

## DECEMBER 1, 2010 MINUTES

A regular meeting of Planning Board of the Township of Roxbury was held on December 1, 2010, at 7:30 p.m. in the Municipal Building at 1715 Rt. 46, Ledgewood, N.J. After a Salute to the Flag the Chairman read the Open Public Meetings Act.

**PRESENT:** Mr. Shadiack, Mr. Sweeney, Mr. Bautz, Mrs. Lutz, Mr. Verge, Councilman Zoschak, Mayor Rilee, Mr. DeFillippo, Mr. Carey and Mr. Meyer.

**ABSENT:** Mr. Schwab.

**STAFF:** Mr. Hansen substituting for Mr. Ferriero, Mr. Germinario, Mr. Stern and Mrs. Wiss

**MINUTES:** November 3, 2010.

Motioned by Mayor Rilee and seconded by Mr. Bautz to approve with a correction.

Ayes: Mr. Shadiack , Mr. Bautz, Mrs. Lutz, Councilman Zoschak, Mayor Rilee, Mr. DeFillippo, Mr. Carey and Mr. Meyer

Abstain: Mr. Sweeney and Mr. Verge

Noes: None

### RESOLUTIONS:

**PBA-09-013 A & E VENTURES OF ROXBURY Block 3601, Lot 3 & Block 5004, Lot 10 235-241 Route 10 East**  
**Preliminary Site Plan Application for Burger King and Proposed Retail.**

**ROXBURY TOWNSHIP PLANNING BOARD  
RESOLUTION OF MEMORIALIZATION**

**Decided: November 3, 2010  
Memorialized: December 1, 2010**

**IN THE MATTER OF A&E VENTURES OF ROXBURY, LLC  
PRELIMINARY MAJOR SITE PLAN APPROVAL  
BLOCK 3601, LOT 3, and BLOCK 5004, LOTS 9 and 10  
APPLICATION NO. PBA-09-013**

**WHEREAS**, A&E Ventures of Roxbury, LLC (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for preliminary major site plan approval on 3/29/10; and

**WHEREAS**, the application was deemed complete by the Board, and public hearings were held on 5/5/10, 6/2/10, 8/4/10, 10/6/10, 10/20/10 and 11/3/10; 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 includes two existing parcels covering a total of 102,590 square feet (2.35 acres) located in the B-2 Highway Business District (10,000 square feet minimum lot size requirement). Block 3601, Lot 3 encompasses 1.44 acres and is developed with a 3,400 square feet Burger King fast food restaurant and approximately 59 parking spaces. It

contains wooded land with exceptional resource value wetlands and is impacted by a 150 feet transition area buffer. Block 5004, Lot 10 encompasses 0.46 acres (9,934 square feet) and is developed with a 1½ story single family dwelling and a detached garage. The parcel displays isolated ordinary resource value wetlands which require no buffer. Both lots are serviced by public water and sewer. Also included in the overall site that is the subject of this application is Block 5004, Lot 9 (the "Boston Market Lot") which adjoins Block 5004, Lot 10 to the northwest. The Boston Market Lot is also located in the B-2 District and is developed with a Boston Market restaurant and associated improvements.

With Route 10 serving as the east/west axis, the adjoining parcel to the south and southeast is the Roxbury Mall (Clearview Cinema) zoned B-3 Shopping Center District. To the South and southeast are single family homes zoned R-3 and to the east are offices zoned PO/R Professional Office/Residential.

2. The development of the subject property proposed by the Applicant comprises major preliminary site plan approval with 'C' variances and design waivers to demolish both buildings and construct a 2,891 square feet Burger King fast food restaurant with drive-thru and a 6,228 square feet retail building containing up to five tenants (floor area was reduced from the initial submission of 6,700 square feet). A total of 78 parking spaces (excluding the Boston Market Lot) are proposed (86 required). A cross access easement is proposed from the Boston Market Lot to the remainder of the site. Both the existing residential and Burger King lots will be merged. Burger King will now be located on the western portion of the site and the retail building on the eastern portion of the site. Floor area ratio is 0.090 (0.20 permitted) and impervious coverage is 59.0% (60% permitted), in compliance with the ordinance. The buildings will be serviced by public water and sewer.

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 Page Consultants, Inc.

- Sheet T-1, Title Sheet and Drawing Index, dated 6/19/09, revised 8/27/10
- Sheet C-1.0, Site Area Map, dated 6/19/09, revised 9/11/09
- Sheet C-1.1, Existing Surrounding Area Features Plan, dated 6/19/09, revised 8/27/10
- Sheet C-2.0, Existing Conditions, Plan, dated 6/19/09, revised 8/27/10
- Sheet C-2.1, Demolition Plan and Notes, dated 8/27/10
- Sheet C-3.0, Latest Revisions - Site Plan, dated 6/19/09, revised 9/22/10
- Sheet C-3.1, Overall Surrounding Features Site Plan, dated 6/19/09, revised 8/27/10
- Sheet C-4.0, Latest Revisions - Grading and Drainage Plan, dated 6/19/09, revised 9/22/10
- Sheet C-4.1, Latest Revisions - Utility Plan, dated 6/19/09, revised 9/22/10
- Sheet C-4.2, Sanitary Profiles, dated 8/16/10
- Sheet C-4.3, Drainage Profile, dated 8/27/10
- Sheet C-5.0, Parking and Striping Plan, dated 6/19/09, revised 8/27/10
- Sheet C-6.0, Site Lighting Plan, dated 6/19/09, revised 8/27/10
- Sheets C-7.0, Soil Erosion Plan and Sediment Control Notes, dated 6/19/09, revised 8/27/10
- Sheet C-7.1, Soil Erosion Notes and Details, dated 6/19/09, revised 9/8/10
- Sheets C-8.0, General Details, dated 8/27/10
- Sheets C-8.1, General Details, dated 6/19/09, revised 5/7/10
- Sheet C-8.2, General Details, dated 6/19/09, revised 8/27/10
- Sheet C-8.3, General Details, dated 8/27/10
- Sheet C-8.4, NJDOT General Details, dated 6/4/10

Prepared by Alan Feld, Architect

- Sheet A-1, Floor Plan, dated 9/12/09, revised 2/4/10
- Sheet A-2, Building Footprint, dated 2/4/10
- Sheet A-3, Front and Rear elevations, dated 2/4/10
- Sheet A-4, Side Elevations, dated 2/4/10
- Sheet A-5, building Rood Plan, dated 2/4/10
- Sheet A-6, Building Sign Elevations and Finishes Schedule, dated 2/4/10

Prepared by Dietz & Associates, LLC

- Sheet A-1, Retail Floor Plan, dated 9/17/09, revised 11/10/09, 5/20/10
- Sheet A-2, Retail Building Elevation, dated 9/17/09, revised 11/10/09, 5/20/10
- Sheet A-3, Photos, dated 9/17/09, revised 11/10/09, 5/20/10

Prepared by Fullerton Landscape Architects

- Sheet L-1, Landscape Plan, dated 5/20/10, revised 8/27/09, 12/1/09, 5/12/10, 6/26/10, 7/23/10

Prepared by Dietz & Associates, LLC

- Untitled color drawing depicting an architectural perspective spanning both proposed buildings

Tree Removal Plan, consisting of one sheet dated June 19, 2009, and revised April 21, 2010 prepared by William Page, PE

Wetlands Location Map, consisting of one sheet dated May 4, 2009, and revised through October 29, 2009, prepared by William Page, PE

Cross Sections, consisting of three sheets dated June 19, 2009, prepared by William Page, PE

Stormwater Management Report, dated April 2009, last revised September 2010, prepared by William Page, PE

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

- Letter of Steven R. Tombalakian, Esq., dated 5/24/10, with enclosures
- Letters of William B. Page, PE, dated 9/9/09, 5/24/10, 6/28/10, 7/20/10, 8/17/10, 9/2/10 and 9/24/10
- Letters of John F. Hoskins, President of Roxbury Water Co., dated 12/17/09 and 10/1/10
- Morris County Soil Conservation District, Soil Erosion and Sediment Control Plan Certification, dated 10/21/09
- Morris County Planning Board, Site Plan Report, dated 8/19/09
- NJDEP, Approval of Transition Area Waiver – Averaging Plan and Freshwater Wetlands Statewide General Permit No. 6, dated 10/19/09
- Application for Major Soil Moving Permit, undated
- Application for Tree Removal Permit, undated

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 4/1/10 (updated 4/30/10), 7/1/10 (Review #4) (updated 7/23/10), 7/1/10 (Review #3 supplement) (updated 7/28/10), 9/30/10 (Review #5)

Paul Ferriero, PE, PP, CME, LEED, dated 4/30/10, 8/3/10, 10/4/10

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

Michael Kobylarz, PE, PP, CME, Township Engineer,  
dated 7/22/09 and 3/24/10

Melanie Michetti, PE, CME, Sr. Assistant Township  
Engineer, dated 7/15/10, 7/29/10 and 9/23/10

Michael Pellek, Fire Official, dated 3/10/10  
and 10/6/10

Ptl. Gregg Prendergast, Traffic Safety Bureau, dated  
3/17/10, 7/31/10 and 10/14/10

Abigail Montgomery, Sr., REHS, Health Dept., dated  
10/1/09

7. The Board's traffic consultant, Harold K. Maltz, PE, PP, submitted reports dated 6/30/10, 7/16/10, 7/28/10 and 10/6/10, which are part of the hearing record.

8. Robert J. Inglima, Jr., Esq., representing Constance Kneule-Madden, the lessee of Block 5004, Lot 9, submitted letters dated 4/22/10 and 5/25/10 (with enclosures), which are part of the hearing record.

9. In the course of the public hearings, the following exhibits were marked and are part of the hearing record:

- A-1 Drawing C-1.1 Existing Surrounding Area Features Plan, revised 4/21/10 (marked 5/5/10)
- A-2 Colored Version of Drawing C-3.0, Proposed Site Plan, revised 4/21/10 (marked 5/5/10)
- A-3 Drawing C-4.0, Grading and Drainage Plan, revised 4/21/10 (marked 5/5/10)
- A-4 Drawing C-5.0, Parking and Striping Plan, revised 4/21/10 (marked 5/5/10)
- A-5 Tree Removal Plan, revised 4/21/10 (marked 5/5/10)
- A-6 4 Drawings Depicting car and truck turning templates (marked 6/2/10)
- A-7 Architectural Front Elevation Colored Rendering of Proposed Retail Building (marked 6/2/10)
- A-8 Architectural Sheet A-3 for Burger King (marked 6/2/10)

- A-9 Architectural Sheet A-4 for Burger King (marked 6/2/10)
- A-10 Modified Architectural Front and Rear Elevation Renderings of Retail Building (marked 8/4/10)
- A-11 Cut Sheet for Security Light Sconce (marked 8/4/10)
- A-12 Architectural Sheet A-3 revised 7/30/10 (marked 8/4/10)
- A-13 Architectural Sheet A-4 revised 7/30/10 (marked 8/4/10)
- A-14 Colored Version of Sheet L-1 Landscape Plan, revised 7/23/10 (marked 8/4/10)
- A-15 Colored Version of Sheet C-3.0, Latest Revisions – Site Plan, revised 9/22/10 (marked 10/6/10)
- A-16 Colored Version of Sheet C-4.1, Latest Revisions – Grading and Drainage Plan, revised 9/22/10  
(marked 10/6/10)
- A-17 Construction Phasing Plan, dated 10/5/10 (marked 10/6/10)
- A-18 Colored Rendering of Retail Building Elevations (marked 10/6/10)
- A-19 Colored Rendering of Proposed Monument Sign (marked 10/6/10)
- A-20 Colored Rendering of Proposed Free-Standing Sign with Retail Façade in Background (marked  
10/20/10)
- A-21 Drawing 01 “Pylon Sign” (marked 10/20/10)

10. In the course of the public hearings, the Applicant was represented by Steven Tombalikian, Esq., and the Applicant presented the testimony of the following witnesses, which testimony is part of the hearing record:

William Page, PE, civil engineer  
 Carlos Lugo, Burger King Area Manager  
 Charles Dietz, architect  
 Doug Fullerton, landscape architect  
 Christine Cofone, PP, professional planner

In addition, the Board heard testimony of its traffic consultant Harold Maltz, PE, PP, which is part of the hearing record.

The parties having an interest in the Boston Market Lot (Block 5004, Lot 9) were identified during the public hearings as Anthony and Barbara Maskello, the owners, Constance Kneule-Madden, the lessee, and Boston Market Corporation, the sublessee. The lessee and sublessee were each represented by their own legal counsel, who were Robert Inglima, Esq. and Jason Tuvel, Esq., respectively.

11. The development of the subject property as originally proposed by the Applicant required the following variance relief, the need for which was eliminated by modifications to the site plan in the course of the public hearings:

- In the plans as originally submitted, a variance was necessary from Section 13-8.916D1, as the total aggregate area of all signs shall not exceed 10% of the area of the face of the wall upon which such sign or signs are erected, while the Applicant proposed 14% on the west façade. In the course of the hearings, this variance was eliminated by reducing the wall signs.

- In the plans as originally submitted, a variance was necessary from Section 13-13-8.905D, as the height of a façade sign shall not exceed 5 feet while the Applicant proposed three (3) Burger King logo signs at a 6 feet height and the mural sign at a 5'-8" height. In the course of the hearings, this variance was eliminated by reducing the logo sign height to 5 feet and eliminating the mural sign.

- In the plans as originally submitted, a variance was necessary from Section 13-8.905D, as the maximum width of a façade sign shall not exceed 65% while the Applicant proposed 72.1% on the west elevation. In the course of the hearings, this variance was eliminated by reduction in wall signs.

- In the plans as originally submitted, a variance was necessary from Section 13-8.916D3, which allows a maximum sign area of 75 square feet while the Applicant proposed a total sign area of approximately 90 square feet (Burger King 41.33 s.f. and tenants 48 s.f.). In the course of the hearings, this variance was eliminated by reducing the area of the freestanding sign to no more than 75 s.f.

12. The development of the subject property as currently proposed by the Applicant requires the following variance relief:

- A variance is necessary from Section 13-7.21A01, as parking associated with the new retail building will be located within the 35 feet residential buffer. There is an existing nonconforming condition where the rear Burger King parking area is located 25 feet from the adjoining R-3 District. The rear of the property is heavily wooded, and additional infill landscaping will be provided to mitigate the effect of this variance.

- A variance is necessary from Section 13-7.21A04, which prohibits commercial activity (buildings, parking lots and driveways) within two hundred feet of a residential district from conducting business between the hours of 11:00 pm and 6:00 am. A portion of the Burger King parking and internal traffic aisles and the entire retail building and majority of parking is located within 200 feet of the adjoining R-3 District. As noted in testimony, Burger King deliveries will occur during these hours and the trucks will be traveling within the 200 feet buffer. In relation to Burger King, the impacts upon the adjoining R-3 District are reduced as the setback between the homes and drive-thru, menu boards and loud speakers is increased. As a condition of approval, Applicant has agreed that operation of both buildings (excluding deliveries) is prohibited between the hours of 11:00 p.m. and 6:00 a.m.

- A variance is necessary from Section 13-8.916D1, which permits only one façade, canopy, awning, or permanent window sign per occupant. While only one sign is permitted, the Applicant originally proposed twelve (12) façade signs including: 3 Burger King logos; 2 "Have it your Way," 1 "Home of the Whopper," 1 mural sign with an area of over 71 square feet; and 5 snap frame signs. In response to Board comments, Applicant has revised the sign plan to provide greater compliance with 2 Burger King logos and 1 "Home of the Whopper" signs.

- A variance is necessary from Section 13-8.916D3, where a 20 feet freestanding setback is required while the Applicant proposes a 10-foot setback. This setback was increased in the course of the public hearings from 6.5 feet originally proposed.

- Variances are required from Section 13-8.916D1, for the 57.95 square feet drive-thru preview board sign (8.14' x 7.12") and 112.36 square feet drive-thru menu board sign (8.48' x 13.25'). The Ordinance only allows one freestanding sign while three are provided in total.

- A variance is necessary from Section 13-7.2502D9, as impervious coverage shall not exceed 60%, while Applicant proposes to increase impervious coverage on the Boston Market Lot from 81.1% to 85.8%.

13. The development of the subject property as currently proposed by the Applicant requires the following design waiver relief:

- A design waiver is necessary from Section 13-8.701B3, as the drive-thru lane for Burger King does not have queuing for ten (10) automobiles. This has been addressed, pursuant to input from the Board's traffic consultant, by angling of adjacent parking stalls so that the Burger King queue will not obstruct parking and traffic flow as vehicles order at the rear menu board and pay at the adjacent drive-thru window.

- A design waiver is necessary from Section 13-8.702N, which requires curbed planting islands at the end of parking bays to control traffic and promote visibility at intersecting traffic aisles. As proposed, at a 6 feet width, the southwesterly retail end island does not comply with a minimum 9 feet width. Compliance would result in the loss of two additional parking spaces.

- A design waiver is necessary from Section 13-8.612J, as the Route 10 egress drive is required to be setback a minimum of 10 feet from the side property line while an approximate 7 feet setback is provided. The Applicant is utilizing the existing curb opening.

- As a result of improving the interior circulation, additional parking spaces were eliminated which results in a design waiver from Section 13-8.701B. The ordinance requires 86 spaces while the plan proposed 78 spaces. The parking quantity will be further reduced to 77 spaces, as one parking stall across from the southerly Burger King building corner will be eliminated.

- A design waiver is necessary from Section 13-8.702E as the proposed 75 degree parking spaces and 22 feet aisle width does not conform to the ordinance. Input from the Board's Traffic Consultant indicates that this is acceptable.

- A design waiver is necessary from Section 13-8.702G, which requires a minimum 10 feet parking setback from a side property line. The Boston Market lease line is located approximately 2.5 feet from the Burger King parking spaces, although the Burger King lot line is set back 12.87 feet and located within existing Boston Market parking spaces.

- A design waiver is necessary from Section 13-8.703A, which requires a 15' x 60' loading/unloading space for each building while no delivery area is provided for Burger King and a 15' x 35' delivery area is provided for the retail building. Testimony indicates that these loading areas will be adequate.

- A design waiver is necessary from Section 13-8.705B, as a 10 feet setback is required from a trash/recycling structure to a side property line while the applicant proposes an 8 feet setback for the retail trash/recycling enclosure in relation to the Clearview Cinema property line. The enclosure is now further setback from the R-3 District. Since the encroachment occurs at an angle, the Board has no objection as long as landscaping is provided in this area and an enclosure that complements the retail building is constructed.

- A design waiver is necessary from Section 13-8.705B, as a 10 feet setback is required from a trash/recycling structure to a side or rear property line while the applicant proposes a 4 feet rear and side yard setback for the Burger King trash/recycling enclosure and a 7 feet side yard setback for the retail building's trash/recycling enclosure. Landscaping along the enclosure, as required by ordinance and an enclosure that complements the site will be provided to help mitigate impacts to adjoining commercial properties.

- A design waiver is necessary from Section 13-8.707G, as 6 proposed light poles have an exposed concrete foundation of 2.5 feet while the ordinance only allows a 2 or 6 inch exposure dependant on the location. The Board has no objection, since the locations of the poles make them more susceptible to vehicle damage.

- A design waiver is necessary from Section 13-8.707D, as the proposed architectural lighting on the retail building façade does not have a light lens parallel to the ground. As noted by the architect, the light source will not be seen and the fixture enhances the appearance of the façade.

- With the relocation of Route 10 sidewalk 5.5 from the curb, the location of street trees will be shifted so that they are at least 5 feet from the edge of sidewalk. To the extent applicable, a design waiver is necessary from Section 13-8.804 if the street trees are not located within the right-of-way.

- A design wavier is necessary from Section 13-8.805B, as the proposed shade and evergreen trees will not be staked.

- A design waiver is necessary from Section 13-8.807A, as off-street parking screening does not satisfy the double staggered row requirement and minimum height of 24 inches. Due to space limitations and the landscape architect's design objectives, some minor deviation from this requirement is appropriate. The final design will be modified to the satisfaction of the Township Planner.

- A design waiver is necessary from Section 13-8.807D as the Applicant has not provided 1 shade tree (2½ - 3" cal.) for every 4 parking spaces within the vicinity of the parking lot. The Applicant has provided 14 shade trees and 7 ornamental trees. The Board has no objection if either a shade tree or ornamental tree is provided in the end island located at the northerly retail building corner.

- A design waiver is necessary from Section 13-8.702N, which requires curbed planting islands with shade trees at the end of parking bay. As proposed, at a 6 feet width, the westerly retail end island does not comply with a minimum 9 feet width. Compliance would result in the loss of two additional parking spaces.

- The new southerly Boston Market parking space requires a design waiver from Section 13-8.702G, as a 10 feet parking setback is required while 1± foot is provided to the Mall and 6± are provided to the Burger King property. The Board has no objection as long as a shade tree and landscaping are provided between the space and trash enclosure, and the curbed landscape island is provided.

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

In addition to the reasons given in Sections 12 and 13 above, the Board finds that the requested variance and design waiver relief is warranted pursuant to N.J.S.A. 40:55D-70(c)(2), considering the benefits associated with replacement of a non-conforming residential use on Block 5004, Lot 10 by conforming uses, and also considering the contribution of this development toward the revitalization and upgrading of the Route 10 commercial corridor. Relief is also justified pursuant to N.J.S.A. 40:55D-70(c)(1) because the site is constrained by freshwater wetlands and transition areas which limit the areas in which improvements can be located. With respect to variances and design waivers associated with signage, the Board notes that more signage is needed for fast food drive-thru restaurants, and the proposed signage is comparable with existing signage at other similar establishments in the area.

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.

15. The Board finds that the preliminary site plan, as depicted and described in the drawings and/or plans referenced hereinabove, includes improvements and modifications to the Boston Market Lot, including parking modifications, which are encompassed by this approval, and which amend the existing site plan approval for the Boston Market Lot.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board does hereby approve the preliminary major 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 Sections 12 through 14 above.

This approval is subject to the following conditions, as well as the conditions set forth in Sections 12 and 13 above, which shall, unless otherwise stated, be satisfied prior to the Board's signature of the preliminary site plan drawings:

1. As a condition precedent to this approval, Applicant shall reach an agreement with all parties having an interest in the property Block 5004, Lot 9 (the "Boston Market Lot"), which agreement shall address access between Applicant's proposed development site and the Boston MarketLot, as well as site plan improvements proposed on the Boston Market Lot and the status of parking on the Boston MarketLot. The agreement shall include an easement and/or license providing for access between the Boston Market Lot and the remainder of the site, which easement/license shall be reviewed and approved by the Board Attorney, the Board Engineer, and the Township Planner. If an agreement is not reached within six months of this approval, Applicant shall apply to the Board for an amended site plan approval which does not involve access through the Boston MarketLot. Should the agreement, or any action taken by any of the interested parties pursuant to the agreement or subsequent to the agreement, result in a net loss of parking spaces on the Boston Market Lot, an amended site plan approval for that Lot, including a design waiver for parking, will be required.

2. Notes on the site plan regarding termination of lessee parking rights on the Boston Market Lot shall be removed.

3. Engineers for the lessee and sublessee of the Boston Market Lot shall be afforded the opportunity to participate in all discussions between the Board Engineer and the Applicant's engineer relating to revisions of the stormwater management plan or to improvements or work on the Boston Market Lot.

4. Applicant shall develop a construction phasing plan in concert with the Board Engineer and the Township Planner. Among other things, the phasing plan will address continued operations of the existing Burger King restaurant during construction of the new Burger King restaurant.

5. Revised plans shall note that business operations, except for deliveries, are prohibited in both buildings between the hours of 11 p.m. and 6 a.m.

6. Revised plans shall note that curbing will be provided around the new Burger King building.

7. Revised plans shall provide for landscaping in the area of the trash/recycling enclosures and shall provide enclosure design complementary to that of the retail building to the satisfaction of the Township Planner.

8. In accordance with Section 13-7.814, the loud speakers associated with the menu boards shall not be audible beyond the B-2 property. The B-3 zoned Roxbury Mall, with the side elevation of Clearview Cinema facing Burger King, is the closest property to the menu boards. Speakers will have adjustable volume controls in order to comply.

9. Pursuant to Section 13-7.21A02, Applicant shall comply with Chapter XXI, "Noise Control" of the Revised General Ordinances of the Township.

10. Pursuant to Section 7.810B, no more than one principal use or building may be erected on a lot except for an integrated complex of functionally related, compatible buildings serving one comprehensive operation under the control of one management entity, which shall be responsible for maintenance of all common facilities and limited to a shopping center development and planned development. The proposed uses rely upon shared access, site circulation, parking, storm water management and freestanding sign. Applicant shall demonstrate compliance with this requirement by submitting a copy of the proposed master deed and/or other documents addressing management of the site and maintenance responsibilities for review and approval by the Board Attorney.

11. Planters along the front elevation of Burger King shall be widened to 4 feet to adequately accommodate landscaping, and planter widths shall be dimensioned along the front and side building elevations.

12. Pursuant to the October 19, 2009 letter from NJDEP, the applicant shall record a final conservation restriction with the property deed in the Office of the County Clerk prior to the start of site clearing, grading or construction.

13. Applicant will comply with Section 13-7.812 regarding communication antennas/satellite dish antennas.

14. All off-street parking areas shall be used exclusively for the parking of automobiles. No commercial repair work or sales of any kind shall be conducted in any parking area (Section 13-8.702S).

15. Block 5004, Lot 10 currently has a significantly damaged stockade fence located along the Clearview Cinema property line. The fence will be removed and/or replaced with new fencing/landscaping. Heavy landscaping shall be provided along the property line.

16. A timber guiderail along with landscaping shall be installed at the terminus of the Clearview Cinemas service drive. Asphalt millings at this location shall be noted for removal on the Demolition Plan.

17. Benches and decorative trash receptacles and ash urns shall be located and details provided on the engineering drawings for both buildings in accordance with Section 13-8.810. Details between the engineering and architectural drawings shall be consistent.

18. Bollards shall be clearly located on the site plan. The "Bollard Detail in Concrete" shall graphically depict concrete and the fully dimensioned height of the bollard.

19. The drawings shall note that debris will be removed from the rear portion of Block 3601, Lot 3 prior to the issuance of a certificate of occupancy.

20. Applicant shall obtain, if required, approvals from the Morris County Planning Board and the Morris County Soil Conservation District.

21. Applicant shall obtain authorization by the Governing Body for additional sewer capacity allocation (Section 13-8.501E).

22. The Boston Market westerly parking bay shall depict dimensioned parking spaces.

23. The hairpin parking stall striping detail shall be revised in accordance with Section 13-8.702K.

24. The rear portion of the existing Burger King parking lot will be reconstructed so as to eliminate ponding.

25. The handrail detail on sheet C-8.3 shall be specified with a black color finish.
26. To avoid a design waiver, Applicant shall provide a 5.5 feet sidewalk setback from the edge of Route 10 curb. (sheet C-4.0). The new alignment shall be depicted on the drawings and show its connection to adjoining sidewalks.
27. New concrete aprons shall be provided at both the Route 10 ingress and egress drives (Section 13-8.612P).
28. The 4-foot wide southeasterly retail planter shall be eliminated, and a 5-foot side planter provided at the northwesterly retail elevation, along with a minimum 5-foot wide sidewalk.
29. The Burger King trash/recycling enclosures shall be sized to accommodate all containers. Dimensions shall be provided for the grease enclosure. A detail shall be provided that depicts each trash/recycling container required for the operation of Burger King.
30. The trash enclosure detail shall specify decorative/split face concrete block or brick to complement the proposed buildings.
31. Bollards shall be provided to protect the front portion of the trash/recycling enclosures (when gates are closed). Interior bollards shall protect the rear of the enclosures from off-loaded dumpsters.
32. Pursuant to Section 13-8.705E, both Burger King and the retail building shall "... depict a banked trash/recycling enclosure, which shall be constructed upon notification of the Zoning Officer."
33. The Burger King cornice will not be illuminated.
34. Pursuant to Section 13-8.706A, rooftop mechanical equipment shall be architecturally screened in a manner compatible with building architecture. Engineering drawings and architectural drawings for both buildings shall be noted accordingly.
35. The height of the Burger King parapet wall shall be increased if necessary in order to properly screen the rooftop units. Burger King architectural elevations shall depict rooftop mechanical units behind the parapet walls. Individual screens shall be utilized where parapet wall is not present.
36. Building height noted on sheet C-3.0 shall be revised to identify the height of Burger King and the retail building.
37. Fully detailed and dimensioned freestanding sign details shall be provided, with general materials and colors specified.
38. An exhaust/ventilation system with a precipitator shall be provided to eliminate odor of kitchen exhaust from Burger King at adjoining properties (Section 13-8.1000).
39. Color manufacturer's catalogue cuts shall be provided for the decorative wall sconces proposed on the front, rear and side retail building elevations. Identify color finish and light intensity. Details of the security lights for both buildings shall also be provided.
40. Five (5) drive-thru signs are depicted on sheet C-5.0 and the sign legend identifies a sign dimension of 3' x 1'. The two (a) signs and the northerly (b) sign shall be eliminated.
41. Drawings shall indicate the drive-thru sign colors.
42. The detail on sheet C-5.0 depicting a sign box with a width of 7" and a height of 12" shall indicate that the sign will be non-illuminated.
43. As depicted on sheet C-5.0, interior drive-thru signs shall have no "Burger King" identification.
44. Applicant shall verify that the order confirmation unit shown on Sheet C-5.0 is 7.42 feet high.
45. Proposed sign areas listed on the Free Standing Signage Table shall be corrected to reflect the current proposal.
46. Retail wall signs will all be channel letter signs with a maximum 3-foot height, as was testified to by the project architect.
47. Retail wall signs will be mounted at the same height, as was testified to by the project architect.
48. Color manufacturer's catalog cuts shall be provided for the freestanding and wall mounted lights shown on sheet C-6.0. A black color finish shall be specified on lighting details.
49. The light pole by the retail dumpster shall have an exposed light foundation not exceeding 6 inches as long as it is setback 2.5 feet from the curb.



50. A 2.5 feet exposed light foundation shall be provided for the two light poles located in front of the retail building as they are in close proximity to vehicle parking. Freestanding lights shall be aligned with parking stall striping to help avoid vehicle damage.
51. A manufacturer's color detail of the architectural wall sconce shall be provided and indicate color and light intensity.
52. Wall and freestanding light color finishes shall be labeled (black).
53. The location of freestanding lights shall be adjusted to accommodate shade trees.
54. Based upon the preliminary tree removal calculations, a total of 4 replacement trees are required which will be located on the subject property. Bonding of the replacement trees is not required when the quantity is 5 or less.
55. Street trees as required by ordinance cannot be counted as replacement trees. Street trees located within the Applicant's property shall not be classified as replacement trees.
56. Fencing for tree protection shall be erected along the drip line of preserved trees on Route 10 and following the limit of disturbance line located behind the retail parking lot, prior to tree removal. The Township Engineer may modify the fencing if such a modification will feasibly preserve additional existing trees. The grading and soil erosion and sediment control plans shall be noted accordingly.
57. A Tree Removal Permit shall be obtained prior to tree removal. Pursuant to Section 13-11.13c, if the number of replacement trees is over 5, a performance guarantee shall be submitted in an amount not to exceed 120% of the cost of replacement trees prior to the issuance of a Tree Removal Permit. 58. The monument sign shall be shifted further west to enhance visibility. Landscaping shall be provided at the sign base. Setbacks from the right-of-way shall be dimensioned.
59. Stump removal is prohibited until a Soil Moving Permit is issued.
60. Decorative concrete scoring shall be provided for concrete sidewalks located by the front and side Burger King and retail building elevations. Landscaping with irrigation shall be provided within minimum 4-foot wide planting beds along the buildings. Front planting islands shall be provided at the front of each building.
61. The Route 10 landscaping shall be fully detailed with individual shrubs located and identified, perennial plantings identified, berm heights noted, etc.
62. The landscaped area behind Burger King shall be enhanced and detailed. A hedgerow shall be provided between the Burger King and the Boston Market parking lots.
63. Since the hardiness of plants such as Cherry Laurel and Olga Metzitt Rhododendron are of concern due to their proposed location and exposure to harsh winter winds, Applicant shall consult the Township Planner regarding alternative species.
64. An alternate plant to Leyland Cypress, such as Yew, Juniper Boxwood, etc., shall be selected as this plant will quickly overgrow the dumpster enclosures. As a decorative type enclosure, it does not require full landscape screening.
65. Doublefile Viburnum shall be replaced with evergreen trees to serve as a year long buffer of the Clearview Cinema service area. Additional infill landscaping shall be provided in relation to adjoining residential properties.
66. Either a shade tree or ornamental tree shall be provided in the northerly retail building corner end island.
67. The engineering drawings shall be revised to eliminate the concrete in the northerly retail building corner end island, to be consistent with the Landscape Plan.
68. Planting end islands shall be landscaped with shrubs and perennials not to exceed a mature height of 30 inches. Lawn may be utilized upon approval by the Township Planner.
69. In accordance with Section 13-8.807M, the Applicant shall provide landscaping at the driveway entrances. Ornamental grasses, flowering perennials and low growing evergreen shrubs shall be utilized.
70. The landscape plan shall note that "The view of utility areas, mechanical equipment, transformers and meters shall be screened from adjoining lots and street lines with landscaping. Open access to the equipment shall be maintained" (Section 13-8.807K).
71. Mechanical equipment, transformers and meters shall be located on the landscape plan. Locating these structures within the front yards shall be avoided.
72. The landscape plan shall accommodate areas for plowed snow.
73. Sight triangles shall be depicted on the landscape plan. Landscaping within the sight triangles shall not exceed a mature height of 30 inches (Section 13-8.803F 13-8.807H).

74. The landscape plan shall note that all plant materials, planting practices and specifications shall be in accordance with the "American Standard for Nursery Stock: promulgated by the American Association of Nurserymen Standards. (Section 13-8.802E).

75. The landscape plan shall note that trees shall be nursery-grown, free of disease, substantially uniform in size and shape and have straight trunks" (Section 13-8.805A).

76. The landscape plan shall note that deadwood and vines will be removed from existing trees noted for preservation.

77. Soil planting mixture shall be specified.

78. A minimum of six (6) inches of topsoil cover shall be specified for all disturbed areas. (Section 13-8.803A).

79. Tytar biobarrier or an approved equivalent shall be specified between the proposed street trees and Route 10 sidewalk. A detail should be provided.

80. Type of proposed lawn shall be specified as sod or seed. Sod is preferred.

81. The Plant List shall also identify the plant height associated with shade trees and ornamental trees.

82. Shrub size shall also be specified by height and/or spread as applicable.

83. The Plant List shall also specify botanical plant name, root condition and typical plant spacing.

84. Quantity of perennials shall be identified on the Plant List.

85. Individual perennials shall be located and species identified within proposed perennial plantings. Substitutions will be permitted during construction.

86. The Applicant shall verify that plants less prone to deer browse have been utilized.

87. Landscape irrigation shall be provided (Section 13-8.805C).

88. The landscape plan shall note that tree stakes and guy wires shall be removed one year after the date of installation (Section 13-8.805B).

89. The North arrow shall match engineering drawings.

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

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

92. The additional 4 parking spaces at the Boston Market/Burger King property line are awkwardly angled in relation to each site. The spaces shall be aligned consistent with the existing Boston Marking parking stalls.

93. Within the new Boston Market/Burger King 4-stall parking bay is a utility pole with transformer that will provide underground electric service to Burger King and the retail building. The pole shall either be contained by a curbed landscape island with bollards or located in the adjacent lawn area to protect it from vehicle damage. If the curbed island is provided, then a gap shall be provided to allow water to flow towards a new catch basin.

94. A parking stall that was added to the parking island located between Burger King and the retail building shall be removed and a shade tree and shrubs provided as was shown on prior submissions.

95. All drive-through lanes and angles parking stalls shall be fully dimensioned.

96. Revised architectural drawings shall be provided for each building based upon the architectural rendering exhibits. Color samples shall be provided.

97. Applicant will comply with the reports issued the Township Engineering Department, the Township Fire Official, and the Traffic Safety Bureau, as identified in Section 6 above.

98. Applicant shall report the status of the NJDOT permits.

99. In the area between Burger King and the retail building, Applicant shall relocate the 4 feet wide planter from the south side of the building to the north side and decrease the northerly sidewalk to 5 feet in order to provide a minimum 5 feet wide planting area.

100. With the revisions made to the rear retail parking lot, the center curbed island shall be expanded to 4-foot width and landscaped and the 26-foot aisle width shall be decreased to 24 feet. The southerly perimeter curb shall be made more parallel to the property line.

101. A mountable concrete island detail shall be provided for review and approval by the Board's Engineer.
102. A separate operations and maintenance manual shall be prepared for review and approval once the design of the stormwater management system is accepted.
103. Use of an infiltration basin at this site is questionable due to the impermeable nature of the soils encountered. Additional soil testing, in accordance with Appendix E of the BMP Manual shall be conducted to the satisfaction of the Board Engineer.
104. If soils are not suitable for structural fill, the soil moving permit application shall include any structural fill that will need to be imported into the site for construction purposes.
105. With respect to the Site Plans:
- A. Sheet T-1 – Title Sheet
    - 1. The Applicant shall confirm that both lots will be merged as a result of the application. The final block and lot number shall be confirmed by the tax assessor.
  - B. Sheet C-1.1 – Existing Surrounding Area Features Plan
    - 1. Signed and sealed copies of the surveys on which the plans are based shall be submitted for the Board's records.
    - 2. The Applicant shall provide documentation relative to the access and parking easements with adjoining lot 9.
106. All Fire Zone parking restrictions shall be approved by the Fire Official.
107. The wetlands LOI for the two existing properties shall be referenced on the plan.
108. The wetland area and any associated transition areas shall be added to the plan. Any work that disturbs the wetlands and or transition areas will need a permit from NJDEP.
109. Additional spot elevations shall be provided in the parking lot to ensure adequate drainage is provided and sufficient grades are provided to allow construction of the curbs. Additional grades shall be added at the ends of the landscaped islands, and also at the back where the ramp meets the parking lot. The grade from the front of the retail building (southerly corner) to the inlet is proposed at approximately 0.4%. This shall be steepened to 1.0% minimum to facilitate drainage.
110. The downspout locations and inverts shall be shown for the rear part of the retail building, since it is not clear that they will be able to be directed to the structures at the front of the building.
111. Additional spot grades shall be added around all the proposed accessible stalls to ensure they are no greater than 2% in any direction. The grades depicted along the front of the Burger King exceed 2% in the area of the accessible spaces.
112. Pipe information shall be provided between the outlet of the stormfilter into the underground basin.
113. The drainage piping upstream of the underground basin shall be revised so that inverts/pipe slopes, etc., are consistent with the plan and calculations.
114. Revise the invert out at MH#3 (497.50 S.C.) and the 48" pipe to 36".
115. Revise the drainage detail/site plan so that they are consistent (manhole #1 on the drainage detail is labeled as manhole #2; The inverts/pipes listed are not completely consistent with the detention basin detail depicted on Sheet C-8.2. The pipe information listed at the diversion vaults are not consistent with the drainage report. Revise the 1<sup>st</sup> manhole #7 label to manhole #6.
116. General note #17 refers to an attached operations manual. Revise the notation to refer to an operations and maintenance manual for the drainage improvements for the subject property. The manual is not attached to the plan set, but will be a separate document. The manual shall provide detailed information, including inspection forms. The manual shall also be site specific and not included references to features that are not part of the project. A deed restriction shall be filed to ensure proper operations and maintenance of the system. The O&M manual will be provided for review by the Board Engineer, and the deed restriction shall be submitted for approval by the Board Attorney and the Board Engineer.
117. The wetland areas and any associated transition areas shall be added to the plan.
118. The Utility Plan shall note that NJDOT approval is required for all utility connections in Route 10.

119. The Utility Plan shall note that all utility details and connections shall be approved by the Township Engineer and Roxbury Water Company.

120. The Utility Plan shall note that the grease trap shall be approved by the Department of Health.

121. The Drainage Profile shall be revised so that the information depicted on it is consistent with the information presented on the plans and drainage calculations.

122. There are some significant gaps between the illumination contour lines in the Site Lighting Plan. A point to point lighting diagram shall be submitted to evaluate the effectiveness of the lighting plan in these areas.

123. The lighting plan analysis shall factor in the eight (8) proposed wall mounted lights depicted on the architectural plans.

124. The lighting with the type 2 foundations shall be shifted into the landscape aisles where possible.

125. Light C(2)(-S) at the rear of the retail building parking area and the two B(2) lights at the northerly side of the Burger King parking area shall be shifted so that its foundation lines up with the parking stall striping.

126. Sheets C-8.0 to 8.3 – General Details, shall be revised as follows:

a) Revise the pipe trench detail to depict the HMA stabilized base course extending across the full width of the trench. Remove the stone symbol on either side.

b) Provide the minimum sidewalk width at the landing at top of the handicap ramp on the handicap ramp detail.

c) Revise the invert information listed for MH#4 to be consistent with the plan information within the underground detention basin detail.

d) The storm manholes shall be specified as precast concrete. The detention basin detail depicts manholes which are not consistent with the precast manhole detail. Add a note on the detention basin detail that the manholes will be concrete in accordance with the precast manhole detail depicted on the plans.

e) Revise the “Diversion Vault” detail and plan information to be consistent with the design information in the drainage report.

127. The Landscape Plan revision date is older than the plan date. Revise accordingly.

128. The total amount of cut/fill shall be added to the Cross Sections plans.

129. The bearings and distances of the deed restriction area shall be added to the Wetlands Location Map. Closure calculations shall be provided.

130. The wattage of the wall mounted lights shall be specified on the Retail Architectural Plans.

131. Drainage Calculations shall be revised and the stormwater management system redesigned to the satisfaction of the Board Engineer.

132. Since a well record exists for Block 5004, Lot 10, confirmation of the abandonment of the well shall be provided to the Health Department.

133. On Plan Sheets C-8.0, C-8.1, and C-8.2 “General Details,” the Sanitary/Flexible Saddle Detail, the following notes shall be provided on the detail:

a) The existing 8” ACP sanitary sewer main shall be core drilled and a sewer saddle shall be installed.

b) The Township Sewer Department personnel shall witness the connection to the main.

134. Revised plans shall provide a “Do Not Enter” sign at the western end of the thoroughfare on the north side of building 1 to re-enforce the “no left turn” sign posted on the thoroughfare on the west side of the building.

135. 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 Route 10.
- 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 Route 10.
- 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.

136. 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."

137. 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.

138. The Applicant shall pay a mandatory development fee in accordance with Ordinance Section 13-7.829, or any applicable successor provision of the Township Ordinance and/or State law in effect at the time a building permit is issued.

139. 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.

140. Drawings shall identify areas for trash and recycling enclosures and potential future expansion of these enclosures with corresponding details.

141. 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.

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

143. 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.

144. 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.

145. 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 11/3/10.

Mr. Germinario went through the recent changes to the Resolution with the Board.

Motioned by Mayor Rilee and seconded by Councilman Zoschak to approve.

Ayes: Mr. Shadiack, Mr. Bautz, Mrs. Lutz, Councilman Zoschak, Mayor Rilee, Mr. DeFillippo, Mr. Carey and Mr. Meyer

Abstain: Mr. Sweeney, Mr. Verge

Noes: None

MOTION APPROVED.

**COMPLETENESS:**

**APPLICATIONS:**

**PBA-10-003 E. J. PETERS CO. Block 9203, Lot 2 96 Route 206.**

**Final Site Plan Application.** This matter was carried from the November 3, 2010 meeting. The applicant would like to be continued.

This matter had been on the agenda and carried several times.

Motioned by Councilman Zoschak and seconded by Mrs. Lutz to deny without prejudice

Ayes: Mr. Shadiack, Mr. Sweeney, Mr. Bautz, Mrs. Lutz, Mr. Verge, Councilman Zoschak, Mayor Rilee, Mr. DeFillippo, Mr. Carey and Mr. Meyer

Noes: None

MOTION APPROVED.

**PBA-09-023 P & D REALTY (MORRIS CANAL PLAZA) Block 6501, Lot 20 1070 Route 46**

**Preliminary Site Plan Approval.** This matter was re-noticed for the October 20<sup>th</sup> meeting, then carried to the November 3, 2010 meeting and then carried to the December 1<sup>st</sup> meeting. The applicant requested to be carried to a January 2011 meeting and an extension was granted to January 15, 2011.

Mr. Stern said there were shareholder discussions and it appears that they won't proceed with the office expansion but will proceed with renovation of the façade and signage. This matter has also been carried several times. This matter will be put on the agenda for Jan. 5<sup>th</sup> with no further notice and they need to provide us with reason for the delay or it will not be carried again.

**PBA-09-018 THE PLAZA AT ROXBURY (St. Theresa's R.C. Church) Block 5103, Lot 1 Main Street and Commerce Boulevard**

**Minor Subdivision and Preliminary Site Plan for Medical Office Building and Bank.**

This matter was carried from the September 15, 2010 and October 20, 2010 meeting. Mr. Nusbaum, representing the applicant, requested this matter be carried. This matter was carried to February 2<sup>nd</sup> with no further notice with an extension granted by Mr. Nusbaum.

**PBA-10-010 ROXBURY ENTERPRISES, LLC. Block 5002, Lot 3 10 Commerce Boulevard**

**Minor Subdivision and Preliminary Site Plan Application for bank and retail**

This matter was carried from the November 3, 2010 meeting.

Attorney Paul Nusbaum represented the applicant. They responded in writing to Planner Russell Stern's initial report, eliminated comments and are here to address the remaining comments. Their engineer, Mr. Jaworski, and architect, Mr. Haas, have already been sworn in and will just comment on what was not agreed to. Mr. Jaworski addressed comment 1.6 regarding the EIS and there will be short term environmental impact during construction but nothing long term. They will make the plan corrections. Item 1.7 was addressed in prior testimony regarding parking spaces and impervious coverage and they agreed to reduce it to 60% and the energy conservation and efficiency of the building was previously testified to. Item 1.8, project phasing, the bank and infrastructure of almost the entire site should be done in nine months to a year and the retail pad will be done when they get a tenant. The parking area in front of the retail will just have the basic coat of asphalt. Item 1.15, the maintenance, will be the responsibility of Roxbury Enterprises, the owner of the property, and they will submit a maintenance agreement or a copy of that portion of the lease to Mr. Germinario.

Getting back to the phasing, Mr. Stern clarified that when they apply for the final so they can get a C.O for the bank, it will be for all improvements except for the pad and everything inside that curb and the base course. When they get a tenant, they will come in with a Site Plan Amendment. Item 1.22, the variance for impervious, Mr. Jaworski showed where he was banking the parking, near the trash enclosure and most likely in the front row of parking spaces. They will include that in the amended application. They need 20 spaces for the bank which is more than the ordinance requires. If the retail needs more parking, they will come back for that. Item 1.25, verified the FAR at .20. They will correct the typographical inconsistency on the plans. Item 1.26, they can shift the building or put in a plant area to obtain the 10' setback to eliminate the variance. Item 1.30, there will be underground electric service and Mr. Jaworski explained the feed. Item 1.32, they want a design waiver for the new 6' vinyl fence. They will remove existing brush and trees and provide new landscaping including replacement trees if necessary. The fence will transition to a 4 foot height in the front. The poplars on the property line will be removed. Item 1.42, a Major Soil Permit Application was submitted but their intent is to keep as much soil on the property and less than 100 yards will be taken off site. Mr. Hansen said they will need clarification on whether it is a major or minor soil application and if it is a major they will have to come back for that. The movement of soil on site counts as soil relocation and they think it will be less than 100 yards. Item 2.3, they had come to an agreement between traffic engineers. Item 3.2, the design waiver for delivery space: Mr. Haas had provided testimony on deliveries and the Board does not have a concern with this waiver. They will provide a small trash enclosure for the bank. Item 6.2 regarding signage, for the drive through sign on the building the illumination will come from the canopy and the sign under the canopy will be four square foot maximum. Item 6.3, they agreed to detail the sign when they go for the amended approval. Item 6.4. regarding integrated signs, if denied in the amendment: there is approximately 190 ft in between the two signs. They felt the retail use needs an identification of its own. Board members were not in favor of another sign, it is an integrated site and one sign

will reduce clutter. This will be best resolved when they come in for amended so they will withdraw the request for the pylon sign until they come in for the amendment. Item 7.6, the monument sign is internally illuminated and directional signs are non-illuminated. Item 7.8, light intensity, they will work with the engineer to get as close to compliance as possible because of the State code for the ATM. Item 7.9, they will comply.

Mr. Stern's landscape report dated November 29, 2010 was next addressed. Mr. Jarowski had no issue with the majority of comments. The only caveat was additional street trees and replacement trees and they were worried about site distance, visibility and will work with Mr. Stern.

Regarding Mr. Ferriero's letter of Oct. 29, 2010, Mr. Hansen said Mr. Ferriero had gone through the items in detail with the engineer and they agreed to address each of the items. Mr. Jaworski confirmed this with the caveat that the lighting would not meet the ordinance because of the ATM so a waiver might be required.

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

Motioned by Councilman Zoschak and seconded by Mr. Bautz to approve the application.

Ayes: Mr. Shadiack, Mr. Sweeney, Mr. Bautz, Mrs. Lutz, Mr. Verge, Councilman Zoschak, Mayor Rilee, Mr. DeFillippo, Mr. Carey and Mr. Meyer

Noes: None

#### **OLD BUSINESS:**

#### **PBA-10-007 RALZONE DEVELOPMENT LLC. Block 4305, Lot 12 Carey Road**

Mr. Stern said the Resolution for Amendment of Preliminary Major Subdivision Approval that was memorialized on October 6, 2010, included a condition that required the installation of evergreens and seeding this fall. There were corrections to the Resolution and, because of the delay, the applicant wanted to do the seeding and planting in the spring. Mr. Rallo said he feels he is running out of time to plant the trees, they won't have time to root, will be eaten by deer and he'll likely have to replant in the spring. No new bonding was required.

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

Motioned by Mr. Sweeney and seconded by Mr. Bautz to approve the change.

Ayes: Mr. Shadiack, Mr. Sweeney, Mr. Bautz, Mrs. Lutz, Mr. Verge, Councilman Zoschak, Mayor Rilee, Mr. DeFillippo, Mr. Carey and Mr. Meyer

Noes: None

**MOTION APPROVED.**



**NEW BUSINESS:**

**Resolution for Master Plan Consistency – Ordinance 20-10**

**ROXBURY TOWNSHIP PLANNING BOARD  
RESOLUTION OF MEMORIALIZATION**

**Approved: December 1, 2010  
Memorialized: December 1, 2010**

**IN THE MATTER OF MASTER PLAN CONSISTENCY DETERMINATION ORDINANCE NO. 20-10 TO AMEND CHAPTER XIII, LAND DEVELOPMENT ORDINANCE, ARTICLE VII, ZONING REGULATIONS, SECTION 13-7.5, ZONING MAP, PARAGRAPH B, ZONING MAP AMENDMENTS, OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF ROXBURY, COUNTY OF MORRIS, STATE OF NEW JERSEY**

**WHEREAS**, the Planning Board has reviewed the proposed Ordinance No. 20-10 and has received input from the Township Planner and Planning Board Attorney concerning same, and has discussed the Ordinance at its public meeting of December 1, 2010; and

**WHEREAS**, based upon its review and that of the Township Planner and the Planning Board Attorney, the Planning Board has determined that the proposed Ordinance is consistent with the Master Plan and promotes the goals and objectives of the plan.

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Board does hereby find and determine that proposed Ordinance No. 20-10 to Amend Chapter XIII, Land Development Ordinance, Article VII, Zoning Regulations, Sections 13.7.5, Zoning Map, Paragraph B, Zoning Map Amendments, of the Revised General Ordinances of the Township of Roxbury, County of Morris, State of New Jersey, is consistent with the Roxbury Township Master Plan and with the planning goals and objectives of the Township. The Planning Board Secretary is hereby directed to advise the Township Council of said determination by the Planning Board.

The undersigned does hereby certify that the foregoing is a true copy of the action taken by the Planning Board at its regular meeting of December 1, 2010.

Mr. Stern said this Ordinance was introduced by the Governing Body and was a series of zoning map corrections and modifications that were identified in the Master Plan Re-examination Report and confirmed in the 2009 Land Use Plan Element update of the Master Plan. He went over the changes on the maps provided. There was a discussion on the Zoning change for the Shore Hill Country Club and boat storage. The Council will have the Clerk notice all property owners of the changes, although that was not required by law, and they will be advised to contact Mr. Stern with questions.

Motioned by Mr. DeFillippo and seconded by Mr. Sweeney to approve that the changes are consistent with the Master Plan and the Resolution.

Ayes: Mr. Sweeney, Mr. Bautz, Mrs. Lutz, Mr. Verge, Councilman Zoschak, Mayor Rilee, Mr. DeFillippo, Mr. Carey and Mr. Meyer

Abstain: Mr. Shadiack

Noes: None

**Resolution for Master Plan Consistency – Ordinance 21-10**

**ROXBURY TOWNSHIP PLANNING BOARD  
RESOLUTION OF MEMORIALIZATION**

**Approved: December 1, 2010  
Memorialized: December 1, 2010**

**IN THE MATTER OF MASTER PLAN CONSISTENCY DETERMINATION ORDINANCE NO. 21-10 TO AMEND CHAPTER XIII, LAND DEVELOPMENT ORDINANCE, ARTICLE VII, ZONING REGULATIONS, SECTION 13-7.8, GENERAL PROVISIONS FOR ALL ZONES, SUBSECTION 13-7.805, REQUIRED AREA AND SPACE, OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF ROXBURY, COUNTY OF MORRIS, STATE OF NEW JERSEY**

**WHEREAS**, the Planning Board has reviewed the proposed Ordinance No. 21-10 and has received input from the Township Planner and Planning Board Attorney concerning same, and has discussed the Ordinance at its public meeting of December 1, 2010; and

**WHEREAS**, based upon its review and that of the Township Planner and the Planning Board Attorney, the Planning Board has determined that the proposed Ordinance is consistent with the Master Plan and promotes the goals and objectives of the plan.

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Board does hereby find and determine that proposed Ordinance No. 21-10 to Amend Chapter XIII, Land Development Ordinance, Article VII, Zoning Regulations, Article VII, Zoning Regulations, Section 13-7.8, General Provisions for all Zones, Subsection 13-7.805, Required Area and Space, of the Revised General Ordinances of the Township of Roxbury, County of Morris, State of New Jersey, is consistent with the Roxbury Township Master Plan and with the planning goals and objectives of the Township. The Planning Board Secretary is hereby directed to advise the Township Council of said determination by the Planning Board.

The undersigned does hereby certify that the foregoing is a true copy of the action taken by the Planning Board at its regular meeting of December 1, 2010.

Mr. Stern said some applications before the zoning board required side yard setbacks because the homes were built closer than 10' because the original survey was off. The Board wanted these applications to be approved administratively by allowing a 10% reduction of that Zone requirement.

Motioned by Mr. Sweeney and seconded by Mr. Bautz to approve 21-10.

Ayes: Mr. Sweeney, Mr. Bautz, Mrs. Lutz, Mr. Verge, Councilman Zoschak, Mayor Rilee, Mr. DeFillippo, Mr. Carey and Mr. Meyer

Abstain: Mr. Shadiack

Noes: None

MOTION APPROVED.

**Resolution for Meeting Dates for 2011**

RESOLUTION  
TO PROVIDE ANNUAL NOTICE OF MEETINGS

WHEREAS, the Planning Board of the Township of Roxbury, Morris County, New Jersey, must provide annual notice to all regular meetings to be held by said Board during the calendar year 2011.

NOW, THEREFORE BE IT RESOLVED that the schedule of regular meeting dates annexed hereto as Exhibit A, be and hereby declared to be the official list of dates of regular meetings to be held by the Board for the calendar year 2011 being the first Wednesday and third Wednesday of each month.

BE IT FURTHER RESOLVED that said meetings shall commence at 7:30 p.m; unless otherwise called by the Municipal Building, 1715 Route 46, Ledgewood, New Jersey

EXHIBIT A

Wednesday, January 5	Wednesday July 6
Wednesday, January 19	Wednesday, July 20
Wednesday, February 2	Wednesday, August 3
Wednesday, February 16	
Wednesday, March 2	Wednesday, September 7
Wednesday, March 16	Wednesday, September 21
Wednesday, April 6	Wednesday, October 5
Wednesday, April 20	Wednesday, October 19
Wednesday, May 4	Wednesday, November 2
Wednesday, May 18	
Wednesday, June 1	Wednesday, December 7
Wednesday, June 15	

Motioned by Mr. Zoschak and seconded by Mr. Bautz to approve the Resolution

Ayes: Mr. Shadiack, Mr. Sweeney, Mr. Bautz, Mrs. Lutz, Mr. Verge, Councilman Zoschak, Mayor Rilee, Mr. DeFillippo, Mr. Carey and Mr. Meyer

Noes: None

Motion to adjourn was made at 8:56 p.m.

FOR THE PLANNING BOARD  
TOWNSHIP OF ROXBURY

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Eugenia Wiss, Board Secretary

