

JULY 20, 2011 MINUTES

A regular meeting of the Township of Roxbury Planning Board was held on July 20, 2011, at 7:32 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.

ROLL CALL:

PRESENT: Mr. Shadiack, Mr. Bautz, Councilman Zoschak, Mayor Rilee, Mr. Carey and Mr. Meyer.

ABSENT: Mrs. Lutz, Mr. Verge, Mr. DeFillippo

STAFF: Mr. Stern, Mr. Ferriero, Larry Wiener, Esq. for Tom Germinario and Mrs. Wiss

NOMINATION OF VICE CHAIRMAN

Motioned by Mr. Zoschak and seconded by Mayor Rilee to nominate Mr. Shadiack.

Motioned by Tom Carey to nominate Charlie Bautz.

It appeared by a show of hands that it was a tie vote as to who the Vice Chairman would be so the matter was carried to the next meeting when more members will be present.

MINUTES: July 6, 2011

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

Ayes: Mr. Shadiack, Mr. Bautz, Councilman Zoschak, Mr. Carey and Mr. Meyer

Abstain: Mr. Rilee

Noes: None

COMPLETENESS:

PBA-11-10 ROXWOOD ASSOCIATES, LLC, Block 9302, Lot 1 and Block 9401, Lots 1, 12 & 13

Amended Preliminary Site Plan Application. No one was present on behalf of the applicant but a letter from their attorney, Thomas Carroll of Hill Wallack, LLC was forwarded to the Board members via email with copies provided at the meeting.

Based on the information from the Township's professionals a motion to deny completeness was made by Mr. Rilee and seconded by Mr. Zoschak.

Ayes: Mr. Shadiack, Mr. Bautz, Councilman Zoschak, Mr. Carey, Mr. Rilee and Mr. Meyer

Noes: None

RESOLUTIONS:

PBA-09-013 A&E VENTURES OF ROXBURY, LLC Block 3601, Lot 3 & Block 5004, Lot 10 235-241 Route 10 East, Determination as to fulfillment of condition precedent, Condition #1 of Preliminary Major Site Plan Approval Resolution memorialized Dec. 1, 2010, and as to current status of the Approval.

**ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION**

**Decided: June 1, 2011
Memorialized: July 20, 2011**

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

WHEREAS, A&E Ventures of Roxbury, LLC (the "Applicant") on 3/29/10 applied to the Roxbury Township Planning Board (the "Board") for preliminary major site plan approval with 'C' variances and design waivers to demolish the existing buildings on Block 3601, Lot 3 and Block 5004, Lot 10, to merge the two lots (the "Merged Lots") and to construct a fast food restaurant with drive-thru and a retail building (the "Application"); and

WHEREAS, by Resolution memorialized 12/1/10, the Board granted conditional preliminary major site plan approval (the "Conditional Approval") based on direct access to the Merged Lots from Route 10 and indirect access through Block 5004, Lot 9 (the "Boston Market Lot") and Block 5004, Lot 7 (the "Roxville Lot"); and

WHEREAS, the Conditional Approval was granted subject to a Condition Precedent, contained in Condition 1 of the Resolution:

"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 Market Lot, as well as site plan improvements proposed on the Boston Market Lot and the status of parking on the Boston Market Lot. 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 Market Lot. 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."

WHEREAS, on or about January 21, 2011, an action was filed in Superior Court, Law Division, Morris County, entitled Roxville Associates v. Township of Roxbury Planning Board, et als, Docket No. L-216-11 PW (the "Roxville Litigation") on behalf of Roxville Associates, the owner of the Roxville Lot, challenging the Board's Conditional Approval and alleging, *inter alia*, that there is no right of access from the Boston Market Lot onto or from the Roxville Lot; and

WHEREAS, although Roxville Associates had received notice of the Application, it did not participate in the hearings before the Board or otherwise advise the Board of its position relating to the aforesaid access issue; and

WHEREAS, at its meeting of 6/1/11, the Board convened to determine whether the Condition Precedent (Condition 1) of the Resolution had been fulfilled and to determine the current status of the Conditional Approval; and

WHEREAS, at the Board's meeting of 6/1/11, Applicant and Roxville Associates were represented by legal counsel, Steven R. Tombalakian, Esq., and Thomas A. Buonocore, Esq., respectively; and

WHEREAS, the Board makes the following findings and conclusions:

1. No agreement has been reached to date between Applicant and all parties having an interest in the Boston Market Lot relative to access between the Merged Lots and the Boston Market Lot and/or site plan improvements and the status of parking on the Boston Market Lot.

2. Six months have passed since the memorialization date of the Conditional Approval (12/1/10).

3. Since the Condition Precedent has not been fulfilled within the specified 6-month time period, the Conditional Approval has not become effective.

4. The Condition Precedent (Condition 1) provided that, in the event the Conditional Approval did not become effective, the Applicant could apply to the Board for an amended site plan approval that does not involve access through the Boston Market Lot.

5. Based on the foregoing facts, the Board concludes that the Applicant should be permitted to apply for a modified Preliminary Major Site Plan Approval, based in part on the record compiled and the findings made in connection with the Conditional Approval, under the following circumstances:

(A) the access to and from the Merged Lots through the Boston Market Lot is eliminated; or

(B) all parties having an interest in the Boston Market Lot and Roxville Associates have agreed to a plan for access to and/or from the Merged Lots through the Boston Market Lot; or

(C) a court of competent jurisdiction has ruled that the owners of the Boston Market Lot have the right to grant to the Applicant access through their property to and from the Roxville Lot without the consent of Roxville Associates, and all parties having an interest in the Boston Market Lot have agreed to a plan for access to and/or from the Merged Lots through the Boston Market Lot.

NOW, THEREFORE, BE IT RESOLVED, that the Preliminary Major Site Plan Approval memorialized in the Board's Resolution of 12/1/10 has not become effective because of the Applicant's failure to satisfy the Condition Precedent of Condition 1 of the Resolution; and

BE IT FURTHER RESOLVED, that the Applicant may, within one year of the date of this Resolution, apply for a modified Preliminary Major Site Plan Approval, based in part on the record compiled and the findings made in connection with the Conditional Approval, under the following circumstances:

(A) the access to and from the Merged Lots through the Boston Market Lot is eliminated; or

(B) all parties having an interest in the Boston Market Lot and Roxville Associates have agreed to a plan for access to and/or from the Merged Lots through the Boston Market Lot; or

(C) a court of competent jurisdiction has ruled that the owners of the Boston Market Lot have the right to grant to the Applicant access through their property to and from the Roxville Lot without the consent of Roxville Associates, and all parties having an interest in the Boston Market Lot have agreed to a plan for access to and/or from the Merged Lots through the Boston Market Lot.

And **BE IT FURTHER RESOLVED**, as follows:

1. For purposes of N.J.S.A. 40:55D-10.5, the date of submission of a modified Preliminary Major Site Plan application pursuant to this Resolution will be considered to be the submission date (3/29/10) of the Applicant's original Preliminary Major Site Plan Application No. PBA-09-13.

2. To the extent a modified Preliminary Major Site Plan application pursuant to this Resolution involves changes to the plans approved pursuant to the Resolution of 12/1/10, only those changes and issues affected by those changes will be subject to *de novo* review by the Board. The Board will not reopen findings made in connection with the Conditional Approval that are not affected by the modified Preliminary Major Site Plan application.

3. Any approval by the Board of a modified Preliminary Major Site Plan pursuant to this Resolution will be subject to judicial review to the same extent as if the Board had granted the approval in a single continuous proceeding on the original Application PBA-09-13.

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 6/1/11.

Eugenia Wiss, Secretary

Alexander Tafro on behalf of Roxville Associates appeared. The Board and Mr. Germinario had received correspondence from Mr. Inglima on behalf of Constance Kneule-Madden and from Jason Tuvel on behalf of Boston Market expressing concerns with the Resolution and Roxville joins in those concerns. The parties have been trying to work out a Resolution without success and they felt the Resolution in its present form does not achieve that. Roxville's concern is the ambiguity of the plans and if A & E submits new plans that change the characteristics of those properties then a new drainage plan needs to be submitted. They wanted the opportunity to review changes and raise objections if it impacts Roxville Associates property.

The Board felt the Resolution reflected the Boards' decision exactly as a result of the public hearing. If resubmission results in changes, the issues will be readdressed by the Board. No final plans have been submitted and changes will be part of the review. Drainage issues and access have not been resolved and Roxville will have the opportunity to address that if there is an impact to the Roxville property.

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

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

Noes: None

MOTION APPROVED.

PBA-10-016 STS DEVELOPMENT CO. LLC Block 2701, Lot 2 and Block 2702, Lot 19.01 Halsey Street Major Subdivision Application

Motioned by Councilman Zoschak and seconded by Mr. Bautz to discuss. Mr. Zoschak wanted consistency in the work hours for soil movement and construction.

The Resolution will be changed to be consistent, with hours of operation for both soil movement and construction on weekdays from 7 am to 5 pm and Saturdays, 8 am to 12 pm.

**ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION**

**Decided: June 15, 2011
Memorialized: July 20, 2011**

**IN THE MATTER OF STS DEVELOPMENT CO. LLC
PRELIMINARY MAJOR SUBDIVISION APPLICATION
BLOCK 2701, LOT 2; BLOCK 2702, LOT 19.01
APPLICATION NO. PBA-10-16**

WHEREAS, STS Development Co. LLC (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for preliminary major subdivision approval; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 6/15/11; 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 Block 2701, Lot 2 and Block 2702, Lot 19.01 located in the R-3 Residential District at the northerly end of Halsey Street. The total tract area encompasses 2.6941± acres. The remaining parcels are comprised of vacant wooded land. Wetlands and wetland transition area are located at the northeasterly portion of the property along Lake Silver Spring (private swim club). The portion of Halsey Street accessing the vacant land is an unimproved/unapproved road that bisects Blocks 2701 and 2702. The first 150± feet of Halsey Street from Railroad Avenue is basically a gravel drive and the remainder is completely unimproved.

The tract is bounded to the south by single family homes zoned R-3. Adjoining land to the west is zoned B-2 and developed with a commercial use (Automotive Magic). To the north is a railroad line and two vacant lots (Mittelstadt) zoned R-3. To the east is Lake Silver Spring zoned OS Open Space. Holdnak Drive is a paper street, which is located at the northerly terminus of Halsey Street and runs parallel to the railroad.

Prior to 1996 the tract was zoned I-10 Limited Industrial and the subject of two development applications for industrial uses. Neither received approvals. In recognition of the adjoining residential neighborhood, adjoining lake, and access, the subject property was rezoned R-3 Residence to allow single-family development on a minimum 15,000 square foot lot.

In August 2006 the applicant appeared before the Board seeking major subdivision approval for five (5) residential lots. The application stalled as a result of contractual obligations with the owner of Block 2702/Lot 13 (Mr. Borrelli) On February 7, 2007 the application was denied without prejudice as the applicant failed to proceed with the case. An application was again submitted in 2008 which was ultimately withdrawn in 2009.

2. The development of the subject property proposed by the Applicant comprises major preliminary subdivision approval for a five (5) lot single family subdivision for five new homes. The Halsey Street right-of-way will be reconfigured and the existing 5 vacant lots modified to accommodate the proposed subdivision in accordance with current bulk regulations. A 100-foot building setback is maintained from the adjoining railroad. Halsey Street will terminate as a cul-de-sac road. In 2002, the Township Council approved a motion to endorse the realignment of Halsey Street (and vacation of Holdnak Drive) if there is no increase in lot yield and subject to Planning Board action or recommendations. The proposed 5-lot yield is consistent with the 5 existing lots under the applicant's possession. Holdnak Street will not be vacated as it currently provides frontage to 2 lots not under control of the adjoining landowner (Mittelstadts).

The proposed development will be serviced by public water and sewer from existing lines located at the intersection of Railroad Avenue and Halsey Street. A detention basin will be located between Lake Silver Spring and the dwellings on proposed lots 19.02 and 19.03. A 50-foot wide conservation easement is provided along the lake.

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 Jaman Engineering Associates – revised to April 6, 2010

- Sheet 1, Key Sheet
- Sheet 2, Existing Conditions Plan
- Sheet 3, Subdivision Geometry Plan
- Sheet 4, Utility Grading and Traffic Plan
- Sheet 5, Soil Erosion and Sediment Control Plan
- Sheet 6, Drainage Area Plan
- Sheet 7, Profiles
- Sheet 8, Cross Sections
- Sheet 9, Details
- Sheet 10, Details
- Sheet 11, Steep Slopes Plan
- Sheet 12, Tree Location and Removal Plan
- Sheet 13, Landscape and Lighting Plan

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

- Lot Line Adjustment Plan, consisting of one sheet, prepared by Jaman Engineering Associates dated March 30, 2009
- Survey, consisting of one sheet, prepared by Jaman Engineering Associates, dated September 14, 1999 (not sealed)
- Topographic Survey, Wetlands/State Open Waters Plan, consisting of one sheet, prepared by Jaman Engineering Associates revised February 6, 2007
- Stormwater Management Report, Pond View At Roxbury, prepared by Jaman Engineering Associates, revised March 26, 2010
- Operations & Maintenance Manual for Stormwater Management Facilities, prepared by Jaman - Engineering Associates, dated April 6, 2010
- Earthwork calculations revised June 29, 2010
- Environmental Impact Statement, revised August 2010, prepared by American Environmental Services, Inc.
- Agreement to Adjust Lot Line, dated August 27, 2009
- Morris County Planning Board approval dated June 10, 2010

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 6/12/00
(updated 12/20/10), and 1/15/09 (updated 12/21/10)

Paul Ferriero, PE, PP, CME, LEED, dated 1/17/11
and 3/24/11

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

Melanie Michetti, PE, CME, Sr. Assistant Township
Engineer, dated 1/13/11

Roxbury Township Environmental Commission,
dated 1/13/11

7. In the course of the public hearings, no exhibits were marked.

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

William Silcox, Applicant's principal owner
Steven Smith, PE, Applicant's engineer
John Gribbin, PE, Applicant's engineer

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

- A variance from Section 13-7.906 for locating the infiltration basin within 20 ft. of an adjoining property.
- A design waiver from Section 13-8.610 for not providing sidewalks along Halsey Street.

10. Based on the hearing record, the Board has made the following findings relative to the variance and design waiver sought by the Applicant:

The encroachment of the infiltration basin is minor and landscaping will be provided for screening along the adjoining residence to help buffer the impact.

The Board notes that sidewalks are not present in the adjacent residential neighborhood and installation of sidewalks between Block 2701, Lot 3 and Block 2702, Lot 18 would require placement virtually flush to the curb, since the existing right-of-way between the two lots is only 40 feet.

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.

11. The Board finds that the proposed stormwater infiltration basin complies with all applicable statutory and/or regulatory design standards, and that there will be no direct discharge from the basin into Lake Silver Spring under the statutory and/or regulatory design conditions.

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby approve the preliminary major subdivision application 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 10 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 subdivision drawings:

1. Applicant shall take water sample from Lake Silver Spring before the commencement of construction, during construction, and after construction is completed. Water quality testing shall be performed in accordance with a protocol to be approved by the Board Engineer. If the testing reveals significant negative water quality impacts to the Lake, the Applicant shall implement corrective actions as directed by the Board Engineer.

2. A deed restriction prohibiting the construction of basements for all of the approved subdivision lots shall be submitted for review and approval of the Board Attorney.

3. A valid LOI from NJDEP for the site shall be provided.

4. Subdivision deeds restrictions prohibiting access from Lots 19.02 and 19.03 to the Lake shall be submitted for review and approval of the Board Attorney.

5. Applicant shall provide a maintenance agreement, deed provisions and HOA documents establishing the maintenance obligations of the HOA for the infiltration basin for review and approval by the Board's Attorney and Engineer and the Township Engineer. The maintenance agreement shall require mowing at least two times per month during the growing season and allow access by the Township to the basin in the event that the homeowners association defaults on their maintenance obligations or if major repairs are needed. The maintenance agreement shall also provide for reimbursement of Township maintenance expenses in the event of the HOA's default.

6. Conservation easement language shall be submitted for review and approved by the Board's Attorney and Engineer. As the easement covers a wetlands transition area, all structures are prohibited within this area. Split rail fence posts will be utilized to identify the conservation easement, subject to the review and approval of the Board Engineer.

7. The proposed ground surface for the infiltration basin shall be identified as lawn on revised drawings. Delaware River Jacks will be specified at the basin's rip-rap apron.

8. Pursuant to Section 13-8.204C, individual lot grading and drainage plans shall be provided prior to the issuance of building permits where deemed appropriate by the Township Engineer.

9. The rear lot lines of the proposed lots adjoining Lake Silver Spring shall be labeled as the high water line. Rear lot lines shall be labeled.

10. The location of fire hydrants shall be subject to the review and approval by the Township Engineer and Fire Official.

11. Lot numbers as assigned by the Tax Assessor shall be provided.

12. Building setbacks shall be revised in accordance with Section 13-8.205 whereby setbacks begin 5 feet from the edge of easements.

13. Revised plans shall comply with Section 13-8.202H and note the following:

"For each building lot, the rear of the principal building, exclusive of attached decks, must be located not less than eight feet (8') from the rear yard setback line along at least half the width of

the rear setback line, in order to allow adequate space for the addition of decks attached to the principal building without encroaching upon the rear yard setback”.

14. Sheets 1 and 3 shall note that the site will be cleared of debris and trash prior to the issuance of the first certificate of occupancy and again, prior to the issuance of the last certificate of occupancy.

15. Applicant shall pay a tax map lot line revision fee in accordance with Section 24-7.2S of the General Ordinances.

“Prior to the filing of minor subdivision deeds, the recording of a final major subdivision plan, or the filing of a Master Deed for condominiums, the Applicant shall submit to the Secretary a lot line revision fee in the amount of One Hundred Dollars (\$100.00) per lot to cover the administrative cost of revising the municipal tax maps.”

16. Construction of a model home shall comply with Section 13-7.36.

17. Applicant has received sewer capacity allocation from the Township Engineer subject to Planning Board approval on a first come first serve basis. Pursuant to Section 13-8.501E, authorization by the Governing Body shall be obtained.

18. This approval is conditioned upon the Township Council vacating the applicant’s portion of Halsey Street in favor of the proposed alignment.

19. The drawings shall note that the Halsey Street cul-de-sac bulb will be vacated, curb and pavement removed, and the area topsoiled and seeded in the event the road is extended to provide access to either Lot 24 or 25.

20. A concrete pad associated with Block 2701, Lot 3 is partially located in the right-of-way. This shall be detailed as construction of Halsey Street will impact it.

21. Full-height curb shall be specified at the terminus of the Halsey street cul-de-sac across the frontage of Block 2702, Lots 24 and 25.

22. The engineering drawings shall note that driveways will be paved (Section 13-8.612C).

23. Pursuant to Section 13-8.603N, a four way street sign shall be provided at the Railroad Avenue/Halsey Street intersection. The sign shall be located on revised plans and a detail shall be provided.

24. Applicant shall comply with Section 13-4.5, Snow and Ice Removal From Dedicated But Not Accepted Streets.

25. Pursuant to Lighting Note #1 on sheet 14 (landscape and Lighting Plan), the Applicant will comply with Section 13-8.707B and arrange for the provision of street lights, at his expense, under the requirements of “contribution fixtures”, as established by the Board of Public Utilities Commissioners Tariff No. 6 Electric Part No. 3 effective 4/25/83. The developer will also provide for the installation of underground service for street lighting at his cost.

26. A full length dimensioned detail of the proposed freestanding light shall be provided.

27. Based upon the preliminary tree removal calculations provided on sheet 12, a total of 94 replacement trees are required (55 for specimen trees and 39 for trees 6” to 24” diameter). Applicant proposes the installation of 65 on-site replacement trees assuming plant heights are increased (street trees are not classified as replacement trees). Additional on-site replacement trees shall be provided to satisfy the ordinance and to address landscape requirements set forth herein.

28. Tree replacement data and calculations on sheet 12 shall be revised to reflect the removal of two additional trees in the 36” to less than 40” category.

29. If all the replacement trees cannot be provided on site, then the Township Planner may permit the Applicant to provide a monetary contribution to the Township’s Tree Replacement Fund. Any monetary contribution shall be provided in accordance with Section 13-11.106G.

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30. To be classified as replacement trees, the following sizes must be specified:

- evergreen trees 7 to 8'
- ornamental trees 2 to 2½ inch caliper
- shade trees 2½ - 3" caliper

31. The Applicant shall verify the point where tree diameters were measured (4½ above ground level).

32. Applicant shall obtain the issuance of a tree removal permit, shall post a performance bond for on-site tree replacement, and shall pay the monetary contribution for tree replacement (if applicable), prior to tree removal/site disturbance.

33. Fencing for tree protection shall be erected along the limit of disturbance line prior to tree removal. The Township Engineer can 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.

34. Pursuant to Section 13-11.13c, 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.

35. Stump removal is prohibited until a Soil Moving Permit is issued.

36. Considering a substantial number of required replacement trees, heavier landscaping with a mixture of plants shall be provided along existing residential properties, along the side lines of proposed lots, along the B-2 zone, and in proximity to the railroad tracks.

37. The perimeter of the infiltration basin shall be landscaped with clusters of plants, including shade trees, in a free form manner with open areas of lawn (Section 13-8.808B).

38. Shade trees shall be located on the upper drier portions of the basin, as feasible (Section 13-8.808C).

39. A heavy cluster of wet-site tolerant plants shall be provided along the infiltration basin FES (Section 13-8.808D).

40. Along with caliper size, a general height range shall be provided for shade and ornamental trees.

41. The landscape plan shall note that street trees shall be spaced no farther than 40 feet on center (Section 13-8.804).

42. 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.

43. Pursuant to Section 13-8.803A, the plans shall note that at least six inches of even topsoil cover will be provided to all disturbed areas of the development and shall be stabilized by seeding or planting.

44. The Landscape Plan shall note that tree stakes will be removed one year after the date of installation (Section 13-8.805B).

45. The Landscape Plan shall note that all plant material shall be guaranteed by the landscape contractor for a minimum period of one (1) year to replace dead or dying plants (Section 13-8.805D).

46. Applicant's landscape designer will contact the Township Planner for further landscaping comments prior to plan revisions.

47. A favorable resolution shall note that a revised landscape plan shall be submitted for review and approval by the Township Planner.

48. The following items shall be addressed in revised Subdivision Plans:

A. Sheet 1 – Key Sheet

1. A copy of the boundary survey referenced in Note 5 shall be submitted for the Board's records.
2. The maintenance agreement for the sanitary sewer system referenced in Note 13 will need to be part of the individual deeds and subject to the review of the Board's Attorney.

B. Sheet 2 – Existing Conditions Plan

1. It appears that a number of the improvements related to adjoining properties will be impacted. These include the parking area and shed on lot 3. The means of resolving these encroachments shall be outlined by the applicant.
2. A map shall be prepared for the Township Council which shows both the right of way to be vacated and the new right of way.
3. The Applicant shall provide information on whether a verification of the applicable riparian buffer required under the Flood Hazard Rules has been obtained from the NJDEP.

C. Sheet 3 – Subdivision Geometry Plan

1. The chord bearing and distance shall be added to all non-tangent curves.
2. The proposed lot numbers shall be approved by the tax assessor.
3. The conservation easement at the rear of lots 19.02 and 19.03 shall encompass the entire transition area.

D. Sheet 4 – Utility, Grading and Traffic Plan

1. A detailed intersection grading plan shall be provided. The plan shall demonstrate that the curb returns can be constructed without extending beyond the right of way.
2. Sight lines and any potential sight easements shall be indicated on the plan.
3. The plan notes a utility pole and gas vent to be relocated. The new locations shall be shown on the plan and any conflicts with the existing improvements on adjoining lots resolved.
4. The riparian buffer required for the adjoining pond shall be added to the plan.
5. Notes shall be added to the plan for the disposition of the proposed cul de sac in the event the road is ultimately extended. The pavement and curb are to be removed and the area treated with topsoil and seed. The driveways are to be extended to the final edge of pavement.
6. All construction recommendations and notes from the NJDEP Best Management Practices Manual shall be added to the plan.
7. The existing Halsey Street right of way and all adjoining lot lines shall be staked out prior to construction.
8. The drainage easement to the infiltration basin shall also permit access to the basin.
9. The plan depicts grading up to the wetland transition line. Any disturbance to the wetland transition area will require permits from NJDEP.

E. Sheet 5 – Soil Erosion and Sediment Control Plan

1. This plan will need to be certified by the Morris County Soil Conservation District.
2. The sequence of construction needs to be expanded to address the construction considerations for infiltration basins from the NJDEP BMP manual.

F. Sheet 6 – Drainage Area Plan

1. This plan shall be revised in accordance with required revisions to the Stormwater Report.

G. Sheet 7 – Profiles

1. The recharge basin profile needs to indicate the 100 year water surface elevation, depth of sand layer in bottom and seasonal high water table.

H. Sheet 8 – Cross Sections

1. The note regarding exceeding the RSIS shall be removed since the cross section is consistent with the latest version of the RSIS.

I. Sheets 9 and 10 – Details

1. Additional details are required for the force main. These include the individual pump systems, force main to force main connections, etc. All sewer details will need to be approved by the Township Engineer.
2. Revise all details per the requirements of the Twp. Engineer (1/13/11 Memo).
3. Additional information is required for the proposed street lighting, including source type and wattage. The detail from the utility company shall be added to the plan.
4. Additional construction details shall be provided for the infiltration basin. The sequencing/construction notes in the DEP BMP Manual should be used along with notes regarding testing of the subsoil material during construction to ensure it is uniform.

J. Sheet 13 – Landscape and Lighting Plan

1. The swale from the low area to the recharge basin shall be shown. Any trees in the swale and those in and near the low area shall be wet tolerant species. The trees that are shown to be planted in the low area shall be wet tolerant.

2. This plan shall be subject to the approval of the Township Planner.

49. The following items shall be addressed relative to the Stormwater Management Report:

- A. Revised plans shall note that there will be no basements associated with any of the proposed homes.
- B. The bottom of the infiltration should be more completely detailed. In order to facilitate maintenance, the top 4" of the basin be a sandy topsoil mix that will support perennial grass.
- C. The NJDEP BMP Manual notes that the peak storage elevation in the infiltration basin shall be no more than 2 feet. The calculations show that the depth of storage in the basin may exceed 2 feet. Since the storage areas are located in a residential area, the areas shall be surrounded with a 4' vinyl-clad chainlink fence with self-closing locking gate, maintenance of which shall be part of the maintenance obligation of the HOA for the basin.
- D. The basin needs to be constructed without compaction of the soils. The BMP manual indicates that all excavation should be done from outside of the basin bottom. If it is not possible to reach the bottom of the basin from the perimeter, the lightest possible equipment shall be used. An inventory of the proposed equipment for the work shall be provided to the Township Engineer prior to construction. This inventory shall include the pressure the equipment places on the surface based on its weight and contact footprint.
- E. The sand used in the construction of the infiltration basin will need to be certified by a professional engineer. A note to this effect shall be added to the detail on the plans.
- F. The low area used as part of the stormwater system will be modified as part of the construction. Topsoil shall be removed and replaced with a sandy topsoil mix similar to that specification for the infiltration basin.
- G. The low area extends onto offsite properties. Sufficient spot grades and calculations shall be submitted to demonstrate that the water surface elevation is not raised off the property in the post development condition.

H. Provide drain time calculations for the low areas, utilizing a factor of safety of 2.0 for the infiltration rate.

50. The following items shall be addressed relative to the Stormwater Operations and Maintenance Manual:

A. Drain time calculations need to be provided for the proposed low area. The drain times for both the low area and the infiltration basin shall be included within the Operations and Maintenance Manual (O & M Manual).

B. Add a sentence above Part I background data on page 1 of the O & M Manual that inspection reports shall be submitted to the Township Engineer annually no later than April 1st.

C. Add a note that the maintenance/inspections of the infiltration basins and stormwater management system shall be conducted by a qualified person.

D. In Section C on page 1, after the 1st paragraph, add from the BMP Manual the 1st two paragraphs from page 9.5-7 under the section heading "A. General Maintenance", to this section.

E. Revise the reference from detention basin to infiltration basin within the fourth paragraph under Section C on page 2.

F. Revise the reference from water quality storm to the design storm (100 year) in the 5th paragraph within Section C on page 2 (The basin is designed for the 100 year storm event). Add the computed drain times for the proposed infiltration basin and proposed low area.

G. Revise the 1st sentence within the last paragraph in Section C on page 2 dealing with the inspection of the infiltration basin to read "The bottom sand layer in a surface infiltration basin should be inspected at least monthly as well as after every storm exceeding 1" of rainfall". (See page 9.5-8 D. "Other Maintenance Components" within the BMP Manual for reference).

H. Add two additional items within the infiltration basin checklist for drain time and observed ponding.

I. Add a separate section within the inspection checklist for the overflow swale area that is intended to direct any overflow from the proposed low area alongside the house on proposed lot 19.02.

J. Provide notation within the maintenance manual that the Township shall have the right, but not the obligation, to provide emergency maintenance on the Stormwater management system. All costs incurred by the Township shall be paid by the homeowners association.

51. The following items shall be addressed relative to the Soil Movement Permit:

A. The lot designations within the revised soil movement calculations shall be corrected.

B. It shall be noted that no basements will be constructed for the proposed homes.

C. The calculations show that the site will be a net cut with material being trucked off of the site. If the destination is a site in the Township, an application for that site may be required.

D. Hours of operation are 7 am to 5 pm on weekdays and 8 am to 12 noon on Saturday. No Sunday or holiday hours are permitted. All fueling and warm up of equipment shall occur only within the work hours.

E. All trucking shall be from the site to Route 46 via Railroad Avenue and Berkshire Valley Road.

F. The following fees apply to the application:

e. Application fee (17-7.1) – \$250.00

f. Soil Movement Fee (17-7.2) – 2,798 cy x \$0.15/cy = \$419.70

g. Inspection Fee (17-7.3) – Included with Township Engineering inspection fees

h. Bond (17-8) \$3,000.00

52. An application for a Treatment Works Approval (TWA) Permit for the sanitary sewer force main extension shall be prepared by the Applicant and submitted to this Department for review.

53. Sheet 1 – Cover Sheet

a. Note 8 shall be revised to specify that all storm drainage piping shall be constructed of reinforced concrete pipe.

b. Note 13 shall be revised as follows:

“All proposed houses will be serviced by individual underground sanitary sewer grinder pumps connected by an 1 ¼ - inch force main lateral to a 2-inch low pressure force main collector. A check valve and shut-off valve shall be installed on each force main lateral connection and shall be located 2 feet behind the face of curb. The grinder pumps and sanitary sewer laterals up to the shut off valve shall be owned and maintained by the property owner. The Township shall own and maintain the sanitary sewer force main and the sanitary sewer laterals connections up to the shut off valve once the sanitary sewer force main and lateral connections are accepted by the Township.”

c. A note shall be provided on the plan specifying the entity that will own and maintain the infiltration basin.

54. Sheet 4 – Utility, Grading and Traffic Control

a. The metes and bounds for the rear property lines of Block 2702 Lots 19.02 and 19.03 which adjoin the lake property Block 2702 Lot 1 shall be shown on the plan.

b. A drop curb shall be provided at the detention basin access drive. The detention basin access drive shall be constructed of grass pavers. A detail for the grass pavers shall be provided on the plans.

c. The length of the 2-inch sanitary sewer force main shall be indicated on the plan.

d. The 2-inch sanitary sewer force main and lateral connections shall be constructed on Schedule 80 polyvinyl chloride (PVC) pipe. The PVC pipe shall conform to the applicable requirements of ASTM D3034. All fittings and accessories shall be manufactured and furnished by the pipe supplier.

e. A shut off valve and check valve shall be shown on the plan for each sanitary sewer force main lateral. The shut off valve and check valve shall be located 2 feet behind the face of curb.

f. The plan shall indicate the limits of the sanitary sewer system to be owned and maintained by the Township.

g. The location of the fire hydrant at the cul-de-sac shall be relocated east between the property line of proposed lot 19.03 and existing lot 24. The fire hydrant shall be installed on the end of the water main at approximate Station 4+95.

h. The off-site water and sanitary sewer utility information shall be shown on the plans.

i. The invert and rim elevations shall be provided for the sanitary sewer force main connection to the existing manhole in the intersection of Railroad Avenue and Halsey Street.

j. A label shall be placed on the existing manhole in Railroad Avenue specifying “the interior of the existing manhole to receive a polyethylene coating.”

k. A note shall be added to the plans stating that the properties shall be serviced by individual grinder pumps. The grinder pumps and sanitary sewer lateral between the home and the shut off valve shall be owned and maintained by the property owner.

l. The invert and grade elevations for the storm sewer structures Inlets #4 and #5 and Manhole #6 shall be confirmed. The elevations shall provide for sufficient concrete on the structures between the top of pipe and the bottom of the frame.

55. Sheet 7 – Profiles

a. The proposed fire hydrant shall be shown at the end of the water main, approximate Station 4+95.

56. Sheet 8 – Cross Sections

a. The pavement cross sections shall specify existing and final road grade elevations, curb elevations and the pavement section of 2" bituminous surface course, 3" bituminous concrete base course and 4" dense graded aggregate.

57. Sheet 9 – Details

a. Typical Pavement/Trench Cross Section detail shall be revised as follows:

1. The trench bedding shall be extended from a minimum 6" beneath the pipe to 6" above the top of pipe. The label referring to "proposed RCP" shall be revised to specify "proposed storm, water main, sanitary sewer main pipes." The detail shall specify that the backfill material shall be placed and compacted in 12" lifts. The pavement section shall reference 3" thick, bituminous stabilized base course, Mix I-2.

b. A Trench Restoration detail shall be provided on the plan and shall include placing 5" thick, bituminous stabilized base course, Mix I-2 to final grade. The detail shall depict milling the entire trench width plus 12 inches on either side of the trench to a depth of 2 inches and placing 2" thick, bituminous concrete surface course, Mix I-5 to final grade. The detail shall also include the following note "Permanent pavement restoration shall be completed within six (6) months after completion of the temporary pavement restoration."

c. Standard Manhole Frame and Cover detail shall be revised as follows:

i. The manhole frame and cover detail shall specify Model 1203B as manufactured by Campbell Foundry.

ii. The manhole cover shall be provided with four (4) 1/4" diameter vent holes.

d. Precast 4'-0" Diameter Manhole detail shall be revised as follows:

i. The pipe/wall penetrations shall be sealed with a flexible manhole sleeve with two (2) stainless steel straps as manufactured by A-Lok Products, Inc.

ii. The manhole steps shall be steel reinforced copolymer polypropylene manhole steps Model PS2-PF as manufactured by MA Industries.

e. The following general Sanitary Sewer Manhole Notes shall be added to the plan.

i. Existing manholes where a force main enters shall have the interiors coated with a polyethylene coating.

ii. The contractor shall be core bore the existing manhole and install a Link Seal watertight seal as manufactured by PSI Thunderline or other suitable adapter as required and approved by the Township Engineer.

iii. The contractor shall not interfere with any existing sewerage service during the period of construction and shall take all necessary precautions to keep debris out of the manhole.

iv. Concrete brick or block manholes shall not be provided unless approved by the Township Engineer.

58. Sheet 10 – Details

a. Force Main Connection to Manhole detail shall be revised as follows:

i. The interior drop connection in the existing manhole shall be constructed of Schedule 80 PVC pipe.

ii. A t-wye connection shall be provided for the force main interior drop connection.

iii. The existing bench shall be reconfigured to direct the invert of the drop connection into the existing channel.

iv. The force main penetration shall be sealed with a flexible manhole sleeve with two (2) stainless steel straps as manufactured by A-Lok Products, Inc.

b. Terminal Flushing Connection detail shall be revised as follows:

i. The 2-inch ball valve shall be a brass ball valve with a stainless steel ball.

ii. A 2-inch quick disconnect coupling male adapter with female threads with a cover with a stainless steel chain shall be provided at the end of the force main flushing connection.

iii. A watertight sanitary sewer manhole cover shall be provided for the Terminal Flushing Connection. No vent holes shall be provided. The watertight manhole cover shall be "Flow-Seal Manhole Cover" as manufactured by Campbell Foundry.

iv. The force main penetration shall be sealed with a flexible manhole sleeve with two (2) stainless steel straps as manufactured by A-Lok Products, Inc.

c. Hydrant detail shall be revised as follows:

i. The fire hydrant detail shall specify a three-way hydrant with two (2) 2 ½-inch hose nozzles and one (1) steamer nozzle with a 5" integrally installed Storz connection.

ii. The fire hydrant shall be of the safety flange type with 6-inch mechanical joint connections and shall have a depth of 5-feet. The new hydrant "Bury Line" shall be flush with existing grade. The detail shall specify National Fire Standard Threads.

iii. The fire hydrant detail shall be revised to show the hydrant gate valve connected to a swivel gland assembly which in turn will be connected to a MJ x MJ x Swivel Tee with Mega-Lug accessories. The MJ x MJ x Swivel Tee shall be Catalog No 5-625 as manufactured by Tyler Pipe. The hydrant shall be suitable restrain rod to the isolation valve and the valve shall be restrained rod to the water main tee.

iv. The hydrant shall be placed so that the centerline of the hydrant is 2'-0" to 2'-6" from the face of curb. The steamer hose nozzle shall face the street. The hydrant elbow shall be placed on a solid a block or concrete slab foundation not less than 4-inches thick and 15 inches square. The concrete thrust block shall not block the drain ports.

d. The Typical Water Service Installation detail shall be revised to reflect the following: The corporation stops shall be Mueller Company Model B25008. The curb valves (stops) shall be Mueller Company Model FB25209.

e. The notes for the Public Water shall be revised to the following:

i. "Note 1. Water main shall be ductile iron, cement lined, Class 52 pipe, conforming to ANSI/AWWA C151/A21.51."

ii. "Note 2. Fire hydrants shall be Mueller A-423 Centurion Fire Hydrant with Integral Storz Pumper Connection."

iii. "Note 3. Water mains shall have a minimum cover of 5-feet."

iv. "Note 4. The water main shall be tested at a pressure equal to 150% of the operating pressure for a period of at least 2 hours in accordance with ANSI/AWWA C600."

v. "Note 8. Retainer glands shall be furnished and installed at all mechanical joints. All retainer glands shall be Mega-Lug retainer glands as manufactured by EBAA Iron."

vi. "Note 9. All water main fittings shall be standard fittings conforming to AWWA/ANSI C110/A21.10."

vii. "Note 10. The hydrant shall be enamel painted in accordance with the local Fire Department color code. The main barrel shall be painted with "Red" industrial paint. The bonnet and caps painted with "Bright Yellow" industrial paint. The paint used shall be Conlux, Benjamin Moore or accepted equal."

viii."Note 11. The hydrant oil reservoir shall be checked prior to placing the hydrant into service. The Contractor shall lube the cap threads with thread grease prior to painting."

f. The notes for the Sanitary Sewer shall be revised to the following:

i. "Note 1. The sanitary sewer force mains shall be Schedule 80 polyvinyl chloride (PVC) pipe. The PVC pipe shall conform to the applicable requirements of ASTM D3034. All fittings and accessories shall be manufactured and furnished by the pipe supplier."

ii. "Note 3. The sanitary sewer force main shall be tested at 50% above the normal operating pressure for a period of 2 hours. The test pressure shall not exceed the rated working pressure of the pipe."

g. A Wet Tap and Valve detail shall be provided on the detail sheet. The wet tap shall be Mueller Company tapping sleeve Model H304 and shall be provided with a Mueller Company flanged to mechanical joint resilient-seated gate valve, Model No. A-2360.

h. A Gate Valve Assembly detail shall be provided on the plans. All gate valves shall be Mueller Company mechanical joint resilient-seated gate valve, Model No. A-2360.

i. A Sanitary Sewer Force Main Lateral Connection detail shall be provided on the plan. The detail shall specify the manufacturer and model of the grinder pump to be installed. A suggested model of grinder pump is the Environment-One (E-One) installed. A suggested model of grinder pump is the Environment-One (E-One) Model 2010-IDU with a 240 volt, single-phase motor. The cover of the grinder pump should be at least 6" above the surrounded grade. The sanitary sewer force main lateral shall be constructed of Schedule 80 PVC pipe. The PVC pipe shall conform to the applicable requirements of ASTM D3034. All fittings and accessories shall be manufactured and furnished by the pipe supplier. The detail shall show the shut off valve and check valve located 2 feet behind the face of curb. The shutoff valve shall be provided with a slip type valve box cover with the word SEWER printed on the cover. The Township shall own the lateral up to the shutoff valve once the force main and laterals are accepted by the Township. The limits of the Township's responsibility shall be indicated on the detail.

j. The "Detail of Standard Street Sign" detail shall be revised to reflect the revised sign information in accordance with the MUTCD, Millennium Edition. The following specification refers to the products manufactured by Garden State Highway Products, Inc.

i. The roadway nameplates shall be 8" high by variable length extruded aluminum, reflectorized in Super Engineer Grade (SEG) sheeting.

ii. The characters shall be die cut from Super Engineer Grade (SEG) reflective sheeting. The characters shall be Series "C", 6" high, all upper case characters.

iii. The sign posts shall be Schedule 40, hot-dipped galvanized steel 2 3/8" O.D. (2" I.D.) round posts.

iv. The post lengths shall be minimum 12' in length. The signs shall be set a minimum of 9', maximum of 10' above finished grade and shall be imbedded at approximately 3' in concrete.

v. The brackets for the extruded nameplate for an intersection roadway sign shall be GS-12, Bolt Thru Cross. The brackets for the extruded nameplate for a single roadway sign shall be GS-12 F/X cap.

k. A detail for the grass paver drive for the detention basin access shall be provided on the plans.

59. The Developer's Agreement will provide that the Township will assume responsibility for maintenance of the subdivision improvements upon adoption of a resolution by the Township Council accepting the

public dedication of the improvements, provided, however, that should the development be classified as a Qualified Private Community under N.J.S.A. 40:67-23.2, the Developer's Agreement will provide for delegation to the developer of the municipality's statutory obligations under N.J.S.A. 40:67-23.3 until such time as the developer's control of the executive board of the Homeowners Association must terminate pursuant to N.J.S.A. 45:22A-47.

60. 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 Friday and 8 a.m to 12 p.m. on 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 Railroad 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 Railroad 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.

61. 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."

62. Prior to final subdivision 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 subdivision approval.

63. 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.

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

65. 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.

66. 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.

67. 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 6/15/11.

Eugenia Wiss, Secretary

Motioned by Councilman Zoschak and seconded by Mr. Bautz to approve this change and check the ordinance for consistency.

Ayes: Mr. Shadiack, Mr. Bautz, Councilman Zoschak, Mr. Carey and Mr. Meyer

Abstain: Mr. Rilee

Noes: None

MOTION APPROVED.

PBA-11-05 TACO BELL (EIPCO FOODS CORP. OF ROXBURY AND WEST CALDWELL) Block 5104, Lot 2 268 Route 10

Correction. Minor Site Plan application.

**ROXBURY TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION**

**Decided: June 15, 2011
Memorialized: July 20, 2011**

**IN THE MATTER OF TACO BELL (EIPCO FOODS CORP.)
MINOR SITE PLAN APPROVAL
BLOCK 5104, LOT 2
APPLICATION NO. PBA-11-05**

WHEREAS, Taco Bell (EIPCO Foods Corp.) (hereinafter the "Applicant") applied to the Roxbury Township Planning Board (hereinafter the "Board") for minor site plan approval on 6/1/11; and

WHEREAS, the application was deemed complete by the Board, and a public hearing was held on 6/15/11; 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 61,320 square feet (1.4077 acres) located in the B-2 Highway Business District (min. 10,000 sf lot size). It is developed with a 2,520 square feet Taco Bell fast food restaurant with a drive-through window and 43 parking spaces. Final site plan approval was granted in 1988. On the adjoining westerly property (Harmon Cosmetics), final site plan approval was granted in 1992 which included the construction of a 33 stall parking lot on the Taco Bell property. Public water and sewer service the property.

2. The development of the subject property proposed by the Applicant comprises minor site plan approval of a 193 square feet expansion along the rear building elevation for an additional drive-through window to enhance order and pick-up activity. No modifications are proposed to the existing site, drive-through traffic lane or

signage. Impervious coverage will be increased from 63.9% to 64.2% (60% permitted) and floor area ratio from 4.1% to 4.4% (20% permitted).

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 Gluszko Architects, P.C.

- Sheet SP-1, Title Sheet, dated 3/7/11,
revised 5/12/11
- Sheet SP-2, Existing Conditions Site Plan,
dated 3/7/11
- Sheet SP-3, Proposed Site Plan, dated 3/7/11
- Sheet A-1, Floor Plan, Elevations & Notes,
dated 3/7/11
- Sheet A-2, Door & Window Schedules & Structural
Drawings, dated 3/7/11

Prepared by Courvrette Associates, Inc. – As-Built/
Final Site Plan Taco Bell

- Sheet 1, Title Page, dated 7/26/88
- Page 2, As-Built/Final Site Plan, dated 7/26/88
- Sheet 3, As-Built Landscape Plan, dated 7/26/88
- Sheet 2 of 3, Final Site Plan, dated 3/30/92

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

Planning Board Application and Checklist,
dated 3/29/11

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 6/1/11

Paul Ferriero, PE, PP, CME, LEED, dated 6/13/11

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 6/13/11

Michael Pellek, Fire Official, dated 6/9/11

Ptl. Gregg Predergast, Traffic Safety Bureau,
dated 6/4/11

Matthew Zacdi, Health Dept., dated 6/8/11

7. In the course of the public hearings, no exhibits were marked.

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

Richardo Davila, Applicant's principal
Peter Gluszko, RA, AIA architect

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

- A variance is necessary from Section 13-7.2502D9, as the maximum permitted impervious coverage in the B-2 District is 60% while the Applicant proposes an increase from 63.9% to 64.2%. The existing impervious coverage is nonconforming and predated the current 2001 coverage standards. The increased coverage is from the 193 square feet drive-through addition.

- A design waiver is necessary from Section 13-8.701B, as the 193 square feet expansion will require an additional four (4) parking space which the application does not provide. It should be noted that the expansion is to enhance drive-through operations. Only one additional employee is anticipated. Furthermore, in 1988 the site required 8 parking spaces and in 2011 requires 54 while the property is developed with 43 spaces (excluding the 33 Harmon Cosmetic spaces).

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

The requested variance and design waiver relief is justified pursuant to NJS 40:55D-70c(2), since the benefits of improved site functionality and efficiency associated with the additional drive-through window outweigh the detriments associated with the deviations from Ordinance requirements.

With respect to the design waiver for parking, the proposed improvements will have a minimal on increased parking demand, and the hearing testimony indicated that the existing parking is more than adequate to meet current demands.

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 minor site plan 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 10 above.

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

1. Sheet SP-1 shall note that 50 parking spaces are required under zoning for the current restaurant and 54 spaces with the proposed addition.

2. Sheet A-1 Rear Elevation detail depicts and labels a "future canopy." This shall be revised as "proposed canopy." Further detail of the canopy (dimensions, materials, color, lighting, etc.) shall be provided to the satisfaction of the Township Planner and the Board Engineer.

3. All rooftop mechanical equipment shall be screened by the proposed parapet wall.

4. Revised plans shall note that the CT cabinet and meter will be painted to match building wall color.

5. Details of the proposed wall lights shall be provided. All lights except for emergency lights shall have a concealed light source with the light lens parallel to the ground.

6. A bollard detail shall be provided.

7. Tree species and size shall be specified on the drawings.

8. Revised plans shall note that all existing parking spaces on the subject property will be restriped (including those associated with Harmon Cosmetics).

9. An easement for the Block 5104/Lot 1 (Harmon Cosmetics) parking lot shall be filed and shall be provided as was required in the 1991 approval.

10. The easement for the Block 5104/Lot 1 (Harmon Cosmetics) parking spaces shall be depicted on the drawings.

11. A permanent certificate of occupancy shall not be issued until an as-built drawing of the area of expansion is submitted and the site is inspected and approved by the Township Engineer and Planner.

12. Applicant shall apply to the Township Health Department for a construction permit, which application shall include plans with floor and wall schedules.

13. The two handicap accessible ramps along the driveway to St. Therese's Terrace and the handicap accessible ramp at the corner of St. Therese's Terrace and Main Street shall be reconstructed to meet current ADA standards with respect to slope, curb flush with pavement and/or detectable warning surfaces to the satisfaction of the Board and Township Engineers.

14. In place of the current labeling of "directional signs," traffic signage on the plans shall be re-labeled as follows: A stop sign shall be designated at the exit onto St. Therese's Terrace. A "Do Not Enter" sign shall be designated at the Route 10 entrance.

15. 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 the site exclusively from Route 10 and exit the site from St. Therese Terrace.
- 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.

16. 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."

17. 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.

18. 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.

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

20. 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.

21. 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.

22. 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 6/15/11.

Eugenia Wiss, Secretary

Motioned by Councilman Zoschak and seconded by Mr. Carey to approve the changes to paragraph 14 and 15-H.

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

Noes: None

MOTION APPROVED.

APPLICATIONS:

PBA-11-06 PRUDENT PUBLISHING CO., INC. Block 9501, Lot 2, 400 North Frontage Road

Amended Site Plan Approval for Solar Panels

Carl Kemp, Esq. appeared on behalf of Prudent / Kikia a for a Preliminary and Final Amended Site Plan approval for a solar array. The former President, Bernard Devella and the current President, Allen Greenwald were present along with Kevin Cura and Mr. Cleveland from the solar company. Lawrence Murphy, professional engineer, Anthony Garrett, architect and planner, were sworn in and qualified.

Larry Murphy showed the Board a colored version marked Exhibit A-1 which was a combination of Sheet 4 & 5 of the July 20, 2011 site plan. The parcel is on the north side of Frontage Road , is 34 acres but some of the parcel is undeveloped because it is environmental encumbered. It is zoned L-1, light industrial/ research office district and solar arrays are a permitted use. Surrounding the property are industrial warehouses. There is a one story building on the site with parking lots and a septic field to the south of the building. There is a detention basin by the access road from North Frontage Road. Everything in lighter green has been disturbed already. They are proposing 474 kilowatt solar array system to power the equipment in the building and not to sell to the grid because you can't sell to the grid unless you are a utility. The solar power is permitted as

an accessory use. They propose five arrays, two to the north of the building and three to the south. The closest array to North Frontage Road is 167'. They comply with all the setback requirements. Each array will be surrounded by a 4' black vinyl coated fence. Additional landscaping of 102 plants will be planted to soften the appearance of the arrays and screen the sewage treatment plant also. They need to disturb steep slopes but they all have previously been disturbed. All other areas on the site have constraints and haven't been disturbed. They need a variance for disturbance, disturbing 5 ½%, 2100 sf, in areas that have all ready been disturbed. Heavy equipment will be limited to parking areas to limit the disturbance. From a storm water management perspective, he did an analysis and found it to be a diminimous amount. There is no electrocution danger, all wires are insulated, one would have to rip things apart as wires are encapsulated. It is low voltage at the source.

Mr. Garrett presented a colorized sight line diagram, sheet 6 was marked Exhibit A-2, from Route 80 and Frontage Road. The site is mostly vegetated but from Route 80, there are some gaps. The distance from Rt. 80 is about 500 ft. Lenel Road has existing vegetation.

Exhibit A-3 was a boundary survey prepared November, 1986 and depicted the whole site. A photo display was marked Exhibit A-4 and had 16 photos depicting existing conditions, vegetation and views on the site. There will be a small glimpse of the upper array from Route 80. The site is not visible from Hunters Ridge, Fox Chase Road. There are houses with solar panels in that development, however. Evergreens and topography screen the site. They obviously can't shade the panels with large trees. They also want to have an attractive site. Mr. Garret testified that the positive criteria is that this creates a renewable energy source. Steep slopes are environmentally sensitive, however, the steep slopes are existing so there will not be significant impact. The angle of slopes is particularly suited for the solar panels.

This is the first solar array application before the Board. Roof mounted solar panels in Roxbury include the Ice Factory, Kohls and a carwash on Route 10,

The professionals' reports were addressed. Regarding Mr. Stern's letter of July 12, 2011, they were agreeable to all of the comments. They are seeking preliminary and final approval. They will submit structural calculations and specifications for the panels. The racking system will be grey, hand outs were provided. The existing crownvetch will be under panels and they will re-vegetate with crownvetch. Regarding the reflectivity, 8% of the suns rays will be reflected which is less than glass or water so glare shouldn't be an issue. They will field locate and stake the sewage field and utilities to prevent damage. A waiver is recommended because only one tree is being removed on this site.

They were agreeable or addressed in testimony all the items in Mr. Ferriero's report of July 18, 2011. Regarding certification from Morris County, they are disturbing less than 5000 sf. but will get a letter of non interest from them.

Mr. Garret stated his conclusion as to the negative; the variance won't cause substantial impairment of the zone plan and public health, safety and welfare.

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

Motioned by Mayor Rilee and seconded by Mr. Bautz to approve.

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

Noes: None

MOTION APPROVED.

OLD BUSINESS:

Church of Latter Day Saints, Block 8201, Lot 9 in a R-1 zone, 156 Mountain Road, Ledge wood - Removal of Right of Way sidewalk.

A letter had been sent asking permission to remove the existing sidewalk on Mountain Road. This 100 feet of sidewalk is in disrepair and there are no other sidewalks nearby. It was constructed in the 80's and they were required to provide sidewalks but after 30 years they have deteriorated. It is a level area and an older neighborhood. It is out of place. The damage is from salt. The Board is making other applicants put in sidewalks and what about other business that want to do the same thing (remove sidewalks) in the future? Sidewalks give relief from walking in the roadway, it's a narrow roadway and allowing them to remove it is a bad precedent. Major thoroughfares should have sidewalks. If they are seeking relief they should come before the Board. Mr. Stern will write a nice letter to them informing them that the action of the Board supports the sidewalks.

NEW BUSINESS:

The date for September 7th meeting will be changed to Tuesday September 6th (the day after Labor Day)

A motion to adjourn was made at 8:37 p.m.

FOR THE PLANNING BOARD
TOWNSHIP OF ROXBURY

Eugenia Wiss, Board Secretary