

**MINUTES OF REGULAR PLANNING BOARD  
MEETING HELD ON THURSDAY, JULY 15, 2021**

Chairman Blewett called to order the regular in-person meeting of the Board and announced the meeting was duly advertised in compliance the Open Pubic Meetings Act by notice sent to the Daily Record, Suburban Trends and posted on the bulletin board and website at Borough hall. All stood for the Pledge of Allegiance.

**PRESENT: BLEWETT, GEMIAN, KOLDYK TERRERO, AND D'ANTONO**

**ALSO PRESENT: PETRESKI, ENGINEER AND NEISS, COUNSEL**

**ABSENT: FLORENTINO, KAUFMAN, MARINO, \*RUNFELDT AND TAORMINA**

Chairman Blewett stated the first item on the agenda are the minutes of May 20<sup>th</sup> and June 17<sup>th</sup>, 2021 meetings.

Ms. Ward stated they are both going to be carried. May 20<sup>th</sup> is done but I'm proof reading, and I haven't started the other one yet.

Chairman Blewett stated the next item on the agenda is Correspondence from Allyson M. Kasetta, Esq., of Prime & Tuvel, dated June 2<sup>nd</sup>, 2021 requesting a time extension with reference to Preliminary & Final Major Site Plan Application #366 and Flood Plain Encroachment Application #G17-02 by Meridia Transit Village, Urban Renewal, Lincoln Park, LLC, on property known as Block 139, Lot 20.1 on the municipal tax map also known as 241 Main Street. This is a consideration of a resolution of memorialization. Does anyone have any comments about the resolution?

**RESOLUTION OF THE LINCOLN PARK  
PLANNING BOARD**

**RE: FORMERLY MERIDIA TRANSIT VILLAGE, LLC  
NOW: MERIDIA TRANSIT VILLAGE, URBAN RENEWAL, LINCOLN PARK, LLC**

**APPLICATION FOR AND GRANT OF EXTENSION  
OF PREVIOUSLY GRANTED APPROVALS**

**FORMERLY BLOCK 139, LOTS 19, 20, 21  
NOW BLOCK 139, LOT 2.01  
FORMERLY 239-247 MAIN STREET  
NOW KNOWN AS 241 MAIN STREET  
LINCOLN PARK, NEW JERSEY**

WHEREAS, by Resolution of the Borough of Lincoln Park (the "Borough") Planning Board (the "Board") dated May 16, 2019, MERIDIA TRANSIT VILLAGE LINCOLN PARK, LLC (the "Applicant") received approval for preliminary and final major site plan and floodplain encroachment approval (collectively, the "Approval") for property commonly known as 239-247 Main Street and designated as Block 139, Lots 19, 20 and 21 on the Tax Map of the Borough of Lincoln Park, Morris County, New Jersey (the "Property"); and

WHEREAS, by letter dated June 2, 2021, the Applicant, by counsel, requested the Board's consideration of a one year extension of the Approval; and

WHEREAS, the application for extension was the subject of a meeting held on June 17, 2021 and at which the Applicant was represented by Allyson Kasetta Esq., of Prime & Tuvel, 2 University Plaza Drive, Suite 109 Hackensack, New Jersey 07601; and

WHEREAS, at the Board's meeting, the Applicant's counsel appeared and explained that although the Approval contained several conditions, the design for the development was contingent upon two primary factors: (1) the Borough obtaining a Letter of Map Revision ("LOMR") from the Federal Emergency Management Agency as the Applicant and the Borough believed, at the time of the Approval, would be forthcoming; and (2) the successful negotiation of

a shared parking agreement with NJ Transit (“NJT”); and

WHEREAS, the Applicant’s counsel reported that (1) the LOMR was received by the Borough under date of February 12, 2021 [or almost two years after the date of the Approval] and (2) the Applicant anticipates the imminent execution of a shared parking agreement with NJT [same]; and

WHEREAS, the Applicant’s counsel also reported to the Board other important developments that affect the Property and that the Applicant is addressing including that the Morris County Office of Planning & Preservation adopted a resolution on August 14, 2019 by which the County of Morris consented to the discontinuance, relinquishment and return to the jurisdiction of the Borough the entire length of Main Street; the Applicant’s receipt of the Borough Engineer’s January 13, 2021 [Approval] Compliance Review letter and the March 26, 2021 response letter from Stonefield Engineering on behalf of the Applicant; and the Applicant’s receipt of a May 3, 2021 updated review letter from the Board’s traffic consultant, JDA, evaluating projected parking parameters and traffic safety issues; and

WHEREAS, pursuant to the Municipal Land Use Law and, in particular, N.J.S.A. 40:55D-52(a), “The zoning requirements applicable for the preliminary approval first granted and all other rights conferred upon the developer pursuant to section 37 of P.L. 1975,c:291 (C.40:55D-49), whether conditionally or otherwise, shall not be changed for a period of two years after the date on which the resolution of final approval is adopted”; and

WHEREAS, it is noted that “the two year period does not mark the end of the site plan approval, merely the end of the period during which the developer is protected from zoning changes”<sup>1</sup>; and

WHEREAS, in addition to the extension authorized by the statutory section above, subsection (d) of the same section, in relevant part, states:

The planning board shall grant an extension of final approval for a period determined by the board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued these approvals. A developer shall apply for the extension before (1) what would otherwise be the expiration date of final approval or (2) the 91<sup>st</sup> day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. (Emphases supplied.)

and:

WHEREAS, the Borough’s Development Review Ordinance, §17-6.16B3, in relevant part provides:

Whenever the Planning Board grants an extension of final approval ...and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date.

and

WHEREAS, it appeared to the Board that the Applicant diligently pursued the Approval but was prevented, through no fault of its own, because of delays discussed by its attorney that were beyond the Applicant’s control which, in the case of the LOMR, required no specific application by the Applicant:

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<sup>1</sup> N.J. Zoning & Land Use Administration (Gann.2021), §23-5.2 at p.478.

NOW, THEREFORE, the Board finds and determines that:

1. the Applicant was prevented, directly or indirectly and through no fault of its own, from proceeding with the development described in the Approval;
2. the Applicant has shown to the reasonable satisfaction of the Board that it is entitled to a one-year extension of the Approval; and
3. there shall be a one-year extension of the Approval, from May 16, 2019 to May 16, 2022.

Ms. Ward stated we only have two members that can vote on this resolution as it is a memorialization, Blewett and Terrero.

Chairman Blewett moved the resolution.

Mr. Terrero seconds.

**Roll call:**

**Yes:           Blewett and Terrero**

**No:           None**

**Abstain:   None**

Mr. Gemian asked point of order is there no discussion on it.

Chairman Blewett stated I thought I asked for discussions.

Mr. Gemian stated despite the fact that I can't vote on it can I comment on it?

Chairman Blewett stated yes.

Mr. Gemian stated I am a little concerned, I text Mayor Dave and he had not looked yet at the resolution so he could not comment on my inquiry of him, in terms if he had any issues with it; and, of course, he is not here tonight but I will give you my concerns.

Obviously this project has been protracted and waiting the letter of map revision which we have obviously received now. Despite receiving that over a protracted period I'm a little dismayed as to why the applicant is asking for a one year delay on top of which they have actually rescinded a previously approved plan for an amended plan. So we have you know, we approved the plan and they withdrew it and modified the plan and then submitted it.

We got the letter of map revision after a long protracted time, no fault of theirs or ours right, and now they are asking for a year's worth of extensions, so I am a little baffled as to why a year. At the very least if there is a reason why they need more time, I would suggest the Planning Board consider some type of compromise, perhaps 6 months instead of a year. I feel as though the Borough is being somewhat penalized by this now protracted request of waiting another year, to the middle of 2022 to start construction.

Ms. Ward stated this is the lower Main Street project. The amended site plan was for the upper Main Street project.

Mr. Gemian stated I understand that Joan, but a lot of people don't remember the two projects are tied together. Despite the fact that we are looking at them separately they are in fact contractually tied together, and there is a third party which is Fair Share Housing which we have really very limited leeway with. We are under the gun contractually and I'm just echoing a concern. I don't have a solution other than to suggest perhaps a compromise might be in order regarding waiting a year, so I'm just laying that out there for the Planning Board's consideration.

Mr. Neiss stated can I comment on a couple of things.

Mr. Gemian stated absolutely.

Mr. Neiss stated first of all the year versus 6 month that ship has sailed because the Board determined to grant the one year extension while the applicant's representative was here. Secondly, the delay what they did was they came before us using rationales that made sense under the MLUL and said well really you know this was not our fault, hopefully the LOMR and blah-blah-blah so they made the pitch that is satisfactory under the provisions of the MLUL. Third, it is not that they were required, all it does is extends the time and we can't shut that off and say, alright we are rescinding our former resolution or our approval you can't do that. Fourth, the decisions that were made were well above my pay grade so that is as much as I know.

Mr. Gemian asked so there is no concern on the part of the Planning Board. I'm not sure the Council is --

Chairman Blewett stated the mayor actually moved that.

Mr. Terrero stated I think there was no concern because they were contractually required to have this job up to a certain point before they can even start digging on the other site, so there is no way they can get around not getting this project completed. They will not get a C.O., they will not get permission on the other building unless this building is completed, be it they are going to try to get them as close to the wire as possible for opening date at the same time, it is a possibility. They buy all the equipment and material at the same time and get some savings on that end, and try to open them at the same time and minimize the amount of storage for material. It is not a play that hasn't been done.

Chairman Blewett stated yes, but the down side would have been not to approve it and then they have to resubmit their application, either get going or let it expire and resubmit the application and go through that process again.

Mr. Neiss stated if we denied them the extension they could sue.

Mr. Terrero stated right and cry wolf.

Ms. Ward stated the plans, etc. for both projects are in my office but we don't have revised plans on either projects yet, and they have numerous outstanding conditions in their resolutions to be satisfied.

Mr. Gemian asked so based on that comment Joan, I'm still a little perplexed, is this kind of the putting the cart before the horse if they don't have signed plans.

Ms. Ward stated the plans have not been signed because we haven't received any revised plans yet. When the resolutions were adopted, there were numerous conditions and they haven't been satisfied yet. They haven't submitted any revised plan to our department since the resolutions were adopted.

Mr. Gemian stated I'm just trying to understand that in light of the context of the request.

Ms. Ward stated I'm just saying, after the resolution is adopted, then they start to addressing all of the outstanding items and submit same. I know I haven't received any revised plans yet. Tom and Alex will go over the plans to make sure everything is addressed in accordance with all of the conditions stated in resolutions.

Mr. Neiss stated but unfortunately the Board could not hold their feet to that.

Ms. Ward stated the MLUL says they are entitled to time extensions.

Mr. Gemian stated okay.

Mr. Neiss stated I think the general thought process is that we want the project to begin already.

Mr. Gemian stated that is my motivation.

Mr. Neiss stated I'll just tell you that Meridia is all over the place. They have stuff going on and

stuff in the pipeline. I sat on the Leonia Planning Board for my partner last month and they are coming before the Leonia Planning Board with a big project on a postage stamp property.

Mr. Gemian stated that sounds familiar. Well I thank you for listening, I just wanted to echo my concern and it sounds like the ship has sailed for that one.

Mr. Neiss stated unfortunately.

Mr. Gemian stated okay thank you.

Chairman Blewett stated I don't think it hurts for administration to put some pressure on their management to get going right?

Mr. Neiss stated and I think that has been happening.

Mr. Gemian stated in looking at this last comment, is this potentially a delay strategy on their part because they've got so many projects in the queue that they are looking to buy some time so they can take care of some of their others?

Mr. Neiss stated I would just be speculating to be able to answer that question. I can't do that, but I know that they are all over and transit oriented development is their business model.

Mr. Gemian asked counselor at what point do you feel from a legal perspective that the Borough has some clout on trying to consummate a construction date.

Mr. Neiss stated the only thing that I can say, and I don't know the answer to it in each case, both the upper and lower I believe there was a Redevelopment Agreement entered into. Now whether it was entered into is the part I don't know and if it has time of --

Mr. Gemian stated time of performance. I will look into that.

Ms. Ward stated do you want to vote on this?

**Roll call:**

**Yes:           Blewett and Terrero**

**No:            None**

**Abstain:      None**

Ms. Ward stated it is approved.

Mr. Gemian thanked Arthur for satisfying his curiosity on that, I appreciate that.

Mr. Neiss stated don't do it again.

(Laughter)

Ms. Ward asked Alex if they ever did the test pits out there.

Mr. Petreski stated Tom went on Tuesday to witness it.

Ms. Ward stated they finally did them.

Mr. Koldyk stated I saw them digging the hole.

Mr. Petreski stated they did the structural borings a while back and they did the stormwater test pits on Tuesday.

Mr. Neiss stated they finally gave a pit is that what you are saying Alex?

Mr. Petreski stated yes.

Chairman Blewett stated okay. Item #3 on the agenda is Minor Site Plan & Variance Application #344 and Flood Plain Encroachment Application #FPE 14-03 by J. Killion, LLC, on property known as Block 5, Lot 35 on the municipal tax map also known as 4 Beaver Brook Road. Complete June 18<sup>th</sup>, 2021 decision by October 26<sup>th</sup>, 2021. This is a public hearing.

Mr. Cook stated good evening Mr. Chairman and everyone, my name is Harold Cook III, I'm the attorney for the applicant, J. Killion, LLC. I have the full member of J. Killion, LLC with me, Joseph Killion and he is going to be testifying this evening.

Our engineer, Alex Zepponi from Entec had some very serious health issues so I hope that we can address the engineering issues as it is pretty straightforward.

Chairman Blewett asked do you want to tell us a little bit of what is going on.

Mr. Cook asked do you want to swear Mr. Killion in first or do you want me to give an overview of the application.

Mr. Neiss stated whatever your pleasure is, it's your application.

Mr. Cook stated okay. This is an existing building and it has been here for several years. What the applicant is proposing is to modify the parking lot. The number of spaces are conforming to the ordinance, however, the sizes are not conforming so we are seeking a variance to allow 9 x 18 spaces. In addition there is loading dock in the front yard of McKelvey Street and we need a variance for that.

With respect to the structure itself, Mr. Killion is proposing a new façade or renovation for aesthetics for the structure itself. There is no enlargement, everything will remain the same. I can have him testify about the renovations as to the façade, and we have submitted architectural plans as part of this application. The applicant plans to make the renovations and conform to the plans.

Mr. Killion if you would raise your right hand the attorney will swear you in.

Mr. Neiss swore in Mr. Killion. Please stated your full name and business affiliation for the record.

Mr. Killion testified Joseph Killion, managing member of J. Killion, LLC.

Mr. Neiss thanked him.

Mr. Cook asked Mr. Killion it is my understanding that you purchased the building in the early eighties.

Mr. Killion testified correct.

Mr. Cook asked I think it was in your own name and subsequently you transferred title to J. Killion, LLC.

Mr. Killion testified correct.

Mr. Cook asked what exists there today is pretty much the same as what existed at the time you purchased the building.

Mr. Killion testified it is the same size.

Mr. Cook asked did you make an enlargements/additions after you purchased it.

Mr. Killion testified no.

Mr. Cook asked as part of this application, do you intend to make any additions or enlargements

to the building.

Mr. Killion testified no.

Mr. Cook asked would you tell the Board outside of the parking changes as part of the site plan, the number of parking spaces and so forth, what exterior changes you propose to the building.

Mr. Killion testified I'm proposing to take the awnings off, the green awnings, and I don't know if you are familiar with the building? I want to put a mansard roof on there and on the roof structure itself we are going to redesign so they have peaks on them for architectural aesthetics.

Mr. Cook asked to make it more aesthetically pleasing.

Mr. Killion testified correct.

Mr. Cook asked and that is shown on the plans by Scott Monro.

Mr. Killion testified correct. Some of the other stuff is like upgrading the windows and replacing the windows in the front, replacing the signage with new signage and it is all existing, just like more of an upgrade.

Mr. Cook asked are there any plans to change the uses other than what exists or what has been approved.

Mr. Killion testified no.

Chairman Blewett asked can you described the use right now.

Mr. Killion testified there are 3 retail stores, one is a packaging store and the other two stores are vacant.

Chairman Blewett stated is there any other uses in that building.

Mr. Killion testified there are two apartments on the second floor with separate access in the rear of the building.

Chairman Blewett stated okay thank you.

Mr. Petreski stated there was a packaging store but I see FedEx signs, did they convert to a FedEx store or a packaging store?

Mr. Killion testified it is a combination; same thing, same owner, same use.

Mr. Petreski stated okay.

Mr. Cook stated you had a chance briefly to review with me the engineer's letter and some recommendations, I suggest we go through this.

Chairman Blewett asked is that the letter from Darmofalski dated July 7<sup>th</sup>, 2021.

Mr. Cook stated yes. With respect to Item 1 it says, approximately 4 of the available parking spaces will be required for the residential uses on the second floor and which parking spaces will be designated for the units. It appears 11, 12, 13 and 15 could be designated as parking for residents only. We recommend signs are placed at each stall to reserve the parking for the units. Do you have a problem with doing that?

Mr. Killion testified no. But the parking is already in the back for the units so it is segregated from the front. It is in the back of the building where the entrances are for the apartments.

Mr. Petreski stated so you have two units; a one bedroom unit and a three bedroom unit. The one bedroom unit requires 1.8 parking spots and the 3 bedroom unit requires 2.1 parking spots for a total of 3.9 parking spots required for the residential units, so rounded up that is 4. For the

Residential Site Improvement Standards you are required to have 4 spots for residential so that is why we recommended those 4 spots be designated for the residents.

Chairman Blewett stated you only have two spots listed in the back, #15 and 16.

Mr. Petreski stated one of which is also marked as a loading space.

Chairman Blewett stated that is why you are saying 3 out front.

Mr. Petreski stated yes.

Mr. Cook stated that is fine, the applicant will agree to that.

Chairman Blewett stated okay.

Mr. Killion testified the loading space is already designated with a sign.

Mr. Petreski asked well what if a resident parks there and a loading truck appears.

Mr. Killion testified well there is nothing we can do about it but mark it as a loading space.

Mr. Petreski stated yes.

Chairman Blewett stated but that is his point. The one in the back will be designated as a loading area and then you will have one in the back and three in the front.

Mr. Cook stated that's fine.

Mr. Neiss stated I have a question. The two in the back 14 and 15 there appears to be macadam back there as well, the picture I guess I saw was a car parked on that macadam and that is not a parking spot.

Mr. Killion testified yes.

Mr. Neiss asked yes what.

Mr. Killion testified there is macadam and they park there.

Mr. Neiss stated so the question for me Alex is, you know is that a place where the loading zone is going to be or is that --

Mr. Petreski stated if you look at the plan, spot #14 is the loading zone.

Mr. Neiss stated right.

Mr. Petreski stated now currently it would be the loading zone and they have noted that on the plan loading zone, but I think it is also being used as a parking spot, so I guess it is kind of whoever gets there first uses it. Now they are more or less trying to formalize it and put two parking spots there or one parking spot and one loading.

Mr. Neiss asked Mr. Killion is that the plan. Spot #14 is going to be designated, if the Board approves this, spot #14 is going to be designated as a loading zone area?

Mr. Killion testified yes, that is the one by the building.

Mr. Neiss asked and spot #15 will be a residential parking spot.

Mr. Killion testified correct.

Mr. Neiss stated that macadam area what --

Mr. Killion testified that is actually the entrance into the stairs the macadam there. It has been existing forever.

Mr. Neiss stated I get it. To me it looks like there was a car parked in the picture that I saw.

Mr. Killion testified someone may have parked a car there. Along that side street there are cars parked there for the business next store.

Mr. Gemian asked could it be striped for pedestrian access as opposed to parking.

Mr. Petreski stated I think they are proposing striping about 10 feet from the face of the building to mark the edge of the macadam where you would not be crossing, they are proposing a pavement striped to kind of designate that area for pedestrians.

Mr. Gemian stated okay.

Chairman Blewett asked does that encroach into the right-of-way of the road.

Mr. Petreski stated yes, that was one of our technical comments that it is encroaching currently into the right-of-way and I see a potential for extending the parking area towards the side property line in order to fully place it within the property and not encroach on the right-of-way.

Mr. Cook stated we can do that, I saw that in the letter and that is not a problem.

Mr. Killion testified there is enough macadam in front of it, it is just the way they have it laid out.

Chairman Blewett stated okay.

Mr. Petreski stated definitely the macadam can be extended approximately 2 feet in order to --

Mr. Killion testified in order to access the macadam in front of those stores, but if need be, we will just have to move the lines forward.

Mr. Petreski stated if need be, you will extend the striping.

Mr. Killion testified yes.

Mr. Neiss asked and these spots are going to be all striped.

Mr. Killion testified correct.

Mr. Cook stated Mr. Killion testified to what existing tenants there are, the vacancies will be uses permitted under the ordinance and if we have to come to the town for a C.O., he'll do. We cannot say what they will be now but we can say they will be in conformance with the ordinance and we will apply for a C.O.

Chairman Blewett asked the apartments are an acceptable use in that zone.

Mr. Petreski stated second floor units are permitted in this zone.

Mr. Neiss stated I thought they were permitted but the entrances had to be on the front façade.

Mr. Petreski stated I guess since this is a corner property the entrances would be on the front.

Mr. Neiss stated so it could be either side.

Mr. Petreski stated yeah, either side would be fine.

Chairman Blewett thanked Alex.

Mr. Cook stated Mr. Killion testified as to the architectural improvements, #3.

Number 4 parking stall, #10 is marked as a handicap stall but there does not appear to be adequate width for the handicap access aisle. Only 1 ADA stall is proposed so it must be van accessible and as such, the access aisle must be a minimum of 8 feet wide for the entire length of the parking stall and the stall must be a minimum of 8 feet wide. Parking stall #11 appears to encroach on that width. Also revise the plans to provide the required van accessible placard on the ADA sign detail. We will have our engineer address it accordingly.

Mr. Neiss to increase the size of the space.

Mr. Cook stated yes and the placard placed too.

Mr. Neiss asked is there enough room.

Mr. Petreski stated it is tight. It might get in the way of parking spot #11 and it might make that a non-usable parking spot, or it might be required to be shifted. You have one additional parking spot than is required at the moment, so there is a potential, if you cannot fit both the aisle and the parking spot #11, you would omit parking spot #11.

Mr. Cook stated we will have the engineer look at it.

Mr. Petreski stated okay.

Mr. Cook stated the site plan proposes a short ramp to transition from ADA parking stall up to the sidewalks; the ramp running slope shall not exceed 8.33%, the maximum rise shall not exceed 6 inches, cross slopes shall be no greater than 2%, and similar running and cross slopes are required for sidewalks, and revised plans to show a note required ADA limits will be met. We will undertake that.

Mr. Neiss stated just so the record is clear, if the Board grants this application, there will be submitted revised plans, a whole set.

Mr. Cook stated yes.

We recommend the applicant provide testimony on the proposed plantings. What is the maximum mature height for the proposed plantings between the driveway and any other proposed plantings so as not to block the sight distances coming out of the site?

Mr. Killion testified there are plantings already there. I don't really know the technicality of the plantings but they are there.

Mr. Petreski stated yes, but we lack information on the mature height, and given that these potentially encroach on your sight distances coming in and out of the property it has the potential to block your sight coming in and out of the property.

Mr. Killion stated I understand that part.

Mr. Petreski stated so we don't know what these shrubs are or what their heights are.

Mr. Cook stated so maybe we set a maximum mature height of 2½ feet on these, or a height that would be acceptable to the engineer. Is that acceptable to the Borough engineer?

Mr. Neiss stated you are going to submit revised plans so you could put whatever it is there.

Mr. Killion asked do we have to come back before the Board to do a revised plan.

Mr. Cook stated no. If the Board were to approve this by resolution, it would say to the satisfaction of the engineer.

Mr. Neiss stated to the reasonable satisfaction of the Board engineer.

Mr. Cook stated then we can find out what he wants before we put it on the plan.

Ms. D'Antono stated like a Boxwood shrub or label it, it could be Boxwood or just document what you are putting in and the mature height is no more than whatever. At least they have something in the file and we have a paper trail.

Chairman Blewett stated and be maintained at that level.

Mr. Neiss stated we are asking for a lot here Mr. Killion.

Mr. Killion testified you are asking for a lot.

Mr. Petreski stated parking stall #15 partially encroaches on McKelvey Street right-of-way, can the pavement be extended so the parking space is entirely on the subject property?

Mr. Cook stated we will address that and it is a yes.

Mr. Petreski no new lighting is proposed.

Mr. Cook stated the applicant is proposing to re-use the existing floodlights but the existing flood lighting only appears to provide limited illumination. We recommend as a condition of approval, the applicant verify that a minimum of 0.5 foot-candle illumination is achieved within the entire parking area prior to the issuance of a C.O. The applicant will be responsible to provide additional lighting as required to achieve the minimum illumination. That is acceptable and the applicant will agree to that.

Number 9, the applicant proposes to reuse an existing 9 x 18 loading space at parking stall number 14. We recommend that this stall be restriped with diagonal cross hatch to properly differentiate the loading zone from the adjacent parking stall. We recommend the applicant provides testimony on the frequency and timing of deliveries to the site.

Mr. Cook stated we talked about this and we have no problem with marking as required here.

As far as deliveries to the site, at this point there is only the FedEx Store.

Mr. Neiss stated I appreciate that testimony Mr. Cook.

Mr. Petreski asked most of the deliveries are done during normal business hours.

Mr. Killion testified yes.

Ms. D'Antono asked 7 to 3 or something like that.

Mr. Cook stated #10, the applicant proposes to use the existing garbage enclosure. The PVC enclosure will be replaced in kind. Access to the garbage enclosure is through the grass, will pavement be extended to meet the trash enclosure. Will any plantings be provided around the garbage enclosure? The garbage enclosure can be no greater than 6 feet per Borough Code. Whatever the Board likes the applicant will do.

Mr. Neiss stated what about the attorney, if the attorney wants something.

(Laughter)

Mr. Petreski stated customarily you wouldn't see a garbage enclosure in the front of the property, but given the shape of the property it is impossible to put it anywhere else other than in the front of the property. What I note in my site visit is that the garbage enclosure is in poor condition so I would suggest at a minimum this enclosure is replaced with an enclosure that is a minimum of 6 foot tall. Customarily these enclosures also have fencing around them of similar height, but I would leave that to the Board's discretion if you would like that included as well.

Mr. Cook stated it will be a new PVC enclosure with whatever plantings the Board attorney would like.

Mr. Neiss asked is there a pad.

Mr. Petreski stated there appears to be a small concrete pad at the moment.

Mr. Neiss asked covering the entirety of the enclosure.

Mr. Petreski stated not necessarily only partially.

Mr. Killion testified we will make it all concrete.

Mr. Neiss stated so you will put a pad under the PVC enclosure and dress it up.

Mr. Killion testified yup.

Mr. Neiss stated you are making the Board attorney very happy.

Mr. Cook stated that is what I want to do.

Chairman Blewett asked Alex where is that located.

Mr. Petreski stated if you look at the inside corner along McKelvey Street frontage, there is a row of bushes and just behind those bushes.

Chairman Blewett stated oh okay.

Mr. Petreski stated the one thing I would suggest, between the pavement and the garbage enclosure that that area is concrete or asphalt, a solid surface.

Mr. Cook stated okay.

Number 11 the actual walkway adjacent to the building to the residential dwelling is in poor condition and there is a 4 inch step where it meets the concrete sidewalk. We recommend the applicant consider replacing the walkway and provide a smooth transition to concrete sidewalk in front of the building. Done.

Mr. Neiss asked is that your testimony Mr. Killion.

Mr. Killion testified I do.

Mr. Neiss stated I'm not marrying you.

Ms. D'Antono stated you can say I concur going forward.

(Laughter)

Mr. Cook stated water appears to be ponding at the northern corner of the actual parking area, parking stall #1 and we recommend the applicant provide a stormwater inlet and seepage pit at this location to address ponding. The applicant says if the Board attorney wants it is it done,

Mr. Neiss stated in this case it is not the Board attorney it is the Board engineer.

Mr. Cook stated okay.

Mr. Petreski stated it is my recommendation to include the seepage pit. The pitch of the parking area is pitched over the grass on Lot 34 and it doesn't appear to be infiltrating but backing up into the parking area, so I think if we are rebuilding this parking area you might as well address the stormwater issue.

Mr. Killion testified which means we have to repave that area.

Mr. Petreski stated well repave around the inlet.

Mr. Killion testified but we have to dig it.

Mr. Petreski stated yes.

Mr. Cook stated we recommend stop bars and stop signs are placed at the exits at both driveways. Does the applicant agree to do that?

Mr. Killion testified okay.

Mr. Cook stated we recommend the applicant provide testimony on proposed milling and pavement in all parking areas.

Mr. Petreski stated I think you clarified that you are not going to be milling and repaving.

Mr. Killion testified no we are not.

Mr. Cook stated this is really one that I don't understand #15 and we really are in agreement on everything but this. It says the application shall confirm that appropriate approvals have been obtained from the Mayor and Council for the use of the Beaver Brook Road right-of-way. We are not changing anything and we are not putting anything there so this is existing.

Mr. Neiss stated it has existed like that from time in memorial. Where does that arise from Alex?

Mr. Petreski stated if you look at the drawing, the right-of-way line just where the utility pole is on the western edge of the property, there is about a 20/30 foot wide swath in the Beaver Brook right-of-way on his property.

Mr. Cook stated we will allow the municipality to add that right-of-way on our property.

Mr. Petreski stated so Tom's comment was to the legal implications of the Borough right-of-way on his property, let's say in the event they slip and fall, or at parking space 13 technically in the Borough right-of-way the Borough could be liable for something like that, so it was more for the Borough's protection to have some sort of agreement in place with Mr. Killion that he is responsible for maintaining the pavement and cleaning this area of the Borough right-of-way that is on his property.

Mr. Killion testified I have been doing it for 20 years.

Mr. Cook stated that is different from the Mayor and Council this has existed forever. Before Mr. Killion owned it there was agreements with somebody else and this application has nothing to do with that and we are certainly not going to go to the Mayor and Council.

Mr. Neiss asked have you had a survey done on the property since you bought it in the 1980's.

Mr. Killion testified yeah.

Mr. Petreski stated so the survey shows the right-of-way encroaching on his property.

Mr. Neiss stated so Tom's concern and your concern is somebody falling at that location both the Borough and Mr. Killion's LLC would be sued.

Mr. Petreski stated so the Borough can avoid that, you know how attorneys are.

Mr. Cook stated in reality it is the Borough's right-of-way that is on our property. He didn't put it there and we are not changing anything and this has been there forever.

Mr. Neiss stated right but the concern is valid. Do you want to give us an indemnification?

Mr. Cook stated no. You can see where I am coming from.

Mr. Neiss stated I can, but I can also see the point has been raised so I don't know how to resolve it.

Mr. Cook stated why should we indemnify someone that falls on a Borough right-of-way, the

Borough put the right-of-way on the property. We didn't put our property on the right-of-way it has existed forever. No other owner has been asked to give an indemnification and we are not changing anything to create this condition. If we were changing something to create this condition I could see it.

Mr. Neiss stated I see both sides. Clearly I see your side Mr. Cook, but I also see the concern about the Borough. By virtue of the fact that this has existed in this manner for as many years as it apparently has, and in view of the fact that you are not really changing anything at least at those locations you are not, the site plan doesn't affect anything related to that ROW. I think we will move on.

Mr. Cook stated okay. Thank you.

The drawings depict the curb along McKelvey Street and the curb has already been installed by the County of Morris and striped with four on-street parking spaces.

Mr. Petreski stated that was just a statement of facts. The curb has already been installed.

Mr. Cook stated #17 is acceptable, right Mr. Killion subject to any approvals? Prior to recording the deed, the applicant shall agree to comply with any and all comments provided by the Lincoln Park Police Department, Fire Chief, the Health Department and Public Works.

Mr. Killion testified yes.

Mr. Neiss asked Joan was this application circulated among the various departments.

Ms. Ward stated I don't know. This application has been ongoing for so long since 2016 so I don't remember if it was circulated. It may have been distributed in the beginning but I just don't know.

Mr. Killion testified we will comply with any.

Mr. Neiss stated that representation is sufficient.

Mr. Cook stated developer's agreement/performance guarantee is required and that is fine.

Mr. Neiss stated I'll write something up quick.

Mr. Cook stated #19 we will adhere to the plans, I represent that on behalf of the applicant. We will keep the escrow account current because the Board attorney has to get paid.

Mr. Neiss stated it is also the Board engineer's fees coming out of the escrow, I just want the record to reflect.

Mr. Cook stated I know.

Ms. Ward stated correspondence is sent out if they are in arrears.

Mr. Neiss stated the resolution will say if you get a letter from Joan you have to put it up within 20 days.

Mr. Cook do you do email?

Mr. Cook stated I do.

Mr. Neiss stated it was not on the application.

Mr. Cook stated it would be [jackie@hcooklaw.com](mailto:jackie@hcooklaw.com).

Mr. Neiss stated my practice is to float the resolution to you and the engineer before it goes to the Board.

Mr. Cook stated thank you, I appreciate that. That is pretty much our case and we request the Board act favorably.

Chairman Blewett stated Alex I think we talked about everything that was a concern.

Mr. Petreski stated I think we covered everything in the technical report.

Mr. Koldyk made the motion to open the public hearing.

Mr. Gemian seconds.

Chairman Blewett stated the public hearing is open. Anyone from the public wishing to speak?

Mr. Koldyk made the motion to close the public hearing.

Mr. Gemian seconds.

Chairman Blewett asked all in favor.

Board aye.

Chairman Blewett stated very good. Any other discussion about the application?

Ms. Ward stated after everything has been satisfied and plans signed, and if and when you have a new tenant, they will have to come in with a zoning permit and a site plan exemption application for approval.

Chairman Blewett asked any recommendations on this application.

Mr. Koldyk made the motion to approve.

Chairman Blewett asked is there a second.

Mr. Terrero seconds.

**Roll call:**

**Yes: Koldyk, Terrero, Blewett, Gemian and D'Antono**

**No: None**

**Abstain: None**

Ms. Ward stated I have everyone.

Mr. Cook thanked everyone.

Board good night.

Chairman Blewett stated I just have one other piece of business that I would like to discuss because we do have the Master Plan Re-Examination Report which we have to do next year.

Ms. Ward stated we have to budget for it.

Chairman Blewett stated I understand. Why can't we ask Mr. Ricci for a proposal and what it would cost to do the Master Plan Re-Examination Report so we can give Sal that budget number? Does anybody object to that or do we need to get additional quotes?

Mr. Neiss stated I don't know the answer to that.

Ms. Ward stated well he is our planner.

Mr. Neiss stated I understand that, but it may be necessary under the local pay to play provisions. I'll defer to the Borough attorney.

Ms. Ward stated Perry would know that because he is involved with the pay to play.

Mr. Neiss stated I will still defer to the Borough attorney as to whether or not that needs to be bid out.

Ms. Ward stated the last one was done by the state, but the prior ones were done by Joe Maiella in-house.

Mr. Neiss stated I'm not suggesting for a minutes that Paul shouldn't do it because he has the most familiarity with the Borough. All I'm saying is in order to comply with the pay to play provisions it may be necessary and I'll just defer to the Borough attorney.

Ms. Ward stated we'll check because we need to budget for that.

Mr. Neiss asked Joan to find out whether or not the Borough has to bid it.

Chairman Blewett asked any other new business?

Ms. Ward stated the pool ordinance

The pod ordinance is actually on the Council agenda.

Mr. Neiss stated I'm going to give credit where credit is due to Mr. Gemian, why do we need this definition and that definition it is a pool, and I agree with you, I thought it was highly efficient.

Mr. Gemian stated my simple mind.

Mr. Neiss stated I got called out by Chris Di Lorenzo because it was left in the other segments of the ordinance, so I sent an email out yesterday with the two specific questions that Chris came to me with, so in order to try to get some clarity from you folks what you wanted to do.

Chairman Blewett stated didn't we decide the height.

\*Mayor Runfeldt arrived at the meeting.

Mr. Neiss stated you missed the party mayor.

Mayor Runfeldt stated I had to recuse myself from that case, I own property right across the street.

Chairman Blewett stated we only needed you for the memorialization of the resolution. Jonathan and I took care of it.

So we didn't resolve #2.

Mr. Terrero stated I think #2 was about the fence.

Mr. Neiss stated if you have a plastic pool do they need to be fenced in?

Ms. Ward stated according to the UCC anything over 24 inches has to have a fence around it.

Mr. Neiss stated so that is the answer.

Ms. Ward stated I asked Sal because I knew he wasn't going to attend tonight and he said anything above that needs to be fenced.

Mr. Neiss stated wherever that exists. The question is what about a blow up, they have them now with filters, etc. attached to them.

Chairman Blewett stated 24 inches.

Mr. Neiss stated so that is the answer.

Mr. Koldyk asked does that include if it is covered.

Ms. Ward mentioned Sal said anything above 24 has to have a fence according to the UCC.

Mr. Terrero stated it prevents someone from falling in, common safety procedures.

Mr. Neiss stated I agree but I wanted to be very clear about it, so that is the answer.

Chairman Blewett stated so #2 is resolved.

Mr. Neiss stated correct.

Chairman Blewett stated so if we go back to the whole issue of definition, so if we are going to change the definition of a pool, then there are other sections of the ordinance that should be updated.

Mr. Neiss stated and those should come out. Permanent private pools should come out because we are going to call it a pool from hereon, so those section of the ordinance ought to be amended as well.

Chairman Blewett asked is everybody good with that.

Mr. Gemian stated yes sir.

Chairman Blewett stated okay.

Mr. Neiss thanked everyone.

Chairman Blewett asked are we done with this one now.

Mr. Terrero stated give it a month.

Chairman Blewett asked any other new business mayor.

Mayor Runfeldt stated no.

Chairman Blewett stated okay. Anyone else?

Motion to close.

Mr. Koldyk moved to close.

Mr. Gemian seconds.

Chairman Blewett asked all in favor.

Board aye.

Chairman Blewett asked any opposed.

Board no.

Meeting adjourned 8:16 P.M.

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Respectfully submitted:

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Joan Ward, Secretary

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Charles Blewett, Jr., Chairman



