sign-face color matches the building. They provided elevations for the 3'x15' signs on the buildings and showed the ratios. They are below the 10% allowed by the ordinance but they want more than one sign on the buildings and that requires a variance. Mr. Omland felt the proportion was not offensive and two signs were needed for internal directional purposes with the exception of three-story medical building signage on Route 80 for corporate identity. The other signs were needed because you can get to the buildings from two directions.

They are not sure of the wording on the signs yet but Mr. Stern said a multi-tenant would be an address only; a single tenant just their name. The signage will be tasteful and

compatible. The illumination will be indirect or diffused as designed by the architect. Mr. Stern said that the signs are appropriately sized. Signage is approved as presented and any deviation will have to come back to the Board for approval. Variances are needed for directional signs, for the sign facing Route 80 and the two signs on each of the building. The flex building will have two address signs and individual tenant signs. They are well below the 10% permitted even with two signs.

The guide rail will be core ten weathered steel and will be everywhere on site except for the immediate surrounds of the flex building.

The Board and public previously brought up landscape buffering. They meet with professionals and added under-story evergreens on top of the wall of the two-story medical building and provided a solid landscape buffer along that line with 75-90 plants.

Mr. Stern said this was relative to the waiver of contribution of replacement trees, they have provided a number of additional trees but they are still shy 182 trees and although there maybe some places for additional trees, there is not much room for more. The applicants have reduced grading, built walls and put in a Conservation Easement to limit disturbance to wooded lands. If the Board grants waivers for tree replacement, he might want more plants provided. They agree to put in any additional landscaping. The Conservation Easement goes hand in hand with the steep slope variance. Mr. Rilee was concerned about setting a precedent by waiving the fee; it has not been done before. The fee is two times the wholesale value per tree. The infrastructure that is needed for developing this lot is substantial. Atty. Germinario advised the Board that each application is unique and this project has some unusual features so they might not be setting a precedent. Mr. Rilee felt the regular retail value of the tree could be charge instead. Atty. Germinario said they could provide relief based on the actual cost of replacement trees. Mr. Omland read the Ordinance 13-11-8 regarding granting a waiver for this. The Board has the authority to grant a waiver and they want a full waiver. Mr. Wyciskala said they have preserved a vast amount of the tract and have incurred a lot of costs. They developed a project that met the zoning and it has been challenging dealing with DEP, Highlands and DOT.

The Board took an informal vote and the majority felt the applicant had shown good faith were in favor of a full waiver.

They would like internal illumination of the signs on the facades. The Board had no problem with this as long as they are guided by Mr. Stern's recommendations. Illumination would be needed for winter hours. The Board was satisfied with leaving this under Mr. Stern's direction.

Mr. Stern wanted a link to the Mountain Road sidewalk. They had agreed to or addressed the other items in his report. Mr. Ferriero had nothing else. The applicant agreed to the Conservation Easements to Roxbury Township and the DEP.

Mrs. Lutz asked if any of the buildings would be built to LEED standards. Mr. Omland said some components will be developed in a sustainable fashion. It's an architectural

question. This is not required by the state. Approval is conditioned on complying with all reports.

The meeting was open to public. Valarie Wolfe, 254 Mountain Road, was concerned about the hours of operation; would they be open all night? Mr. Omland said the tenants have not signed on now, they don't view the corporate park as a 24 hour park but some deliveries might be late. They would have to comply with the ordinance. The activity is not within 200' of a residential zone, just some of the parking, and is allowed by ordinance. She is concerned about the trucks and the noise. She could complain if they are in violation of the noise ordinance. She was concerned about the litter and when they demolish buildings on the property, she was also concerned about the displacement of stray animals. Mr. Meyer appreciated her input and attendance at these meetings.

No one else from the public commented. The meeting was closed to the public.

A motion to approve PBA-8-005 with the condition that the applicant works to get the best resolution for the traffic going in and out Route 206 as well as the traffic light installation being concurrent was made by Mr. Bautz, seconded by Mr. Rilee.

Roll Call: Mr. Bautz, yes; Mr. DeFillippo, yes; Mr. Shadiack, yes; Mr. Sweeney, yes; Mr. Rilee, yes; Mr. Meyer, yes.

The meeting was adjourned by motion at 9:05 p.m.

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Eugenia Wiss, Board Secretary