

I. CERTIFICATION OF COMPLIANCE

Chairman Neiman called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Mr. Kielt read the Certification of Compliance with the NJ Open Public Meetings Act:

“The time, date and location of this meeting was published in the *Asbury Park Press* and posted on the bulletin board in the office of the Township of Lakewood. Advance written Notice has been filed with the Township Clerk for purpose of public inspection and, a copy of this Agenda has been mailed, faxed or delivered to the following newspapers: *The Asbury Park Press, and The Tri-Town News* at least 48 hours in advance. This meeting meets all the criteria of the Open Public Meetings Act.”

2. ROLL CALL

Mr. Herzl, Committeeman Miller, Mr. Fink, Mr. Neiman, Mrs. Koutsouris, Mr. Banas, Mr. Schmuckler

3. SWEARING IN OF PROFESSIONALS

Mr. Vogt was sworn in.

Mr. Neiman introduced Mr. Jan Wouters, the township attorney, who was present to answer any questions about the ordinances that the board will be discussing.

Committeeman Miller made a motion to go into executive session to discuss litigation and was seconded by Mrs. Koutsouris

ROLL CALL: Mr. Herzl; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Banas; yes

Motion was made to go into public session by Committeeman Miller, seconded by Mr. Herzl

ROLL CALL: Mr. Herzl; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Banas; yes

4. MEMORIALIZATION OF RESOLUTIONS

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1. **SP # 1778A (Variance Requested)**
Applicant: Woodhaven Lumber
Location: James Street, west of Sunset Road
Block 345 Lot 11
Preliminary & Final Site Plan for proposed service garage

Motion was made by Mr. Miller, seconded by Mr. Fink, to approve

ROLL CALL: Mr. Herzl; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; abstain, Mr. Banas; abstain

2. **SP # 1851A (Variance Requested)**
Applicant: Condor Jackson LLC
Location: 450 W. Kennedy Boulevard-corner of Kennedy Blvd. & Forest Ave.
Block 57 Lot 1
Amended Site Plan for proposed office and medical office

Motion was made by Mr. Miller, seconded by Mr. Fink, to approve

ROLL CALL: Mr. Herzl; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; abstain, Mr. Banas; abstain

3. **SD # 1679 (Variance Requested)**
Applicant: Zebra Holdings
Location: corner of Ridge Avenue and Brook Road
Block 189 Lot 21
Minor Subdivision to create 2 lots

Motion was made by Mr. Miller, seconded by Mr. Fink, to approve

ROLL CALL: Mr. Herzl; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; abstain, Mr. Banas; abstain

4. **SP # 1919 (Variance Requested)**
Applicant: Congregation J&M Inc.
Location: Whispering Pines Lane
Block 172 Lot 6.25
Preliminary and Final Site Plan for proposed synagogue

Motion was made by Mr. Herzl, seconded by Mr. Fink, to approve

ROLL CALL: Mr. Herzl; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; abstain, Mr. Banas; abstain

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5. **SP # 1920 (Variance Requested)**
Applicant: Congregation Bais Medrash of Arlington
Location: corner of Arlington Avenue & Wynatt Street
Block 774.01 Lot 12.01
Preliminary & Final Site Plan for proposed synagogue

Motion was made by Mr. Miller, seconded by Mr. Fink, to approve

ROLL CALL: Mr. Herzl; yes, Committeeman Miller; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; abstain, Mr. Banas; abstain

5. NEW BUSINESS

Mr. Kielt said there was one change to the agenda. Item #10 - SD1509B Majestic Contracting. He received a letter from the applicant's attorney requesting it be carried to September 1, 2009 with no further notice required.

1. **Discussion/Recommendation – 5 Proposed Ordinances**
- ⇒ **Section 18-911 zero lot line- residential development**
 - ⇒ **Section 18-903 non residential zoning districts – ROP Zone**
 - ⇒ **Releasing and discharging a portion of a deed restriction in deed between the Township of Lakewood and Somerset Prv. LLC**
 - ⇒ **Amending the Re-development Plan for Area II- Pine Street Acquisition Area**
 - ⇒ **Section 18-903.N Industrial Zone (M-2)**

Mr. Wouters Esq. said the first ordinance is amending Section 18-911 of the ordinance to permit a zero lot line development. He said the township has a recently experienced a dramatic increase in applications to condominimize existing or proposed duplexes- since the township does not have a method of dividing a duplex for single family dwellings, the only way to do that would be to create a condominium and this has become problematic on a number of fronts, from tax assessments to record keeping so the concept of a zero lot line is to allow the developer of a duplex to split the unit in half with a common line between the units and the result would be an individual lot that can be conveyed as a single family dwelling. The applicant would have to submit a plan to the Planning Board, similar to a Minor Subdivision, for the board to approve in an administrative fashion, and there would be no necessity for a public hearing or public notice which is allowed under the MLUL.

Mr. Banas said he does not feel that this is within the guidelines of the Master Plan, because there is no indication that the configuration of the municipality is up for change and by introducing this ordinance they will find that the entire town will change from a little town to a metropolitan city. This is only a word or two away from other zones and he said zero lot lines

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could become part of the all of the zones within the municipality and he would strongly object to it.

Mr. Neiman said the way he understood it, duplexes, because they are standing on one lot, people applying for mortgages cannot get them and by creating a zero lot line they are allowing each duplex to have their own lot line. Mr. Wouters agreed. Mr. Neiman said duplexes are only permitted in R7.5 or R10. People who want to put in duplexes in other zones, this board would not allow this in those areas to make it a metropolis look.

Mr. Banas said he understands the reason the proposed ordinances are presented to this body is to find whether there is language or opposition within the language in the Master Plan to make recommendations to the Township Committee to see whether or not it conforms with their thinking, If that be the case he does not see any language in the Master Plan indicating that they should go and change their thinking, and this is real thinking, in terms of redevelopment of the town and if this passes he thinks it only a step in changing another zone, then another zone. He said if the Township Committee wishes to change the complexion of the town, this is a good start.

Mr. Wouters responded and said the Master Plan, and the way the Township Committee looks at it the development of Lakewood, there is a reality of how the township is being developed and right now they are dealing with the reality of the fact that duplexes are permitted, approved and developed and constructed and right now the inhabitants of those duplexes are not able to own their unit and not able to finance their unit and have been using the condominium act to get around those problems. This is an attempt to recognize a need of the community and alleviate a problem that will continue to exist. Mr. Neiman asked Mr. Wouters if he writes the ordinances and Mr. Wouters said yes. Mr. Neiman asked him to make sure to hear what Mr. Banas is saying and try to include that into the ordinance. They not want to change the look of the town to make it a sort of "Newark" and it is there just to protect the homeowner of the duplex. Mr. Wouters said when the ordinance was drawn, it was only drawn for the zones that permit duplexes, and there was no intent to expand the ability to build duplexes where they are currently not allowed.

Mr. Neiman opened the microphone to the public

Bill Hobday, 30 Schoolhouse Lane, Lakewood. He said he believes that Mr. Banas has encapsulated this whole idea of this that once they start with the zero lot line, it is a matter of time that other zones would get this privilege and it would be argued by counsel that if it is ok in an R 7.5 zone. The community itself is growing at a tremendous pace but there is still room, we do not need to look like Newark or Clifton, there is plenty of room, let us not do that. We do not want to live on our neighbor's front steps. With duplexes, the condominium law takes care of private ownership and so why not let that be the tradition in which we build. He said in duplexes, he does not believe that duplexes are the greatest thing for this township-he knows we have them but he would not make it easier of more efficient. Condominium laws should prevail and people who buy those lots should not be encouraged to have a zero lot line because it will spill over into every other zone.

Gerry Ballwanz, Governors Road, Lakewood. She said in the past, the Zoning Board has already approved duplexes in zones that it is not permitted-just look at the duplexes being built on Joe Parker Road with a greater zone than the R10. What about the duplexes that were approved on New Hampshire Avenue-that is also in the zone that is not listed. She said by virtue of the fact that there have been approvals of duplexes in other zones that is going to be

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the wedge that is going to make the other zones also eligible for that zero lot line. She thinks that when they talk about specific zones, they need to look at what have been approved and that is going to be the precedent of what is going to be argued for other zones that will be built in the future.

Tony DiStefano said he has lived in Lakewood for 55 years. He asked the attorney what is the purpose of the Master Plan and how long is it supposed to last and who makes these decisions about these changes and Mr. Wouters said boards, such as this. Mr. DiStefano said what good is Master Plan then? He said if we have a Master Plan, shouldn't they live by the Master Plan? Isn't the Master Plan good for 7 years? Mr. Wouters said the Master Plan should be a guidance for the township but also needs to have flexibility because the town changes and the needs of the town changes they need to be reflective and understanding of that. Mr. DiStefano asked why they needed the Master Plan and said he wanted an answer, He said they cannot just change the rules overnight and decide to put in duplexes and Mr. Kitrick said part of the boards' job is to determine the new ordinance's consistency with the Master Plan. The Master Plan can be amended by the adoption of zoning ordinances and the township has presented a new ordinance for consideration by this board and would go back to the Committee if the board feels it is consistent with the Master Plan. If the board were to make the recommendation that the committee proceed with the second reading, it would be up to the Township Committee to approve the ordinance. Mr. DiStefano said the Master Plan is absolutely useless if they can change it any time at all. He also asked how come they can have spot zoning-they go into different neighborhoods and there is spot zoning, Mr. Kitrick said that is Mr. DiStefano's description and he made that determination but spot zoning is not permitted and he is not agreeing with his premise. The purpose of ordinances are to amend the Master Plan. Mr. DiStefano said isn't the Master Plan in effect for 7 years and Mr. Kitrick said yes and then it is revisited and during that period of time zoning ordinances are made. Mr. Neiman said they go through a Master Plan review every 7 years and during the 7 years there are times where they have to revisit the ordinance and in this instance, when people are going for their mortgages they are having a problem because there are 2 homes on each lot. Mr. Kielt said currently there is an ordinance that in existence that allows duplexes and all this ordinance is permitting is 2 separate lots-that duplex on the ground is going to look the same if it had 2 lots or 1 lot. If you drive by you will see a duplex structure, you are not going to see a lot line because there is not a lot line in the field unless someone puts up a fence. This is just allowing conveyance so someone can sell both units and the owners can get mortgages easier. Mr. DiStefano said he disagreed and Mr. Kielt said he was incorrect.

Miriam Weinstein, Esq. said she is in favor of this ordinance. She clarified that it is certainly not changing what the ordinance allows and have been bypassing the system with the condominium aspect but there are so many problems with that such as insurance problems and how to insure these things and they have and animal that walks and talks like a duck but when you come to the bank to get a mortgage they question if it is a condominium and who is responsible for the external elements- is there a condominium association or is each individual responsible. She believes that is why this ordinance was drafted, so each unit can be owned by an individual.

Seeing no one else, this portion was closed to the public

Mr. Neiman asked Mr. Wouters if they could put in the ordinance that this zero lot line only be changed in the R7.5 and R10 zones where duplexes are currently permitted and Mr. Wouters said they could be specific in the ordinance.

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Mr. Akerman said where the zoning board would approve duplexes where they are not permitted in the current zoning shouldn't the same rules apply and Mr. Neiman said no-they could take their chances with the condo laws and from a planning perspective they are only looking at what is permitted. They do not want to encourage people from going to the zoning board for this, but discourage them.

Motion was made by Mr. Herzl, seconded by Mr. Fink, to recommend the ordinance change for zero lot line specific for the R7.5 and R10 zones.

Mr. Banas had a question on the motion and asked whether they need to indicate whether or not this follows the constraints of the Master Plan, there are no deviations from the Master Plan and Mr., Kitrick said that it is substantially consistent with the Master Plan.

Mr. Neiman announced that Mr. Akerman was present for the entire time this ordinance was discussed.

ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Banas; no, Mr., Akerman; yes

Mr. Wouters said the next ordinance is an amendment to Section 18-903 which amends the R-OP zone to allow banks and drive in facilities. There are currently banks and drive in facilities in this zone that were permitted by variances and this is to make it a permitted use.

Mr. Neiman opened the microphone to the public

Gerry Ballwanz said the R-OP asked if it is park or professional and Mr. Kielt said it is professional- that was a mistake in the UDO.

Bill Hobday asked if they are changing a non residential district to an office park and was told no. Mr. Kielt said to his knowledge, the only thing that is being changed is to allow banks and drive in facilities in this zone. Mr. Hobday said if it was a non residential zone, then how does single family detached dwellings, multi family housing in accordance with design regulations, townhouses, schools, houses of worship etc. possible and Mr. Kielt said it is a mixed zone and they are permitted and they are just asking for this use to be added. Mr. Hobday said they just call it a non residential zone for the heck of it? Mr. Wouters said what he is looking at is the ordinance that currently exist, they are just adding "G" and Mr. Hobday asked if it was always called non residential and Mr. Wouters said he had no idea- what it says is what it says. Mr. Hobday said this is the problem with these kinds of issues.

Seeing no one else, this portion was closed to the public

Mr. Neiman said in the future, since in this case they are only adding "G", when they give these out they should red line the item. Mr. Wouters said they will make sure to do that in the future.

Motion was made by Mr. Herzl, seconded by Mrs. Koutsouris, to recommend this to the Township Committee

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ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Banas; yes, Mr., Akerman; yes

Mr. Neiman said the next three ordinances are relative to the same property so he asked if they can bundle them together and Mr. Wouters said fine.

Mr. Wouters said the 3 ordinances deal with the same issue and the issue is that the current developer of an age restricted development on Pine Street (Pine St. Development). At the time the development was approved the township required a deed restriction to be placed on the property so it could be developed as age restricted housing. The property is located in the M1 zone and the zone does not specifically allow age restricted housing but age restricted housing is allowed in all other zones so it was allowed here. The developer came to the Township Committee and asked relief from the deed restriction because the economy is vastly different now then it was when he got approval so he is asking to develop the remainder of the property which is about 80 units as single family non age restricted housing. The Township Committee is willing to consider that but 3 things have to happen-the township has to pass an ordinance to remove the deed restriction. Secondly, the zone has to be changed and the M1 zone has to be changed to allow single family development and that is the second ordinance and the third ordinance is an amendment to the pine street acquisition II redevelopment plan which is an old plan covering the property which also need to be amended to allow for single family housing. He said what they are asking the Planning Board to do is recommend back to the Township Committee with the concept that they agree that the property can be developed as non age restricted housing-the developer would still have to come back to the planning board with applications in order to change the existing plan from what was proposed to what he wants to go forward with. This would at least let him go forward with single family housing.

Mr. Kitrick said he had the opportunity to speak to Mr. Akerman and there is a potential conflict with this application so he is recusing himself.

Mr. Wouters added that the homeowners of the existing dwellings in the project have indicated that they are in favor of this change and have come to numerous Township Committee meetings asking them to make this change.

Mr. Neiman said they are here to recommend the change to the Township Committee to take this deed restriction off which is going to affect 3 ordinances. They are not here to discuss financial stuff or the actual plan itself, they will have to come back with a plan to make sure there is enough parking and that the street configuration is for a regular zone as opposed to an age restricted zone.

Mr. Banas said the concept is interesting but he cannot identify which blocks and which lots are involved in the entire plan. He does not know which one will continue as developed now and which one will be changed to the possibility of going into a single family lot. He asked if they had a map and Mr. Neiman said he had one and asked if it had to be entered into evidence and Mr. Kitrick said yes if it was going to be reviewed by the board in consideration of this and Mr. Neiman said it would be reviewed by Mr. Banas for clarification and Mr. Neiman told Mr. Zucker he was going to try to avoid having a big presentation tonight and to just review the ordinance change. Mr. Fink said he did not want to see a map and Mr. Banas said he did. Mr. Banas said the reason he asked for a map is because he wanted to know which lots applied to the ordinance change and which are the lots which were given up by Mr. Zucker during the court

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settlement of a trial that was pending.

Mr. Wouters said he could answer part of the question as to the ordinance that was drafted reflects the lots that are listed in the non colored section of the development: the colored section is what has been developed and either conveyed or to be conveyed to age restricted borrowers. To the left side of the plan, that contains the lots for which they wish to remove the age restriction and those lots are listed in the second whereas clause in the draft of the ordinance. Mr. Banas asked where the lots are that deal with the court decision that was rendered and Mr. Wouters said he did not believe they were on the plan. Mr. Banas said they were on the basic plan and Mr. Wouters said they are not on this plan. Mr. Neiman said they were removed already and are not on the plan; they are not in question because he lost those lots in the court decision based on the cemetery just south of this project.

Mr. Kitrick suggested marking this map as PB 1 which is a site plan dated May 21, 2009.

Mr. Banas asked those that were developed or are in the process of developing will have all of the items that were given in the last resolution to any purchaser of that development.

Mr. Neiman opened the microphone to the public

Larry Avrine, 144 Enclave Boulevard said he is not understanding how an adult community can be approved and then modified. Certain provisions go with adult communities as to parking, common ground, as to impact of traffic and schools and Mr. Neiman said that is why they clearly said they would have to come back if they want to make any changes and the developer has to come back with plans to show parking and how it fits with the change; how the buses will fit in this development along with the construction of playgrounds, etc. which were not needed in an adult community. Mr. Avrine asked who is making sure that the provisions that were required in terms of clubhouse and common ground and everything else and Mr. Neiman said they will have testimony from the people who live there now. Mr. Avrine said he is concerned with the precedent to this community and all the other adult communities; the builders of these communities, they are not selling but he is concerned that they are not starting a precedent that other builders are not going to come back and Mr. Neiman said that is a valid concern and said they will have to look at it as a case by case basis and have testimony from the people living there to make sure they are ok with this. He said this is a first and he is new at this and would like to see how this goes. Committeeman Miller said this request actually came from the residents that live there; they do not want to live in a perpetual construction zone. Mr. Miller said he is not concerned that this is going to happen in any other development because if the residents don't want it, it is not happening. Mr. Avrine said this is a general ordinance and it doesn't specify that it was first approved by the HOA of that development so we are putting an ordinance in place that would then set precedent to any other builder to march in here and requests the change whether the HOA approves it or not so maybe the ordinance needs to be changed to include wording to the effect that it has already been approved by the internal HOA first before they can proceed. Mr. Neiman agreed and Mr. Miller asked Mr. Wouters if there was a way and Mr. Wouters said the State of New Jersey recently passed legislation which permitted age restricted developments to switch and Mr. Neiman said only if they didn't start and this one did. Mr. Neiman said Mr. Avrine has a point- what is going to stop any other developer to make the change and the people in that development don't want the change and said maybe they can look at language that will protect other developments. Mr. Fink agreed and said they should have some type of language that protects communities that have started building-in this case, there is ample land to build a non age restricted community but if the community is up and

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building for the builder to finish building, he thinks they should continue. There should be laws to protect them.

Mr. Wouters said this is not a general ordinance. This is a specific ordinance addressed only to this development and this developer and this transaction where the town is agreeing to lift a deed restriction on building age restricted housing. Mr. Avrine said he agrees with Mr. Wouters but he is setting a precedent and he thinks by including the wording that it must first be approved by the internal HOA it will somehow protect the other communities. Mr. Wouters said he would make a note of that.

Bill Hobday said he thinks, in this case, that we are all a victim of this economy because this probably would never have been requested had the economy not tanked when it did. Now we see signs the economy is starting to rebound and he sees plans being developed for 50 townhouses at Cross Street and Massachusetts Avenue; 93 detached homes on Cross Street, all age restricted. That tells him that that segment is going to come back faster than the general segment. He hopes that they are not speeding or running towards something that they really don't have to do. As the economy recovers and that need for age restricted housing is going to come back, he thinks they will regret doing this. He does not want to go through all the variances that this board allowed on the original community and it is going to be difficult and he knows that the residents there expressed that they thought it was a good thing to do. He lives in an age restricted community and they love children and grandchildren, but you bring them in a couple of days and then send them home- and that is wonderful. These seniors that have purchased the first segment of this community did so knowing they wanted an age restrict community. They did their job and they would love to have their grandchildren over for visits but once you change the venue where the community itself will be split and you have to re-regulate this whole community, that is imposing undue stress and duress to these people who originally bought in an age restricted community. Mr. Neiman said he is anxiously waiting to hear from the people who live there. Mr. Hobday said there is a financial issue right now and that financial issue will go away soon if we just hold on and get through this. He thinks it is a mistake to do this at this time- if we saw no evidence of a rebound or scenarios where age restricted was not a desirous thing he would agree with the ordinance.

Ann Richardson said they had 2 age restricted communities in Lakewood; one on Pine Street and one on Joe Parker- both incompleated projects. There are several other projects that are not completed. Both these companies had money issues; one went bankrupt and was bought out by somebody else and they have 2 senior communities that are not complete and you have people in the senior community on Pine Street complaining because it is not completed there and is dangerous, as is the one on Joe Parker. Passing an ordinance that will give the one on Pine Street permission to switch over to single family houses, which is open to everyone, you are opening up a whole conglomerate of issues because what is to say the one on Joe Parker isn't going to come and propose this. She said you have seniors living there already, the development is not completed, they have problems in the wintertime etc. These problems have been presented to all the boards and nothing has been done on Joe Parker and now you want to switch. Mr. Miller corrected her and said the residents of Joe Parker came to the committee a year ago for assistance and then Mayor Ray Coles got very involved with assisting them with a lot of their issues and thankfully a new builder has bought it and Mrs. Richardson said it is still not completed and if the person that owns that retirement community now comes to you because you pass an ordinance like this, it leaves it open to them to do the same thing that the one in Pine Street. Mr. Miller said he is not concerned with that builder, he is concerned with the residents that live there and he believes they are moving forward with the development on Joe

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Parker Road. She said if they pass this ordinance, it is going to leave it open to anybody who also has a senior citizen community that is not completed to say they want to switch it over as well. She said it is not right and they should not pass this until they look further into it.

Ronald Gray, a resident of Pine River Village said he thinks this is a win-win situation because they are not coming with issues they are coming with a resolution to what could potentially be a problem for the individual homeowners and future homeowners as well as the community at large. He said they have a common goal of preserving the beauty that Lakewood is which caused all of them to move here. He said the market for age restricted housing is not improving as fast as the other speaker said. There was an article in the Wall Street Journal recently indicating that there is a 14 year inventory of restricted age housing in a country as opposed to a normal inventory of about 3 years- so he said this is probably be one of the last areas to recuperate. The homeowners of this development have been delving into this issue for over a year and a half and they have been discussing amongst themselves, with the developer, with the association's attorney and the developer's attorney and have been focusing on quality of life issues. They are very satisfied that the resolutions that they are coming up with themselves with the developers and the current owners is going to satisfy all of these quality of life issues. They have been in discussion with the developer and have secured certain agreements such as there will be a physical separation between the 2 developments and other issues will be addressed as well so they will ensured to get the quality of life that they came to Lakewood and an age restricted community for. He said if the residents themselves want this, without any ulterior motives, they feel confident that what is being proposed is in everybody's best interest and they hope the board will rule favorably.

Gerry Ballwanz said when they come back with a site plan regarding the second half of the ordinance she has serious questions on the first and third ordinance- the third ordinance particularly, roman numeral 4 where it says "less than 1/2 of the total units developed shall be age restricted". She asked what happens when they come with a site plan for families and there are basements with people possibly living in the basements that the lot size will not be big enough to accommodate a new site plan. In the meantime you would have restricted yourself to saying there will have to be 80-something lots in that section and said she thinks that section needs to be removed because it raises restrictions on what the board can re-evaluate for the part of the development that will now house families with children, There is also the question of if there will be appropriate recreational areas and that too will take away from the area that 80+ lots are supposed to fit, so that section needs to be removed. Her other concern is in the first ordinance, under section 1, where it says this property shall be restricted to age restricted single family housing. If the houses that are in the second have that are currently age restricted and you remove that part, what's to say that those people will be able to challenge and not to say they don't have to have age restriction family living here because it is not in their deed. She thinks the deeds relating to the people living in the age restricted area has to stay put. Mr. Neiman said it is staying put- there are 2 sections to this project. The project that is developed (the right of the map) is all developed already and nothing is changing there-that is still age restricted; it is the side that is not developed yet that they are talking about lifting that age restriction ban. Mrs. Ballwanz said they may have a map but then they have to change where all the deeds and lots are. She said they are dealing with Block 830 Lot 1 which is all those little lots so that top part with the Block and Lots don't coincide with all those 175 deeds will have that age restriction lifted and said that will be a problem- that language needs to remain in the ordinance and on those deeds and Mr. Neiman asked Mr. Wouters to make note of that.

Maryanne Deutsch from Pine River Village just wanted to reinforce what Mr. Gray said and said

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this is something that they the residents have been asking for and understand that their quality of life will remain the same; the new portion will have a fence dividing it and she appreciates all the comments and from the gentleman who was worried about the grandchildren she said don't worry about us, we know what has to be done and we would like this to go forward for their sake. Mr. Neiman said their concerns were that there would be a precedence here and they want to make sure they are covered for their senior community. She said her community was built in 2 sections and Mr. Neiman said he had the opportunity to do his homework on this site and visit it and said it really does have that feel of 2 separate communities.

Mr. Kitrick said the first gentleman discussed general concerns and section 3 of the proposed ordinance addresses a number of those issues.

Seeing no one else, this portion was closed to the public

Motion was made by Mr. Hezl, seconded by Mr. Fink, to recommend to approve these 3 ordinances

ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Banas; yes (with the following statement)

Mr. Banas said reading the ordinances individually he had the idea that he would be negative towards them: however a matter of time and a matter of money plays an important part. He thinks this is a good direction and something that is worthwhile and the community at large can benefit from it but he would like to tell the developer that he, as a member of this planning board, will be looking very closely at the new plans that are coming in. He said he never really did like the project but it is working and so he votes yes.

2. SD # 1678 (Variance Requested)
Applicant: David & Robin Sneddon
Location: 120 Pawnee Road-between Iroquois Pace and Seminole Drive
Block 2.08 Lot 4
Minor Subdivision to create 2 lots

Mr. Vogt prepared a letter dated August 6, 2009 and is entered in its entirety. The applicant seeks minor subdivision approval to subdivide and existing single-family lot known as Block 2.08, Lot 4. The existing lot fronts Pawnee Road, and is approximately 100 feet west of its intersection with Iroquois Place. There is an existing dwelling, driveway, in ground pool and various ancillary structures on the lot. The site is situated within a residential area. *We have the following comments and recommendations per testimony provided at the 7/7/09 Planning Board workshop hearing, and comments from our initial review letter dated June 24, 2009:* Zoning- The parcels are located in the R-12 Residential District. Single-family detached dwellings are a permitted use in the zone. *Fact.* Per review of the Subdivision Map and the zone requirements, the following variances appear necessary for the proposed lots: Lot Area (Lot 4.01, 9,003 s.f., Lot 4.02, 10,253 s.f., 12,000 s.f. required) – proposed condition. *Fact.* Front Yard Setback, (Lot 4.01, 29.53 ft proposed, 30 ft required) – existing condition. *Fact.* Accessory Building Side Yard Setback (Lot 4.01, 2.8 ft proposed, 10 feet required) – existing condition. *Fact.* Accessory Building Rear Yard Setback (Lot 4.01, 8.5 ft proposed, 10 feet required) – existing condition.

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Fact. Accessory Building Side Yard Setback (Lot 4.02, 3.95 ft proposed, 10 feet required) – existing condition. Fact. Accessory Building Rear Yard Setback (Lot 4.02, 5.54 ft proposed, 10 feet required) – existing condition. Fact. The accessory building variances necessary for the Gazebo present on Lot 4.02 can be eliminated by removal or relocation of the structure. Per testimony provided at the 7/7/09 meeting, this structure will be removed, which will eliminate the need for this variance. The subdivision plan has been revised accordingly. Confirming testimony should be provided at the public hearing. The zoning schedule on the plan needs to be corrected to reflect existing and proposed conditions, and variances required. The zoning schedule was corrected on the revised subdivision plan to reflect proposed conditions. This is satisfactory. The applicant must address the positive and negative criteria in support of the requested variances. Fact. Per testimony at the 7/7/09 meeting, the applicant will provide testimony to support the new variance requested for Lot area. As directed by the Board, the applicant must provide a regional map showing nearby lots to support testimony at the forthcoming public hearing. Review Comments-Per review of the subdivision plan, the dwelling on existing Lot 4.01 appears to have a driveway capable of providing parking for at least four (4) cars, as well as a 1-car garage. Testimony should be provided regarding the amount of parking proposed for Lot 4.02. Parking should be provided to the Board's satisfaction. Fact. The existing dwelling on Lot 4.01 is intended to remain. Testimony should be provided by the applicant to confirm that the home proposed on Lot 4.02 would be single-family, and will conform to the R-12 zone's area and yard requirements. Confirming testimony should be provided at the public hearing. The plan indicates existing curb along the existing Pawnee Road frontage. The curbing is in adequate condition. The Board should determine whether sidewalk is necessary. We note that there is no existing sidewalk in the immediate vicinity of the property. No sidewalk is proposed per the revised subdivision plan. Per discussion at the 7/7/09 hearing, the Planning Board expressed a preference for providing sidewalk along. The subdivision plan indicates that the existing dwelling on proposed Lot 4.01 is served by public water and sewer, and proposed Lot 4.02 would be as well. Outside approvals for water and sewer would be required prior to the issuance of a certificate of occupancy for development of Lot 4.02. Fact. Proposed construction details must be added to the plan (if any construction is proposed or required by the Board) in accordance with applicable Township or NJDOT standards. Fact. A note should be added to the plan indicating that the in-ground pool within Lot 4.02 will be removed (and area adequately regraded and restored) prior to development of Lot 4.02, and the Gazebo removed or relocated. The Gazebo note has been added. The note regarding regrading and restoring the area within the in-ground pool to be removed must be modified accordingly. Proposed lot numbers must be assigned by the Tax Assessor and the plat signed by the Tax Assessor. Fact. A six foot (6') wide shade tree and utility easement should be provided on the plan (unless waived by the Board). Similarly, shade trees should be provided (unless waived by the Board). A shade tree easement has been

provided. Shade trees must be added (or waiver sought). Compliance with the Map Filing Law is required. At a minimum, proposed monuments should be shown to demarcate the proposed subdivision line. Fact. The proposed monuments are depicted on the revised subdivision plan. Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Fact. Water and Sewer Approvals (Lot 4.02); Fact. Ocean County Soil Conservation District (if necessary); Fact. All other required outside agency approvals.

Mr. Kevin Terhune Esq. appeared on behalf of the applicant. The revised plans cover the variances that are requested and as can be seen on the plans the applicant is proposing the removal of some of the accessory structures on proposed Lot 4.01 and 4.02 which will remove 4 of the initial variances. He said the project as a whole can be granted by the board without any

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substantial detriment to the public without impairing the intent of the zone plan or the ordinance. The proposed lots are consistent with all the other lots along this side of Pawnee Road and said of the 14 lots that are existing which include this lot itself, 11 of the 14 are all undersized lots with frontages and side yards similar and consistent with this proposal. Based on this and the application as submitted, he is requesting the variances be granted and the application for the subdivision be approved.

Mr. Neiman asked if the major variances are existing and Mr. Terhune said yes. Mr. Neiman said the only variance they are requesting is from 30 ft. to 29.53 ft. which is diminimus. Mr. Neiman asked about sidewalks and Mr. Terhune said sidewalks will be provided. Mr. Terhune said they were in agreement with the remainder of the comments in Mr. Vogt's report.

Mr. Vogt asked if they were going to be building single family on the new lot and Mr. Terhune said there is no construction planned and this time but it conform to the zone. Mr. Vogt said there is a shade tree easement but no shade trees and Mr. Terhune said there are existing trees in the area and shade trees will be provided when the construction plans for Lot 4.02 when it is developed.

Mr. Banas asked if they were providing a shade tree easement and Mr. Vogt said they are providing an easement only, they will be providing shade trees when they develop and Mr. Terhune said yes; if that is a condition of approval that will be provided. Mr. Terhune said water and sewer exist at the site.

Mr. Neiman opened the microphone to the public

Seeing no one, this portion was closed to the public

Motion was made by Mr. Akerman, seconded by Mrs. Koutsouris, to approve the application

ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes

3. SD # 1660 (Variance Requested)
Applicant: Yeshoshua Frankel
Location: 339 Laurel Avenue-west of Clover Street
Block 538 Lot 25
Minor Subdivision to create 2 lots

Mr. Vogt prepared a letter dated May 26, 2009 and is entered in its entirety. The applicant seeks minor subdivision approval to subdivide a property consisting of existing Lots 11 and 25 in Block 538, into three (3) residential lots. For two (2) of the proposed lots, Lot 11.01 and Lot 25.01, single-family dwellings exist and are proposed to remain. No construction is proposed on proposed Lot 25.02 under this application. Proposed Lots 25.01 and 25.02 have frontage along Laurel Avenue. Proposed Lot 11.01 has primary frontage along Ocean Avenue (Route 88) and secondary frontage on Laurel Avenue. The proposed lots are situated within the R-7.5, Single Family Residential Zone. The surrounding land uses in the immediate project area are predominantly residential. We have the following comments and recommendations: Zoning- The parcels are located in the R-7.5 Residential District. Single-family detached dwellings are a permitted use in the zone. Per review of the Subdivision Map and the zone requirements, the

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following appear necessary for this application: A variance for lot width is required for proposed Lot 11.01. The existing lot width is 48.4 feet, where 50 foot is required. Variances for side yard setback are required for proposed Lot 11.01. Pre-existing side yard setbacks of 5.9 feet and 6.5 feet existing for the on-site dwelling, versus the minimum 7 foot and 15 foot (aggregate) side yard setback requirements. A pre-existing side yard setback of 6.3 feet for the existing shed versus the minimum 7 foot accessory building side yard setback requirement. A front yard setback variance is required for proposed Lot 25.01. A pre-existing setback of 10.7 feet exists for the on-site dwelling, versus the minimum 25 foot front yard setback requirement. A rear yard setback variance is required for the existing frame garage to remain on proposed Lot 25.01. The pre-existing rear yard setback for the garage is 0.9 feet compared to the minimum 7 foot accessory building rear yard setback requirement. As indicated above, all of the requested variances are for pre-existing conditions associated with existing dwellings and accessory buildings. However, the applicant must address the positive and negative criteria in support of the requested variances. Review Comments- The NJ R.S.I.S. requires 2.5 off-street parking spaces for a single-family dwelling when the number of bedrooms is not specified. No specific data for the existing and proposed lots is provided. Therefore, the zoning table rounds up to three (3) off-street parking spaces being required for these lots. A minimum of four (4) off-street parking spaces per lot are being provided for the proposed developable lot (Lot 25.02). Additionally, the bituminous driveway and frame garage that will remain on proposed Lot 25.01 also appear capable of providing over 4 spaces as well. It appears the intention of the narrow strip for proposed Lot 11.01 is to provide for off-street parking by accessing Laurel Avenue since no off-street parking can be provided from the Route 88 frontage. Testimony should be provided and note 16 deleted from the plan. The minimum R-7.5 zone setback lines are provided for proposed Lot 25.02 to be developed. In addition, the existing masonry building located at the rear of this lot and proposed Lot 25.01 is proposed to be removed. The subdivision plan appears to indicate that a portion of the rear lot line between existing Lot 12 and proposed Lot 25.01 will be removed. The leader line shall be corrected to indicate the existing lot line between existing Lots 11 and 25 will be removed. A 10- foot wide (+/-) strip of property would be created immediately west of proposed Lot 25.01 as indicated on the subdivision plan, extending from Laurel Avenue to the rear of proposed Lot 11.01. We believe the intention is to create a driveway, however no improvements are proposed. The purpose of this lot configuration should be addressed by the applicant's professionals. The plan indicates existing curb and sidewalk along Laurel Avenue and Ocean Avenue. Curb and sidewalk will need to be replaced at the proposed driveway location for proposed Lot 25.02, at a minimum. A note is provided on the plan that indicates "Any damaged or deteriorated curb will be replaced as directed by the Township Engineer. The subdivision plan shows public water and sewer available within Laurel Avenue and Ocean Avenue. A note is provided on the plan, indicating that public water and sewer service are proposed. The names and addresses if the applicant and owner listed on the development application are inconsistent with those listed on the subdivision plan. Testimony is required from the applicant's professional regarding which names and addresses are correct, with revisions necessary on the revised documents to be submitted in accordance with this review letter. The proposed lot numbers should be consistent with the numbers assigned by the Tax Assessor. A 6-foot wide shade tree and utility easement is proposed along Laurel Avenue. Three (3) shade trees, identified as "2" Caliper Street Tree(s) as Selected by the Board" are proposed within the easement. Said trees should be selected from those allowed per Township Code, unless specific trees are requested by the Planning Board. No shade tree and utility easement is shown along the Ocean Avenue (Route 88) frontage. Proposed construction details must be modified to comply with applicable Township and NJDOT standards unless specific relief is requested in the current application (and justification for relief). Details shall be site specific, and use a minimum of Class B concrete @ 4,500 psi. A map detail is required for the

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vicinity where the right-of-way width of Laurel Avenue changes. Also, the proposed shade tree and utility easements on the respective lots must be complete with distances and areas because of the irregular configuration. Compliance with the Map Filing Law is required. Outside Agency Approvals- Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; New Jersey Department of Transportation (if necessary); Water and Sewer Approvals (NJAWC, prior to occupancy); Ocean County Soil Conservation District (if necessary); and All other required outside agency approvals. A revised submission should be provided addressing the above-referenced comments, including a point-by-point summary letter of revisions.

Miriam Weinstein Esq. appeared on behalf of the applicant with Mr. Hopkin as engineer for the applicant. Mr. Hopkin said these are the same plans from the technical meeting, no revised plans were submitted and there are just a few minor clean ups items from Mr. Vogt's letter. He said there are 2 existing lots and one of the lots has double frontage on Route 88 and Laurel Avenue and the other is a very oversized lot which fronts on Laurel Avenue. The existing buildings will remain and a third lot will be created from this and all the lots will be conforming in area and the proposed lot on Ocean Avenue has a thin strip which a variance is being requested out to Laurel Avenue and the purpose of this is to provide access to Laurel Avenue rather than Ocean Avenue (Route88). Mr. Neiman asked what variances are they creating by doing that and Mr. Hopkin said they are not really creating any variances, they are just not making them any better because this is a very odd configured lot so they are not making the frontage on Laurel any worse they are just squaring them off to make more consistent lots. Mr. Hopkin said one of the positive criteria would be providing a better vehicular access for proposed lot 11.01- it would have access from a residential street instead of a state highway. He said you have an oversized, underutilized lot on Laurel Avenue that this subdivision would create another lot which gives the opportunity for redevelopment is an area which is seeing some redevelopment now. Mr. Hopkin said in his opinion it advances the purposes of the zoning because all the variances they are requesting exist and they meet all the other requirements. Mr. Neiman asked how many off street parking spaces are they providing and Mr. Hopkin said they are proposing 4 for each lot and they are proposing sidewalks on Laurel Avenue and they exist on Route 88.

Mrs. Weinstein said they already addressed the comments in the professional's report at the tech meeting and Mr. Vogt said this is the public meeting so they need to agree to address them and Mrs. Weinstein said they do.

Mr. Banas asked what is the need of an access way from Laurel Avenue to Ocean Avenue and Mr. Neiman said it is only for this lot and Mr. Banas asked why. Mr. Hopkin said it exists today and said if you look at how much room the house on Ocean Avenue takes up, there is little room to provide parking on Ocean Avenue and it would require backing up onto Ocean Avenue, so rather than do that is safer to come in through Laurel Ave and park in the rear yard. He said there is an existing curb cut and driveway in that area. Mr. Banas asked why have an entrance on Ocean Avenue when they are not going to use it and Mr. Hopkin said nothing is being proposed, what is there now will continue to exist. Mr. Banas feels that somebody is going to get hurt; it may exist today but someone is going to get hurt. Someone can use that from Ocean Avenue to Laurel Avenue, they can use that as a getaway or free access road and feels it is just a danger sign. Mr. Hopkin said the way the home is configured, you could not drive straight through, you would have to drive between houses, over fences, and it would certainly be a problem. Mr. Banas asked where the front of the house is and Mr. Hopkin said it faces

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Route 88 and Mr. Banas said if you use the entrance from Laurel Avenue, isn't that really the front? Mr. Hopkin said the front door faces Route 88. Mr. Hopkin said this is what exists today and Mr. Banas said that doesn't make it right and Mrs. Weinstein said it is just vehicular access and Mr. Banas asked if they were using the access off Route 88 and Mr. Neiman said the plans show a curb cut and Mr. Hopkin said there is a driveway but it actual is on Lot 10, the adjacent property so if it is being used, he believes the owner of Lot 10 is using it. Mr. Banas said he just can't see a road going from Ocean Avenue to Laurel Avenue. Mr. Hopkin said there is currently no curb cut on this property on Route 88 and Mr. Banas said then let's block it up and have no entrance whatsoever and Mr. Hopkin said you cannot block what is not in front of their property and Mr. Banas asked how are the people coming into the property and Mrs. Weinstein said from the rear and they are proposing it exist-there will be vehicular access from the rear of the property and Mr. Banas asked if there is a wall separating these properties and Mr. Hopkins what separates them is a lot line but yet the people from Lot 11.01 are using the curb cut from Lot 10 to enter the property and Mr. Hopkin said he is not sure; there are driveways from either side of this property and it is his assumption that they are using one or both of those. Mr. Banas said something doesn't sound right to him. Mr. Hopkin said they are trying to clean up a situation where this lot does not have access, they are using their neighbors but Mr. Banas said they have had access from Laurel Avenue and asked how they can prevent them from coming in off Ocean Ave-that is a violation unless they have an easement through Lot 10 or Lot 12 and Mr. Hopkin said they may just have a gentlemen's agreement with the neighbor. Mrs. Weinstein said they don't even know that they are using it. Mr. Fink asked if there was a driveway leading to this house and Mrs. Weinstein said no-not to this house and her assumption is they are using the access from Laurel Avenue and will continue to do so-there is no reason to assume that they are using access from Ocean Ave. and Mr., Banas said their drawing shows a lot of breaks on both sides of Lot 10, so he feels it is broken up for some reason and suggests that since we don't know if that is an access road, put some trees in there or something and stop the possibility. Mr. Neiman said Mr. Banas' concern is cars going from Route 88 to Laurel Avenue and said what would satisfy the board is if they put into the resolution some type of assurance that there will be no cars, either by trees, by a fence, that no cars can go from Laurel Avenue to Route 88 either from Lot 10 or Lot 12 and Mrs. Weinstein said ok.

Mr. Neiman opened the microphone to the public

Seeing no one, this portion was closed to the public

Motion was made by Mr. Banas, seconded by Mr. Fink, to approve the application with a fence or trees prohibiting any possibility of cars coming in from Lots 10 & 12

Mr. Kitrick suggested it would either be a fence or a landscaping buffer and perhaps the applicant could work with the board's engineer.

ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes

4. SD # 1680 (Variance Requested)
Applicant: Jacob Lipschitz
Location: Brook Road, south of Howell Township
Block 175 Lots 99 & 8

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Preliminary & Final Major Subdivision for 11 lots

Mr. Vogt prepared a letter dated August 13, 2009 and is entered in its entirety. The applicant proposes to subdivide two (4) existing lots into eleven (11) residential lots. The subject project is located on the southerly side of the North Branch of the Metedeconk River in the northeastern portion of the Township adjacent to Howell Township, along Old Brook Road. The tract includes an existing dwelling fronting on Old Brook Road. The property includes an easement and cleared area along the southern portion of the lot for electrical/transmission lines, with the bulk of the remainder of the property wooded and/or freshwater wetlands. The applicant proposes the creation of eleven (11) single-family residential lots along a proposed street (proposed Riverside Court) starting at Old Brook Road and terminating in a cul-de-sac. Proposed stormwater management facilities and utilities are associated with this project, including subsurface piping, catch basins, a proposed infiltration basin, and an outfall that lies within the nearby wetlands buffer. Each proposed residential lot will be serviced by individual wells and individual septic disposal systems. The project proposes curbing along both sides of Riverside Court. The project proposes sidewalk along the southern side of Riverside Court and around the majority of the cul-de-sac. The subject property is located within the R-15 Single-Family Residential Zone District. Single-family residences are a permitted use in the zone district. *The following design revisions have been made per site plan review at the July 7, 2009 hearing: Previously proposed stormwater collection system at the rear of Lots 8.01-8.06 has been eliminated and an infiltration area proposed instead. The applicant has separated out the lot containing the stormwater basin (Lot 8.12) to be dedicated to the Township and a single unbuildable lot (Lot 8.13) which will be retained by the applicant. A separate lighting plan has been provided with design data as requested. Various plans revisions and clarifications per our initial site plan review.* We offer the following comments and recommendations per review of the current application and comments from our initial review letter dated July 1, 2009, with comments that no longer apply deleted: Zoning- The site is located in the R-15 Residential Zone and single-family residences are a permitted use in the zone district. *Fact.* The applicant must address the positive and negative criteria in support of the requested variance(s). *No change.* Review Comments- General - The project appears to include development within the 300-foot riparian buffer of the North Branch of the Metedeconk River, including the proposed roads and at least three (3) proposed lots as depicted on the drawings. Testimony shall be provided from the applicant's professionals regarding the permissibility of the project as proposed. *Per the point-by-point response letter, proposed Lots 8.01, 8.10, and 8.11 and a portion of the proposed Riverside Court will require disturbance within the riparian buffer. Per the letter, the majority of the development activities on proposed Lots 8.10 & 8.11 is in areas previously disturbed and all other activities are within area allowances provided under Flood Hazard Area Control Act.* The applicant proposes 3.5 off-street parking spaces per unit where 2.5 off-street parking spaces are required per RSIS. The applicant shall revise the zoning table to provide minimum proposed off-street parking in whole numbers since the project is all single-family residential lots. The Board shall determine if the parking provided will be sufficient for the type of development proposed. *Per the July 7, 2009 meeting, the applicant was to provide four (4) spaces per proposed dwelling. The applicant's engineer should provide confirming testimony that four spaces are provided.* One (1) new road name, Riverside Court, has been proposed for the project. The proposed road name is subject to approval from the Township and proof of approval shall be provided. *No change.* The plans include a note that all proposed Block and Lot numbers have been approved by the Lakewood Tax Assessor. The applicant should document this approval. *No change.* The submitted Environmental Impact Statement (EIS) refers to clustering as an allowable alternative development approach which would permit the

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use of R-10 development standards and therefore allow greater development intensity than as proposed. *Fact.* It may be appropriate to subdivide proposed Lot 8.07 further to provide a lot for the proposed dwelling similar in size to the other proposed lots. *The lot has been subdivided as requested. Additionally the lot has been further divided to remove the basin area from proposed Lot 8.07.* The requirements in 18-821 (Building Uniformity in Residential Developments) must be addressed. A minimum of four (4) basic house designs are required for developments consisting of between seven (7) and fifteen (15) homes. *This item remains outstanding.* Plan Review- An 8.5' dedication to the Township is being provided along the Old Brook Road frontage of the entire project. Plans shall be included for the widening of Old Brook Road. *Per the point-by-point response letter, the applicant is proposing to maintain the existing width of Old Brook Road (+/- 27') and will seek Township concurrence.* The width of the proposed wetlands buffer at the location of the wetlands reduction (i.e. at the Riverside Court terminus) should be labeled and dimensioned. *The requested labels have been provided. This item has been addressed.* Easements must be provided for the stormwater handling system, including the piping along the southern portion of the property and the proposed infiltration basin. Metes and bounds must be provided for all easements. *As noted above, the stormwater collection system has been revised to remove the piping along the southern portion of the property. The applicant proposes to replace this piping with an infiltration area between elevations 40 & 42, and will provide an easement for this area if approved. The applicant's engineer must address the potential for water ponding in the rear yards of Lots 8.04-8.06 in the long term. We have no objection to the related easement being included as a condition of any forthcoming approval.* Metes and bounds must be provided for the freshwater wetlands/waters boundary line. *Metes and bounds have been added to the plans. This item has been addressed.* The source and reference for the depicted 300 foot riparian buffer should be added to the plans. *A note has been added to the plans providing the requested reference. This item has been addressed.* The proposed sidewalk should be extended along the north side of Riverside Court, terminating at Old Brook Road. *The sidewalk has been extended as requested. This item has been addressed.* Grading -Grading information has been provided on the plans, and appears to be satisfactory. *Fact.* A profile has been provided for the proposed Riverside Court, and appears to be generally satisfactory. The applicant's professionals should provide testimony supporting the use of greater than six (6%) percent slope where the proposed Riverside Court meets Old Brook Road. *The revised plans shift the high point in the proposed Riverside Court easterly to flatten the initial 100 feet of the roadway from 6% to 4.66%. Final review of the road design will occur during compliance review (if approved by the Board).* The applicant's engineer must provide testimony as to whether the proposed dwellings will have basements, addressing any potential of conflict with the seasonal high water table. *Per the point-by-point response letter, basements are proposed for each dwelling and 2-foot separation to seasonal high water is intended. We cannot confirm the proposed separation based on available data. Additional information is necessary.* Proposed lot grading should be provided with forthcoming plot plan submissions. *No change.* Stormwater Management- A Stormwater management report is required. *A stormwater management report has been provided and is generally well-prepared.* A proposed storm sewer collection system has been designed utilizing reinforced concrete pipe to convey stormwater runoff into a proposed infiltration basin. The proposed infiltration basin is located on the easterly portion of the project. *As noted above, the stormwater collection system has been revised to remove the piping proposed in the back yards of proposed Lots 8.01-8.07. The piping proposed within Riverside Court and the proposed basin remain.* A formal Stormwater Maintenance Plan per the NJ Stormwater Rule (NJAC 7:8) and Township Code will be required as a condition of approval, if granted. *A Stormwater Maintenance Plan has been submitted in the stormwater management report. We find the plan to be generally well-prepared and have the following comments: The Stormwater*

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Rule requires a responsible party be named in the maintenance plan, including address and telephone number. This should be a condition of any forthcoming approval. The Stormwater Rule requires that the maintenance plan include cost estimates be provided, including costs for sediment, debris, or trash removal. This should be included as a condition of any forthcoming approval. The submitted plan indicates that responsibility for implementation of the plan will be assigned to the initial registered agent until otherwise transferred, and that a homeowner's association will be incorporated to adopt the plan. The Stormwater Rule requires that anyone not the developer identified as the responsible party (including a homeowner's association) must agree to accept that responsibility in writing. The Stormwater Rule requires that whenever the responsible party for stormwater maintenance is not a public agency, the maintenance plan and all revisions shall be recorded on the deed of record for each property on which the maintenance described in the plan must be undertaken. The Stormwater Rule does not preclude the Township from requiring the posting of performance or maintenance guarantees in accordance with N.J.S.A. 40:55D-53. Testimony must be provided regarding how the proposed piping behind proposed Lots 8.01-8.07 will be maintained (and by whom). As noted above, this piping has been removed in the revised submittal. However the point-by-point response letter indicates that the maintenance of the proposed infiltration area will be the responsibility of individual property owners. This may be an issue, as the Stormwater Rule states "Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project." The proposed infiltration basin appears to be classified as a dam per NJDEP Dam Safety Standards at N.J.A.C. 7:20 (proposed basin berm exceeds five (5') feet in height), and must meet the relevant overflow, design, and safety standards. The design of the basin has been revised to reduce the berm height to 4.5 feet, eliminating the need to comply with NJDEP Dam Safety Standards. This item has been addressed. Landscaping - The overall landscape design is subject to review and approval by the Board. Testimony should be provided by the applicant's professionals whether any specimen trees exist on-site. If so, compensatory plantings may be required unless waived by the Board. No change. Lighting - A Lighting Plan has been provided. However, no photometric contours or point to point lighting data has been provided. The plans must be revised to demonstrate that the lighting conforms to the Township Standards. The requested photometric data has been provided. The Unified Development Ordinance (Section 18-804, F) requires a minimum lighting level of 0.2 foot-candles for general street lighting. Our review of the provided data indicates several areas on the proposed Riverside Court that are below this level. The design must be revised or the appropriate waiver sought. Utilities - The plans indicate sewage service will be provided by individual septic disposal beds. Fact. The plans indicate water service will be provided by individual wells. Separation between proposed wells and proposed septic fields should be dimensioned on the plans. The requested dimensions have not been added. The point-by-point response letter indicates that 100 foot minimum separation has been provided between all proposed wells and septic fields. The applicant should confirm that electric, telephone, gas, and cable are to be provided underground. A note has been added to the cover sheet of the revised plans confirming all utilities to be installed underground. This item has been addressed. The applicant shall revise the plans as required by the Fire District. No change. Signage- Proposed signage needs to be added to the Development Plan along with respective details. This item remains outstanding. No project identification signs are proposed. No change. Environmental- An Environmental Impact Statement was provided for review, and is generally well prepared. Fact. Per NJDEP natural heritage database information provided, the site contains potential Bald Eagle foraging habitat. A site inspection and summary report from a qualified consultant is necessary to determine if any critical habitat exists in the area to be developed. The revised submittal includes a report from Maser Consulting P.A. in regards to this

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issue. It is the opinion of Maser Consulting P.A. that Bald Eagle Foraging Habitat is not present on the site. Our office has reviewed this report and has no objection to the author's conclusion. This item has been addressed. A Tree Management Plan has not been submitted. A plan is necessary unless waived by the Board. No change. It should be noted that the proposed limit of clearing closely matches the proposed limit of disturbance. Therefore, no extraneous trees will be removed as part of this subdivision plan. Fact. Construction Details - Except for inverts, which may be constructed of Class S concrete, any concrete shall be a minimum of Class B. The strength of Class B concrete is 4,500 psi. All references to Class C and D concrete shall be removed from the details as these mixes are no longer used by NJDOT. Bicycle safe frame and grate number shall be 2618. This item has been addressed. Final Plat. Compliance with the Map Filing Law is required. No change. Certifications in accordance with UDO Section 18-604 B. 3. Final Plat Major Subdivision shall be provided. No change. Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Ocean County Soil Conservation District; Ocean County Board of Health (septic); New Jersey American Water Company (water); NJDEP Transition Area Averaging or Waiver; and All other required outside agency approvals.

Mr. Doyle Esq. appeared on behalf of the applicant and said there will be a variance requested for a single residential lot which has a frontage pursuant to a definition within the ordinance of 84 ft. where 100 ft. is required and said that variance is needed because it is on a cul de sac and the property fans out. Mr. Vogt asked him to identify the lot and Mr. Doyle said proposed Lot 8.06. Mr. Doyle said in the report it described a drainage basin with a large area ascribed to one particular residential lot (20 acres) and the comment was that they should be put in their own lot - so the drainage basin will be put into it's own lot and pursuant to the RSIS the large area (20 acres) which would have been part of a single residential lot will be a separate lot; it will not have road frontage and is not a buildable lot but because it does not have road access, it will need a variance.

Mr. Surmonte is the engineer for the applicant. Mr. Doyle said at the tech meeting there were comments made about the drainage and they have since eliminated some issues with regard to the storm water collection system that was a concern- they have a stormwater basin with it's own lot. They have also made various revisions to the lighting plan. Mr. Doyle said this could have been a 13 lot subdivision in the cluster zone but the applicant purposely designed it this way to create 11 residential lots. The location is off of Old Brook Road near the Lakewood Howell border and a branch of the Metedeconk River.

Mr. Surmonte said when individual plot plans are submitted a minimum of 4 parking spaces per lot will be provided. Mr. Surmonte said they have broken the drainage into 2 areas; the development portion of the property, except for the extreme areas of the southerly lots will all drain into the cul de sac and be collected into the infiltration basin at the northeast corner. The southerly portion of the property by the utility easement, over time, a depression area behind Lots 8.04, 8.05 and 8.06 will develop and originally they designed a collection system for those lots but rather than do that, they did a little re-grading and a little modification of grading to the easement so a portion along the northerly part of the easement will be contained in that area. There are not any drainage structures proposed, it is just taking an existing depressed area, tightening up the grading and what they intend on doing is putting a type of conservation easement grading restriction on that portion of those lots that is critical to that functioning as a collection system and prohibiting the owners of those 3 lots from re-grading a portion of that property- so there will not be any permanent basin for those 3 lots. Mr. Surmonte said he routed the run off area into that depressed area and within 24 hours that will have totally relieved itself

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of water.

Mr. Vogt had 2 questions: one was if there was going to be a point of sale disclosures for people buying on those lots that even though it is not a basin, they are going to function similarly and Mr. Doyle said yes. The second question was what happens over time if you get silt or sediment, leaves decomposing etc. that can wash in there and they find over time they do not have the percolation that they do now. Mr. Doyle said he would draw a description that would affirmatively provide, satisfactory to the board attorney, that it would be implemented by the homeowner. They have a policy to keep the grade and maintain it so over time it should remain in the same condition; similarly, they cannot cut the land so as to maintain the grading. Mr. Vogt said he is not as concerned with the grading changes, he is concerned that 10 years from now, after stuff washing down there after umpteen storms, a layer will form and they won't have the percolating that they do now. Mr. Surmonte said the infiltration basin off the cul de sac will be dedicated to the township and they are trying to avoid having a homeowner's association and if there is a mechanism to put that responsibility on those 3 homeowner's but he is not sure, with the Stormwater Management Act, that they could. Mr. Vogt said he did not have an answer right now about that; it functions as a design right now but he is thinking about down the road. Mr. Doyle said with the implementation of the restrictive covenant that the attorney will put in and provide whatever would require that salutation, he thinks they can provide that.

Mr. Doyle said with regard to the separation, Mr. Surmonte felt certain that the lowest part of the finished house and the seasonal high water table will be maintained and they have done profile pits on each lot. Mr. Vogt said they could not tell that from the data they were given and requested more and Mr. Surmonte said yes.

Mr. Neiman said he did not see monuments on the plans separating the wetland so the homeowner knows where to mow and where he can't touch and where the final transition area is. Mr. Doyle said they would add that.

Mr. Doyle said they would make whatever changes necessary in the lighting and they will do a tree replenishment as stipulated in the ordinance. Mr. Doyle said it is not the applicant's intention to develop this parcel so they have not reflected any architectural designs of signage. They have submitted an EIS and they agree to comply with the remainder of the comments in the report. Mr. Surmonte clarified the variance and said lot width measured at the setback line which is 30 ft. is only 84 ft.; what happens on Lot 8.06- by the time you reach a depth of 45 ft. it does meet the required 100 ft. lot width and maintains that lot width for it's entire depth and they don't anticipate that house being built any closer than 60 ft. from the road and Mr. Doyle said they will agree that the front of the house shall be at a point where the width will be at least 100 ft. and on that basis it does not have any detriment to the zone plan or zoning ordinance. Mr. Doyle asked Mr. Surmonte to point out where the area in the back that will have its own lot without street frontage will be and Mr. Surmonte showed them on the map- from the eastern edge of Lot 8.07 east about 1,500 ft. mainly taken up by the utility easement.

Mr. Neiman said the Lakewood Environmental Commission had one comment and the riparian buffer and Mr. Surmonte said his experience with that act is that those lots will be permitted and Mr. Doyle said they understand that it will be subject to their jurisdiction. Mr. Surmonte said they also have an LOI.

Mr. Banas asked if these homes will have basements and Mr. Surmonte said they will and Mr.

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Banas asked what the water table line and Mr. Surmonte said it is relatively shallow, about 3-5 ft. depending on which lot and they will have to bring in a lot of fill in just to develop them, also due to the fact that they do not have sewer and they will have to design septic, but by the time they bring that fill in they do propose to have basements and have the required 2 ft. separation. Mr. Banas asked why architectural plans submitted and Mr. Doyle said the applicant is not developing it- he may well sell lots but said they will be bound by this approval if it is granted and live within all the setbacks and conditions. Mr. Banas asked if this might be called a preliminary major subdivision and Mr. Doyle said no, because an architectural isn't usually a step between preliminary and final. Mr. Banas asked if the grading plans are in there and Mr. Doyle said yes and Mr. Vogt said what is going to happen is as each individual lot is built you are going to have individual lot grading plans and they are going to have to conform with this concept.

Mr. Neiman opened the microphone to the public

Gerry Ballwanz, Governors Road, Lakewood was sworn in. She said the comments from the environmental commission, could that be summarized as they are showing the northern lots having as their back yard the Metedeconk River and Mr. Neiman said yes, within 300 ft. of it, called the riparian. She asked if the lots were all 15,000 sf and Mr. Neiman said yes. Mrs. Ballwanz said the lots that are near the Metedeconk, is any of that 15,000 ft. located in the wetlands or that riparian rights and Mr. Neiman said the last 2, part of it is within the 300 ft.- the 2 northwestern lots are within the riparian buffer. She asked how far the house will be built from the Metedeconk and Mr. Surmonte said the riparian buffer is a more restrictive buffer; the wetlands is a well downgraded riparian buffer and said portions of the 2 lots (he pointed to map) are part of the riparian buffer, one more than the other will require building within the riparian buffer. He said that entire area has already been developed as a single family house and the riparian buffer is to protect the vegetation associated with the wetland and the stream and that vegetation has already been cleared associated with the prior development. Mrs. Ballwanz said regarding re-grading and restrictive covenant for the 3 houses that will have the drainage in the back, from experience when people live there a couple of years they want to make changes and forget about things like the fine print of what they can or cannot do and she is wondering if those people in the 3 lots will be throwing their grass clippings and leaves into that area that is not supposed to be re-graded and will possibly be with this debris and asked how do you prevent that from happening and Mr. Neiman said that is why he asked them if they have those wetland monuments to show exactly where the wetlands begin and technically they are not even supposed to be walking there. She asked where the monuments were going to be located, on all the 11-12 lots or just certain ones-the 3 lots with the re-grading and Mr. Neiman said those 3 lots for sure but thinks it will go down for 6 lots. Mr. Doyle said the monuments will appear wherever the board requires them so that in the field it is clear and the ultimate lot purchaser what circumstances govern. Mrs. Ballwanz said the board is the one to say how many monuments and she said the more lots the better because people may start complaining about the drainage and mosquitoes and they may want to start filling it in or start cutting more because they don't like the grasshoppers or other little critters or wildlife so she thinks the monuments and where they are placed are of a significance.

Mr. Neiman said with regard to the monuments: when he was looking at the plan, he was looking at the 4 on top, going around the basin then coming around the first one and Mr. Vogt said that is along the wetlands area and that makes sense. Mr. Surmonte said they are usually placed at every change of course of the wetlands.

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Seeing no one else, this portion was closed to the public

Motion was made by Mr. Akerman, seconded by Mr. Fink, to approve the application

ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes, Mr. Banas; yes

5. SD # 1681 (Variance Requested)
Applicant: Ralph Clayton & Sons/Oak Glen Estates
Location: White Street & Lakewood New Egypt Road
Block 251 Lots 1, 2, 3, 10, 12, 13, 13.01, and 15
Preliminary & Final Major Subdivision for 21 lots

Mr. Vogt prepared a letter dated August 12, 2009 and is entered in its entirety. The applicant proposes to subdivide eight (8) existing lots into twenty-one (21) residential lots and two (2) stormwater management lots. Two (2) phases are proposed for the project. The first phase would include nine (9) residential lots and one (1) stormwater management lot. The second phase would encompass twelve (12) residential lots and one (1) stormwater management lot. The subject project is located on the southerly side of Lakewood-New Egypt Road and Whitesville Road in the westerly portion of the Township, near the Jackson Township border. The tract also has some frontage on the northerly side of White Street and some of the interior parts of the property reach the Jackson Township border. All of the existing land proposed for development is vacant woodlands and open space. The applicant proposes the creation of twenty-one (21) single-family residential lots with the development of two (2) new cul-de-sacs and the creation of new lots along the south side of Lakewood-New Egypt Road and Whitesville Road. Nine (9) proposed residential lots and one (1) proposed stormwater management lot (Phase 1) are proposed from a new cul-de-sac intersecting White Street. Five (5) proposed residential lots, including one (1) proposed stormwater management lot will be created off a cul-de-sac intersecting Lakewood-New Egypt Road. Seven (7) more proposed residential lots are to be created along the frontage of Lakewood-New Egypt Road and Whitesville Road. Proposed stormwater management facilities and utilities are associated with this project. Only the Phase 2 portion of the subject site with the proposed cul-de-sac intersecting Lakewood-New Egypt Road and the proposed residential lots fronting Lakewood-New Egypt Road and Whitesville Road will have a public water system. The remaining proposed lots being created from the cul-de-sac fronting White Street will have individual private wells. The entire project will be serviced by individual septic disposal systems. The project is also proposing curb along all developed streets. Sidewalk is now being proposed along both sides of the proposed cul-de-sacs and the frontages of all other roads bordering the project. The subject property is located within the R-40 Residential Zone District. Single-family residences are a permitted use in the zone district. The following comments (*bold*) are in response to review of the revised submission per comments made in our original review letter dated 6/29/09: Zoning- The site is located in the R-40 Residential Zone and single-family residences are a permitted use in the zone district. *Statement of fact.* A minimum lot size variance is requested for the stormwater management facility lot. A lot area of 40,000 square feet is required and a lot area of 28,381 square feet is proposed. *The revised plans propose twenty-one (21) residential lots and two (2) stormwater management lots. (The proposed residential lot with the stormwater management easement has been converted into two lots.) Therefore, three (3) proposed lots require minimum lot size variances. A lot area of 40,000 square feet is required and lot areas of 11,935 square feet*

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(proposed stormwater management Lot 1.08), 35,735 square feet (proposed residential Lot 1.09), and 27,268 square feet (proposed stormwater management Lot 1.18) are proposed. A variance for minimum lot width is requested for the stormwater management lot. A lot width of one hundred fifty feet (150') is required and a lot width of 54.5 feet is proposed. The revised plans propose two (2) stormwater management lots. Both proposed lots require a variance for minimum lot width. A lot width of one hundred fifty feet (150') is required and lot widths of seventy-five feet (75') are proposed for new Lots 1.08 and 1.18. The proposed seventy-five foot (75') lot width for new Lot 1.18 needs to be confirmed. Zoning schedule information for new Lot 1.08 needs to be added to the plan to confirm that no other bulk variances are required. The applicant must address the positive and negative criteria in support of the requested variances. Testimony must be provided. Review Comments- General- An overlap is shown with adjoining Lots 14.03 and 14.04. The area associated with this overlap is being used with the proposed subdivision. The applicant must clarify this matter in order to use the area as part of the proposed subdivision. The overlap area with adjoining Lot 14.04 has been given up. The overlap area with adjoining Lot 14.03 is still being used with the proposed subdivision. In accordance with the applicant's engineer's letter, this overlap will be resolved. We recommend that this condition be incorporated into the Board approval, if forthcoming. The applicant is proposing curb along all improved streets. Statement of fact. The applicant is proposing sidewalk along all streets abutting the project. Sidewalks are proposed along one (1) side of the proposed cul-de-sacs for the project. As requested by the Board, sidewalks have been added to both sides of each proposed street and along the property frontage of the existing streets. The applicant shall address off-street parking. No information has been provided in the zoning table on proposed off-street parking. It appears the applicant will propose two car side entry garages for all proposed residences. The Board shall determine if the parking provided will be sufficient for the type of development proposed. The revised plans provide four (4) off-street parking spaces per unit whereas only three (3) off-street parking spaces per unit are required. Two (2) new road names, Cory Court and Olive Court have been proposed for the project. The proposed road names are subject to approval from the Township and proof of approval shall be provided. The Township has approved the proposed road names. The Final Plat indicates that all proposed Block and Lot numbers have been approved by the Lakewood Tax Assessor on 06-01-09. All proposed Block and Lot numbers must be re-approved by the Lakewood Tax Assessor since the project has been broken into two (2) phases and the proposed number of lots has been changed. The requirements in 18-821 (Building Uniformity in Residential Developments) must be addressed. A minimum of five (5) basic house designs are required for developments consisting of between sixteen (16) and twenty-five (25) homes. One (1) basic house design has already been submitted. The applicant's engineer indicates the applicant does not propose to construct the homes. Any future dwelling construction on the site will have to comply with the Township's requirements. An incomplete General Note makes reference to an Outbound Survey. An Outbound Survey and Topography of the site has been provided for review. Review of the plan set notes encroachments and overlaps. The General Note has been revised and the encroachments have been noted to be removed by the owner of adjoining Lot 16. We defer to the Board solicitor as to whether an agreement is required to allow the owner of Lot 16 onto the applicant's property to remove the encroachments. Plan Review- The intersection of proposed Olive Court with White Street is not in accordance with RSIS standards. The applicant's professionals shall address the reasons for the proposed variances to the design standards. Based on our field observations, it appears the location is based on visibility along White Street. The fifty foot (50') tangent length between White Street and the proposed bend in Olive Court has not been provided. No Sight Triangle Easements are shown along the intersecting roads. Township and County Sight Triangle Easements must be added as appropriate. The proposed Sight Triangle Easements have been added to the Final Plats, but

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must be added to all appropriate sheets in the Construction Plans. No dedications are being provided along the frontages of the entire project. However, the right-of-way width along Lakewood-New Egypt Road is inconsistent and must be addressed. Proposed sidewalk along these road frontages may require sidewalk easements and relocation of the shade tree and utility easement for some of the proposed lots. The County is requiring the applicant to convert the various existing road easements along Route 528 to right-of-way to be dedicated to Ocean County. In addition, sidewalk easements and relocation of the shade tree and utility easement for some of the proposed lots is required. The proposed septic disposal fields are located in the front yards of all proposed lots. Individual wells are proposed in the rear yards of all proposed lots fronting the Olive Court cul-de-sac. The rest of the proposed lots are shown to be serviced by public water. Statements of fact. The General Notes and Zoning Schedule are incomplete and require some corrections. The General Notes have been completed and corrected. The Zoning Schedule needs to include all proposed lots Grading- Detailed grading and drainage plans are provided on Sheets 4 and 5 of 14. A storm sewer collection system is proposed to collect runoff and convey it to two (2) proposed stormwater management basins. The proposed lots on the east side of the project contain proposed recharge trenches. Storm sewer is proposed on new Lot 1.16 which is connected to the proposed system in Olive Court. This is not allowed since the proposed storm sewer system and stormwater management basins are proposed to be Township owned. A recharge system is proposed for new Lot 1.17 which will be owned and maintained by the owner of new Lot 1.17. Vertical curves are proposed for all road grade changes in excess of one percent (1%), including curb grades around cul-de-sacs. Statement of fact. Soil Logs and Permeability Testing have been undertaken for the septic system designs on the proposed lots. The results are contained in Appendix F of the Stormwater Management Report. Statements of fact. There is not enough existing mapping information for White Street to evaluate design improvements. The existing survey information only has accuracy to the nearest tenth of a foot. Existing survey information to the nearest hundredth of a foot is required to properly design and evaluate the design improvements for White Street. A half road section improvement may be required. An existing mound of soil which encroaches from neighboring Lot 16 is proposed for removal. However, the status of an existing crushed concrete pile has not been addressed. Testimony shall be provided on these matters. Temporary grading and construction easements may be necessary. All encroachments from neighboring Lot 16 are proposed for removal. We defer to the Board solicitor on the need for temporary grading and construction easements. A copy of the County grading plans for the widening of Route 528/547 should be provided to assist in review of the proposed site grading. A copy of the County Design Plans has been submitted. If approval is granted the plans submitted will be used to assist in review of the proposed site grading. The Grading and Drainage Notes require corrections. Additional revisions appear necessary. Stormwater Management- A proposed storm sewer collection system has been designed utilizing reinforced concrete pipe to convey stormwater runoff into two (2) proposed stormwater management basins. The proposed basins are located at the extreme westerly edge of the project at the terminus of Olive Court and on the northerly portion next to a proposed intersection of Cory Court with Lakewood-New Egypt Road. Seven (7) individual stone trench areas are proposed in the rear of the proposed lots on the east side of the project. An underground recharge system is proposed for the proposed westerly most lot in the subdivision. The revised plans now include eight (8) individual stone trench areas in the rear of eight (8) proposed lots on the east side of the project. An underground recharge system may need to be added to new Lot 1.16. The applicant is proposing to dedicate the proposed stormwater infiltration basin on proposed Lot 1.08 to the Township. The ownership of the proposed stormwater infiltration basin on proposed Lot 1.17 is not indicated. As requested by the Board, the proposed stormwater management basins have been proposed for their own lots. It is our understanding the storm

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sewer system and stormwater management basins shall be owned and maintained by the Township. We recommend as a condition of approval (if forthcoming) that the final stormwater design be reviewed with the DPW Supervisor during compliance review. Storm sewer is proposed on proposed individual lots, but no drainage easements are shown on the Final Plat. Furthermore, it is assumed the proposed individual stone trench areas and underground recharge area will be owned and maintained by the respective homeowners. Testimony shall be provided on these matters. It should be noted that the Township will not accept ownership of drainage easements on individual lots. The topography dictates that much of the proposed stormwater management facilities will need to be constructed on individual lots and privately owned. Testimony must be provided by the applicant's professionals addressing how the Township would maintain the system as designed. The revised plans indicate individual stone trench areas and underground recharge areas will be owned and maintained by the respective homeowners. Only the ownership of the storm sewer proposed on new Lot 1.16 still needs to be addressed. A Stormwater Management Operation & Maintenance Manual has been submitted per the NJ Stormwater Rule (NJAC 7:8) and Township Code. The manual indicates the Township of Lakewood will be the owner and responsible party. The manual must be revised to match the portions of the system the Township will accept ownership of. Also, action must be taken by the Township to assume ownership and responsibility for some of the stormwater management facilities. As a result of the plan revisions, the details of the Stormwater Management Operation & Maintenance Manual must be reviewed with our office. Access to the proposed infiltration basin on proposed Lot 1.08 must be provided. Access to the basin is provided in the southwest corner of the basin, but is too steep. A recharge rate of 20 inches per hour was used for the bottom of the infiltration basins and stone trenches. However, the permeability testing provided does not justify this rapid rate. The proposed infiltration systems will need to be larger. The Olive Court cul-de-sac can be shortened and minor adjustments made to the proposed lot lines to provide a larger basin area. The Stormwater Management Report has been revised and further revisions will be required. Should approval be granted, the applicant's engineer shall meet with our office to review stormwater management prior to undertaking revisions. We still recommend shortening the Olive Court cul-de-sac to reduce impervious area since a layout design may be necessary because of the previously cited overlap. The two foot (2') separation to seasonal high water table for the infiltration basins has been provided from the bottom of the sand layer. Statement of fact. The minimum top of berm distances for the infiltration basins must be ten feet (10'). Construction details and proper grading must be provided to insure the tops of berms are not too narrow. The ten foot (10') top of berm widths must be flat and properly shown on the grading. The Stormwater Management Report appears to indicate that the allowable peak discharge for some storm events is exceeded. Allowable peak discharges from the storm events for the 100 Year Storm in the southwest sector and the 2 Year Storm in the southeast sector are being exceeded. Design revisions appear necessary. Storm sewer profiles shall show existing and proposed grades and all pipe views at all structures. Revised storm sewer profiles will be reviewed should approval be granted. There is a post and rail fence detail typical of what is provided throughout the Township for stormwater management basins on the detail sheets of the plans. However, the height and location of post and rail fencing is not indicated in plan view. The applicant's engineer indicates the typical concrete fence provided for stormwater management basins throughout the Township will not be utilized. A black vinyl coated chain link fence is proposed around the basins. Adequate fence and gate details are required should the Board approve the proposed fencing. Landscaping- The overall landscape design is subject to review and approval by the Board. Per our site inspection of the property, the majority of the site is oak dominated uplands. Testimony should be provided by the applicant's professionals whether any specimen trees exist on-site. If so, compensatory plantings may be required unless waived by

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the Board. *A Tree Management Plan has been provided. Specimen trees exist on-site and are to be removed. It appears the Landscaping Plan properly handles compensatory plantings. Testimony shall be provided.* Sight triangles and drainage easements shall be added to the Landscape and Lighting Plans to determine whether any shade trees are being proposed in sight triangles and drainage easements. If so, these plantings should be relocated. *Sight Triangle Easements have been added to the landscape and Lighting Plans. Accordingly, relocation of some proposed plantings is required.* The applicant is proposing a ten foot (10') wide shade tree and utility easement along all proposed road frontages. The proposed easement encroaches onto adjoining Lot 16 which is not part of this subdivision. *The plans have been revised to remove a portion of the shade tree and utility easement which encroaches onto adjoining Lot 16. However, the proposed shade tree and utility easement along the proposed road adjacent Lot 16 is only five feet (5') wide. A design revision (or waiver of the minimum easement requirement) appears necessary.* Corrections are required to the Deciduous Tree and Evergreen Tree Planting Details. Either an additional Tree Guying Detail shall be added or reference to same removed. *The planting details have been corrected.* Lighting - Proposed street lighting for the proposed cul-de-sacs is shown on the Landscape and Lighting Plans. *Statement of fact.* Testimony should be provided regarding street lighting on the existing road frontages. *Testimony should be provided.* Coordination of the street lighting with JCP&L is required. *Testimony should be provided.* Utilities- The plans indicate sewage service will be provided by individual septic disposal beds. The applicant shall provide testimony regarding the availability of public sewer. *The applicant's engineer indicates the project is presently not within a sewer service area.* The plans show water service will be provided by a combination of individual private wells and public water mains. The proposed lots to be serviced by private wells are located along proposed Olive Court. The rest of the proposed lots will have public water service. It is our understanding there are no existing water mains on White Street. However, testimony should be provided regarding the possibility of extending water mains into proposed Olive Court. *The applicant's engineer indicates it is not feasible to extend the water system to Olive Court. Testimony should be provided at the hearing as to why the water extension is not feasible.* The plans state that electric, telephone, and cable to be provided underground. If gas is available, it shall be added to the list of underground utilities. *The applicant's engineer indicates that gas is not available.* Signage- Proposed signage needs to be added to the Development Plan. Regulatory sign details have been provided. *Proposed regulatory signs have been added to the plans.* No project identification signs are proposed. *Statement of fact.* Environmental- Environmental Impact Statement - An Environmental Impact Statement was provided for review, and is generally satisfactory. The Statement notes the site is within a Suburban Planning Area (PA2) and a Smart Growth Area. To assess the site for environmental concerns, our office performed a limited natural resources search of the property and surroundings using NJ Department of Environmental Protection (NJDEP) Geographic Information Mapping (GIS) system data, including review of aerial photography and various environmental constraints data assembled and published by the NJDEP. The following data layers were reviewed to evaluate potential environmental issues associated with development of this property: Known Contaminated sites (including deed notices of contaminated areas); Wood Turtle and Urban Peregrine habitat areas; and NJDEP Landscape Project areas, including known forested wetlands, emergent wetlands, forest, and grassland habitat areas. Per NJDEP mapping, the site is mapped as potential state threatened species habitat. The Environmental Impact Statement properly addressed the ecology of the site with respect to flora and fauna. No threatened or endangered species critical habitats were found by the applicant's qualified consultant as identified in the Environmental Impact Statement. *Statements of fact.* Tree Management Plan- A Tree Management Plan has not been submitted. A plan is necessary unless waived by the Board. It should be noted that the proposed limit of clearing closely

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matches the proposed limit of disturbance. Therefore, no extraneous trees will be removed as part of this subdivision plan. *A Tree Management Plan has been submitted for review. As indicated at the Board meeting, there is specimen trees located on-site and some are proposed to be removed. Compensatory plantings have been provided.* Construction Details- The height for the adjoining berms of the recharge trenches needs to be clarified. *A table has been provided for each trench. The pipe length needs to be added for Trench #2.* The Sign details should be revised to include a reflective strip that is installed the length of the post. *The reflective strip has been added to the sign post detail.* The Stop Bar detail shall be eliminated since it conflicts with the Intersection Striping detail. *The Stop Bar detail has been removed.* The Pavement Restoration detail does not match the Municipal Roads detail. *The Pavement Restoration detail has been revised to coincide with the Municipal Roads detail.* Except for inverts, which may be constructed of Class S concrete, any concrete shall be a minimum of Class B. The strength of Class B concrete is 4,500 psi. All references to Class C and D concrete shall be removed from the details as these mixes are no longer used by NJDOT. *Inlet details still require correction.* There are duplicate details which conflict and require correction. *The duplicate depressed curb detail and county curb detail have been removed.* Should subdivision approval be granted, shop drawings for the wall will be required prior to construction. *Statement of fact.* Three (3) types of curb details are shown on the plans. The locations of the different curb types must be indicated. *Details for Belgian Block Curb and Mountable Granite Block Curb are shown for Cory Court. The locations of the two (2) proposed curb types are not clear.* Details for the infiltration basins berms do not agree with the plan views. *Flat, ten foot (10') wide top of berm widths are required on the plan views.* Details for Handicap Ramps must conform to the NJDOT Standard Details. *Details must be in accordance with the 2007 NJDOT Standard Details.* Final Plats -Compliance with the Map Filing Law is required. *Statement of fact.* Bearings and distances are missing from many of the proposed lot lines. *Any missing bearings and distances appear to have been added to the Final Plats for both phases.* Curve information, bearings, and distances must be added to the Shade Tree and Utility Easement that has been provided on the Final Plat. *Data for all easements has been added to the Final Plats for both phases.* Sight Triangle Easements have not been provided on the Final Plat. *Sight Triangle Easements have been provided on the Final Plats for both phases.* *The General Notes and Schedule of Bulk Requirements on the Final Plats for both phases require corrections.* *Signature blocks for the owners are required on the Final Plats for both phases.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; Ocean County Soil Conservation District; Ocean County Board of Health (well and septic); New Jersey American Water Company (water); all other required outside agency approvals. *Ocean County Planning Board approved the project with contingencies on August 5, 2009. Ocean County Board of Health has no objections to the subdivision. However, approvals will be required for the individual well and septic systems. The other remaining outside agencies approvals are currently pending.* Should approval be granted, the applicant's engineer should meet with our office to review our comments and recommendations, particularly with respect to stormwater management prior to providing a revised submission for compliance. Any revised submission for compliance should include a point-by-point summary letter of revisions.

Mr. John Doyle Esq. appeared on behalf of the applicant. He said this is 21 lot subdivision with 2 storm water lots; there is a ridge line so the drainage falls from that line. There was significant comments made by Mr. Franklin and they have worked closely with him to make sure the drainage works.

Mr. Flannery is the engineer for the applicant and he said the area is off of Drake Road in the R40 zone. They are asking for variances for 3 lots; at the tech meeting there was comment

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about the storm water management facilities being on separate lots and that resulted in variances for the 2 detention lots as well as one of the residential lots that previously had a basin and an easement located on it-that lot, (Lot 1.09) 35,735 sf proposed which is 90% of what is required in the zone and it could be a conforming lot if the basement were in an easement and Mr. Franklin indicated that he would prefer it on its own lot. They also met with Mr. Franklin after the technical meeting to go over the drainage and it is now consistent with the township's standards and they would agree as a condition of approval that the resolution compliance would be satisfying the board's engineer as well as public works with respect to the grading and drainage. The variances requested are for lot area on the 3 lots and lot width for the detention lots and it is Mr. Flannery's testimony that they could have a conforming application, similar to where they do flag lots, but they do it different to satisfy the request of the township, these variances can be granted without any detriment to the zone plan or zoning ordinance. The positive criteria is they are developing lots in accordance with the Master Plan and there is not negative impact from the requested variances.

With respect to the board engineer's report, Mr. Flannery said most of it is technical in nature and they would agree to satisfy the engineer with respect to the items in there.

Mr. Neiman asked how many off street parking spaces are being provided and Mr. Flannery said they have shown 4 spaces per unit. Mr. Flannery said they will be doing the plan in 2 phases and the phase line is shown on the plans; one comes off White Street and one comes off New Egypt. Mr. Flannery said all of the lots area proposed septic and the soil borings were done on the information provided to show they can handle septic. The plan attempts to save trees to the maximum extent and the plan indicates specimen trees on site and they have a replanting plan in accordance with the ordinance. There is water available on Lakewood New Egypt and all the lots on that portion will have public water; there is about a 1,400 ft. extension needed on White Street which would disturb White Street and the neighbors and he said on 40,000 sf lots he felt potable wells would be appropriate.

Mr. Neiman opened the microphone to the public

Tony DiStefano, 72 White Road, Lakewood was sworn in. He said his property is adjacent to the back of the development. He said he reviewed the site plans, the landscaping plans and the light plans and he is accepting the same as long as they follow the site plan. He is very satisfied.

Ann Richardson, 1870 Lanes Mill Road, Lakewood was sworn in. She said there is a retention basin at the corner of Drake Road and Lakewood New Egypt Road and asked if they are going to utilize that drainage ditch or put in a new one because on the opposite side of the road, Clayton has plans for a development on that side too. Mr. Flannery said the storm water management for this site is all being done on this site. She said as far as she is aware of there is no public water and Mr. Flannery said there is public water which runs up Drake Road to Old Whitesville Road, then out to New Egypt and the Lakewood New Egypt portion of the project will have public water because it is available and feasible and the 9 lots off of White Street will not. Mr. Flannery said the public water comes down Drake Road from James Street to Old Whitesville Road, then it proceeds westerly to Lakewood New Egypt Road. She said there is not water in the streets there and Mr. Flannery said he lives in the neighborhood and runs on the streets everyday and he saw them put the water mains in. She said the water mains may be there but no one has hooked up and she said there is someone else here who can verify that there is no public water. Mr. Doyle said they will stand on the testimony of the only engineer that was heard from. Mrs. Richardson said there is another person here that lives on Drake Road and he

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doesn't have any public water, so if it is coming off James Street it is coming to a certain portion, but from Neiman Road to Lakewood New Egypt Road there is not.

Seeing no one else, this portion was closed to the public

Mr. Neiman asked Mr. Flannery about the public water and said he is giving testimony that his client is going to try to hook up to that public water and Mr. Flannery said yes, and the public water is definitely there, it is available and the most feasible alternative but on 1 acre lots, private wells could be done, so if there was some reason NJAWCO had a capacity problem or something of that nature they would put in wells. It is the applicant's intention that there will be public water, NJAWCO owns the mains that are there and there is no reason to see a foreseeable problem but they are just asking for 40,000 sf lots. Mr. Doyle said if they were to approve this application, they would identify those lots to which they understand there is an adjacent water line and the capacity is there for them to hook up. If the capacity or line were not there, they can more than accommodate a private well. Mr. Flannery identified those lots for public water as the lots on the northerly portion and they will extend the water main into the cul de sac.

Motion was made by Mr. Banas, seconded by Mr. Akerman, to approve with all the recommendations

ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr., Akerman; yes, Mr. Banas; yes

6. SP # 1921 (Variance Requested)
Applicant: Klarr Transportation Services
Location: Lehigh Avenue, west of Swarthmore Avenue
Block 1606 Lot 2.01
Preliminary & Final Site Plan for proposed office/school bus terminal

Mr. Vogt prepared a letter dated August 12, 2009 and is entered in its entirety. The applicant is seeking Preliminary and Final Major Site Plan approval with Variances. The applicant proposes to construct a new 7,370 SF Office/School Bus Terminal Building and site improvements within the Lakewood Industrial Park. An existing facility from 999 Airport Road would be relocated to this proposed site. The eastern section of the building will provide for bus maintenance and the western portions of the building will be used for offices. Parking for employees will be provided on the west side of the property, while parking for buses will be provided on the east side of the site. The current need for the site is five (5) office workers and forty (40) drivers/bus aids. However, the ultimate design is based on the requirement of five (5) office workers and one hundred (100) drivers/bus aids. A total of one hundred twenty-six (126) parking spaces are proposed at the above-referenced location. Thirty-nine (39) parking spaces will be 9' X 18' passenger vehicle parking spaces with two (2) being van accessible handicapped spaces. Forty-eight (48) parking spaces will be 12' X 40' full size bus parking spaces. Twenty-four (24) parking spaces will be 10' X 20' mini bus parking spaces. Ten (10) parking spaces will be 9' X 20' mini bus parking spaces. Five (5) parking spaces will be 12' X 20' mini bus parking spaces. Access to the proposed development will be provided by two (2) driveways from Lehigh Avenue. The tract consists of 3.62 acres in area, and is mostly forested with the exception of a disturbed area near the northern property boundary. The property slopes gently downwards from northwest to southeast. No freshwater wetlands or state open waters exist on-site or within three hundred

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feet (300') of the tract. The site fronts the northeast side of an interior curve of Lehigh Avenue. The roadway is improved with municipally supplied water and sewer services available in the roadway. Surrounding lands are all improved with large commercial and industrial land uses. The site is located in the M-1 Industrial Zone. Terminal facilities are a permitted use in the zone. The southeast half of the site lies within the AHZ Airport Hazard Zone. The following comments (*bold*) are in response to review of the revised submission per comments made in our original review letter dated 7/1/09: Zoning-The site is situated within the M-1, Industrial Zone. Per Section 18-903M.1.c., of the UDO, under "permitted uses" in the M-1 zone cites terminal facilities. *Statements of fact.* The minimum front yard setback may be reduced from one hundred feet (100') to fifty feet (50') with approval of the Lakewood Industrial Commission. A front yard setback of 97.1' is being proposed. Testimony shall be provided regarding the status of the Industrial Commission approval. *The applicant's professionals indicate they have submitted the site plan to the Lakewood Industrial Commission.* It appears a variance may be required for the number of off-street parking spaces. Per Section 18-903M.6.a., of the UDO, buildings having less than twenty thousand square feet (20,000 SF) of floor area shall provide one (1) parking space for each employee on the maximum work shift, plus five (5) spaces for executives. The ultimate design for the site will require approximately one hundred five (105) parking spaces. The project proposes one hundred forty-two (142) spaces. However, one hundred three (103) of these spaces are for bus parking, leaving only thirty-nine (39) spaces for normal passenger vehicles. Testimony shall be provided regarding this situation. *The revised plans propose one hundred twenty-six (126) spaces with eighty-seven (87) spaces for bus parking and thirty-nine (39) spaces for passenger vehicles. Testimony shall be provided by the applicant's professionals.* A variance is required for the site identification sign setback. Per Section 18-812A.9.b., of the UDO, a fifteen foot (15') setback from the right-of-way is required and a ten foot (10') setback is being proposed. Testimony should be provided regarding visibility and location of the site identification sign, especially considering the tree save areas required by CAFRA. *The applicant's professionals indicate they will testify on the sign setback variance.* Per review of the site plans and application, the following design waivers appear to be required: Maximum driveway width of thirty feet (30') (Subsection 18-807.C.4.). A driveway width of fifty feet (50') is proposed for the proposed access driveway associated with the proposed bus parking portion of the site. *Testimony will be given by the applicant's professionals.* Providing parking facilities closer than twenty feet (20') from the street line (Subsection 18-807.C.6.). The nearest proposed parking facility to the street line is ten feet (10'). *Testimony will be given by the applicant's professionals.* Bus parking space size (Subsections 18-807.C.8.a & b.). Full size bus parking spaces shall be a minimum of twelve feet (12') wide by forty feet (40') long. Sixty-nine (69), ten foot (10') wide by forty foot (40') long full size bus parking spaces are proposed. Mini bus parking spaces shall be a minimum of ten feet (10') wide by twenty feet (20') long. Ten (10), nine foot (9') wide by twenty foot (20') long mini bus parking spaces are proposed. *The revised plans eliminate the proposed sixty-nine (69), 10' X 40' full size bus parking spaces and propose forty-eight (48), 12' X 40' full size bus parking spaces which are complying. Ten (10) 9' X 20' mini bus parking spaces are still proposed which requires a waiver. A Tree Management Plan is required, whereas none has been submitted. A waiver from providing a Tree Protection Management Plan is being requested based on the CAFRA Tree Save Area being large compared to the twenty-three (23) existing trees of twelve inch (12") caliper or greater.* Any and all other design waivers deemed necessary by the Board. Review Comments-Site Plan/Circulation/Parking In accordance with Section 18-903M.4.a., testimony should be provided on the disposal of liquid wastes. *The applicant's professionals indicate testimony will be given on disposal of hazardous/liquid wastes.* Vehicular Circulation Plans are required to confirm accessibility for bus parking, delivery, emergency, and trash pickup vehicles that will need to access the site. This will assist the Board in evaluating the

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design waivers requested for proposed bus parking space size. *The vehicular circulation of the site has been revised along with the elimination of a waiver for the width of the full size bus parking spaces. The need for a Vehicular Circulation Plan no longer appears necessary. However, the applicant's professionals shall provide testimony on the new circulation pattern.* A 9' X 18' solid waste enclosure on a 12' X 20' pad is proposed at the end of a drive aisle near the maintenance portion of the building. Testimony is required regarding the adequacy of the enclosure. The refuse area is enclosed, but no screening has been provided. The waste receptacle area should be designed in accordance with Section 18-809.E. of the UDO.

Statements of fact. An infiltration basin is proposed on the south side of the site along the Lehigh Avenue frontage. The proposed basin walls are created by modular interlocking block retaining wall units. The basin will not be fenced and has no vehicular access. Design revisions appear necessary. *A note has been added to the plan stating that maintenance access to the bottom of the proposed infiltration basin shall be accomplished by removing sections of the block retaining wall and accessing the basin using maintenance equipment that will not compact soil in the basin.* The proposed access driveway for the proposed passenger vehicle parking areas is at a skewed angle with respect to Lehigh Avenue. The applicant's professionals shall provide testimony as to why the proposed driveway is not radial to Lehigh Avenue. *Proposed traffic striping has been added at the proposed access driveway. While the proposed white stripe is centered on the skewed angle of the proposed access driveway, it is offset from the center of the proposed driveway aisle of the parking area.* No sight triangles associated with the proposed vehicular site access points have been indicated. *A sight triangle associated with the proposed vehicular site access on the curve has been added and is shown in detail on Sheet 3.* Lehigh Avenue is improved with utilities, curbing, and pavement. Curbing is being replaced with depressed curbing at the driveway access points. Concrete aprons are also proposed within the proposed driveway limits of the right-of-way. No sidewalk exists within the right-of-way and none is proposed. This is consistent with the other site plans in the Industrial Park. *The revised plans have added proposed sidewalk within the right-of-way. Proposed handicapped ramps must be added at the intersections with the proposed driveway access points. Proposed handicapped spaces and aisles shall be dimensioned. The proposed handicapped spaces and the aisle will be nine feet (9') wide. The proposed spaces and aisle conforms to the eight foot (8') minimums required for van accessible spaces.* A proposed six foot (6') by twenty-four foot (24') concrete pad near the southeast side of the building is shown on the Site Plan. The purpose of this proposed pad has not been indicated. *The site plan configuration has been revised to provide a proposed fuel island near the southeast side of the building.* Architectural- Basic architectural floor plans and elevations were submitted for review. Per review of the submitted plans, the building will be far less than the sixty-five foot (65') allowable height. The structure will house service bays and office space. *Statements of fact.* The applicant's professionals should provide testimony regarding the proposed building facade, and treatments. We recommend that renderings be provided for the Board's review and use prior to the public hearing, at a minimum. *The applicant's professionals indicate they will provide testimony on building construction.* Testimony should be provided as to whether any roof-mounted HVAC equipment is proposed. If so, said equipment should be adequately screened. *The applicant's professionals indicate they will provide testimony on HVAC and utilities.* More detailed architectural plans should be provided. *The applicant's professionals indicate that final architectural plans will be prepared should site plan approval be granted.*

Grading- A detailed grading plan is provided on Sheet 4. The site will be filled since the ground water table is relatively shallow. A retaining wall is proposed east of the proposed parking area in order to create a tree save area on the east side of the site. A storm sewer collection system is proposed to collect runoff from the developed portion of the site. *Statements of fact.* As indicated on the plans, site grading is proposed. The applicant should confirm whether fill will

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be imported to the site. It appears fill is to be imported, we recommend that the applicant perform analytical testing, in accordance with N.J.A.C. 7:26E-6.4(b)2.iii through iv, N.J.A.C. 7:26E-6.4(b)3, (d) and (e), on the fill at a frequency suitable to demonstrate that contaminants are not present within the fill soil at concentrations above the relevant NJDEP Soil Cleanup Criteria. *A note has been added to the plans requiring the fill to be analytically tested.* An infiltration basin is proposed on the southerly portion of the proposed project site. The basin will be less than four feet (4') deep, have a flat sand bottom, and have walls constructed from modular block interlocking units. *Statements of fact.* The proposed grading along part of the southerly parking lot curb adjacent the basin is flat. A high point should be created at the return of the forty foot (40') curb radius. *A high point has been proposed between the proposed inlet and proposed curb return. This solution is acceptable.* The proposed retaining wall should be extended along a portion of the north side of the site. The proposed slope between the proposed parking area and the adjoining site is too steep. *Slope stabilization is proposed for the steep slope instead of providing a retaining wall.* The proposed retaining wall will be stepped at various locations. The grading plan should indicate the locations of these steps with proposed top and bottom of wall elevations to insure proper construction. *The proposed retaining wall is properly stepped on the revised plans.* Proposed spot grades should be added in the proposed handicapped parking area to insure proposed slopes of two percent (2%) are not exceeded. *The revised plans properly grade the proposed handicapped parking area.* Stormwater Management- A proposed storm sewer collection system has been designed utilizing reinforced concrete pipe to convey stormwater runoff into a proposed infiltration basin. The proposed infiltration basin is located on the southerly portion of the site. *Statements of fact.* A two foot (2') vertical separation between the proposed bottom of the sand layer and the seasonal high water table has not been provided. We recommend the proposed basin be revised to provide a six inch (6") thick proposed sand layer with a proposed top of sand elevation of 28.5 and a proposed bottom of sand elevation of 28.0. *The applicant's professionals indicate, and we concur, that no design revisions should be undertaken prior to receiving the CAFRA review.* The proposed grading creates numerous low points on the site. Runoff at these proposed low points should be picked up with flared end sections and piped to the infiltration basin. This will also increase the available storage of the stormwater management system, which is needed. The proposed low point created on the southeast corner of the site will be downstream of the basin and may be piped to the existing inlet just east of the site. *Should the applicant's engineer elect not to add storm sewer, the report must be modified to address the infiltration of runoff at the proposed low points.* Corrections to the Post Development Drainage Area Map are required. *Modifications will be made after receiving the CAFRA review.* The proposed drainage area for proposed drainage structure "D-7" is too large for a single grate structure. Either a double structure or an additional upstream structure shall be proposed. *A double inlet has been provided.* The last run of proposed pipe from proposed drainage structure "D-7" into the basin is undersized. *The applicant's engineer must check the capacity because of an alteration to the drainage area.* Proposed storm sewer outfalls into the infiltration basin are shown to be flared end sections. However, only headwalls are included on the detail sheets. The discrepancy shall be clarified. *The flared end sections are correct; the headwall detail has been replaced with a flared end section detail.* Proposed drainage structures "D-9 and D-10" will act as bubbler inlets in case of system failure. We recommend a small emergency spillway also be considered for the basin since the peak flows could overtax the bubbler inlets. *The CAFRA review could impact whether an emergency spillway needs to be considered.* A stormwater maintenance manual has been provided in accordance with NJ Stormwater Rule (NJAC 7:8) and Township standards. Our review indicates the frequencies of inspections need to be increased. *The manual will be modified after CAFRA review. More frequent inspections and emergency maintenance will be addressed.* It should be noted that NJDEP's pending

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CAFRA review could have an impact on the stormwater management design and significantly affect our recommendations. *Our office should be provided with a copy of the CAFRA review when it is issued.* Landscaping- Proposed landscape planting for the site consists of eight (8) Green Mountain Sugar Maples, twelve (12) Japanese Pieris, and twelve (12) Morning Light Miscanthuses. *Statement of fact.* The overall landscape design is subject to review and approval by the Board. *Statement of fact.* The applicant has not provided a six foot (6') shade tree and utility easement along the property frontage, and sight triangle easements for the proposed site access driveways. *The revised plans provide the shade tree and utility easement and sight triangle easements. Descriptions will be required for filing of the easements.* General Planting Note #13 shall be removed and General Planting Note #8 corrected. *The notes have been removed and corrected.* Lighting- A detailed lighting design is provided on the Landscape and Lighting Plan. Per review of the isometric data, the center of the site appears to be inadequately illuminated. A point to point diagram along with additional lighting is recommended. *The applicant's professionals indicate that lighting is being provided for security purposes. However, the proposed lighting does not conform to the Ordinance.* The concrete for the Light Pole Footing Detail shall be 4,500 psi. *The detail has been corrected.* Utilities- Public water and sewer services will be provided by the Lakewood Township Municipal Utilities Authority. It should be noted that the Bureau of Safe Drinking Water has informed the Authority that the Authority does not have sufficient water supply based on the current interpretation of the standards by NJDEP. However, the Authority anticipates that they will have the situation rectified within the next few months. (See Will Serve Letter in CAFRA Compliance Statement.) *The applicant's professionals indicate that the LTMUA will rectify the water situation in the near future.* Electric service is available from Jersey Central Power & Light. Gas service is available from New Jersey Natural Gas Company. Existing electric and gas facilities are indicated on the plans. *Statements of fact.* Testimony should be provided regarding proposed fire protection measures. *The applicant's professionals indicate they will meet with the Fire Official and comply with applicable codes. They claim the building size does not dictate sprinklers and construction will provide firewalls.* Signage- A proposed free-standing site identification sign has been provided on the site plans requiring relief by the Board for location. A detail of the proposed free-standing sign is included on the Construction Details sheet. The size of the proposed poured concrete footing for the sign must be completed and concrete with strength of 4,500 psi used. *The construction detail for the sign has been completed.* All signage proposed that is not reviewed and approved as part of this site plan application, if any, shall comply with the Township Ordinance. *The applicant's professionals indicate that any additional signage will comply with Township Ordinances.* Environmental-Site Description- Per review of the site plans, aerial photography, and a site inspection of the property, the tract is a vacant property fronting on the north side of Lehigh Avenue in the Lakewood Industrial Campus. The vegetation on site consists of mixed oak and pitch pine native species throughout the site. Most of the site is forested with the exception of a previously disturbed area near the northern property boundary. The property slopes gently downwards from northwest to southeast. No freshwater wetlands or state open waters exist on-site or within three hundred feet (300') of the site. *Statements of fact.* CAFRA Compliance Statement- The applicant has submitted a CAFRA Compliance Statement. The document has been prepared by Air, Land, & Sea Environmental Management Services, Inc., and complies with Section 18-820 of the UDO. The report is a result of an Environmental Assessment and Inventory conducted on the site. To assess the site for environmental concerns, natural resources search of the property and surroundings was completed using NJ Department of Environmental Protection (NJDEP) Geographic Information Mapping (GIS) system data, including review of aerial photography and various environmental constraints data assembled and published by the NJDEP. The following highlights some of the documents and field inventories which were

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reviewed to evaluate potential environmental issues associated with development of this property: The New Jersey State Development and Redevelopment Plan. The site is defined as a CAFRA Coastal Regional Center. NJDEP I-map and site investigation for wetlands and wetland buffers. The Natural Heritage Program for any threatened and endangered species. Northern Pine Snake habitat areas were evaluated. NJDEP Landscape Project Areas. The author of the CAFRA Compliance Statement concludes the proposed project will comply with NJDEP policies including forest preservation, impervious coverage limits, water quality, and stormwater management. Our office agrees with the author's findings. *Statements of fact.* Tree Management Plan- General Note #13 on the Cover Sheet states the entire site contains twenty-three (23) trees of twelve inches (12") in caliper or greater, and no specimen trees. Therefore, a Tree Protection Management Plan must be submitted. The locations of the larger twenty-three (23) trees are shown on the Existing Conditions Plan. A Tree Protection Management Plan is required (or waiver sought). *A waiver from providing a Tree Protection Management Plan is being requested based on the CAFRA Tree Save Area being large compared to the twenty-three (23) existing trees of twelve inch (12") caliper or greater.* Phase I/AOC's If existing, a Phase I study should be provided to address potential areas of environmental concern (AOC's), if any within the site. *The applicant's professionals indicate that no Phase I study has been performed on the site.* Construction Details- Construction details are provided on Sheet 9 of the plans. *Construction details are included on Sheets 9 and 10 of the revised plans.* All proposed construction details must comply with applicable Township or NJDOT standards unless specific relief is requested in the current application (and justification for relief). Details shall be site specific, and use a minimum of Class B concrete @ 4,500 psi. *Inlet details must still be upgraded.* Additional information is required for the trash enclosure detail. No pilasters are shown for the decorative block walls. The concrete slab shall be Class B concrete @ 4,500 psi. No information is provided for the chain link gates. *Post and rail sizes need to be added for the chain link gates. We still recommend pilasters for the block walls.* The Sign details should be revised to include the reflective strip that should be installed the length of the post. Reference to NJDOT Standard Specifications shall be 2007. *The sign details are acceptable.* The Headwall/Apron and Rip Rap Swale Details do not correlate with this site plan. *The Headwall and Rip Rap Swale Details have been removed. Flared End Section Details without aprons should be provided since scour holes are being used.* The Van Accessible Handicapped Parking Detail must be revised to nine foot (9') wide spaces and aisle, unless the site plan is revised. *The van accessible parking stalls are depicted as eight foot (8') minimum widths for spaces and aisles.* The base course pavement should be thicker. *The base course thickness has been increased to five inches (5").* A detail must be provided for the retaining wall. *The detail must still be added.* Handicap Ramp Details must be in accordance with the latest NJDOT Standard Construction Details. *Additional details are required to account for the ramp types required at the driveway crossings since sidewalk is now being proposed along the site frontage.* The head pieces for Type B Inlets must be environmentally compliant. *The correct head pieces appear to be proposed; the CAFRA review will provide confirmation.* Discrepancies in depressed concrete curb and sidewalk details must be corrected. *Discrepancies in depressed concrete curb and sidewalk details have been addressed.* Performance guarantees should be posted for any required improvements in accordance with Ordinance provisions. *The applicant's professionals indicate that performance guarantees will be posted in accordance with Lakewood Ordinance provisions.* Outside agency approvals for this project may include, but are not limited to the following: Lakewood Township Industrial Commission; Lakewood Township Municipal Utilities Authority (water and sewer); Ocean County Planning Board (approved 6/17/09); Ocean County Soil Conservation District; NJDEP CAFRA Individual Permit; FAA/NJDOT (Airport Hazard Zone); and All other required outside agency approvals. *The applicant's professionals have indicated that the revisions have been submitted to all regulatory*

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agencies for review. Once this project receives all approvals it should be resubmitted to the County to insure the 6/17/09 approval remains valid.

Mr. Vogt discussed the waivers that were requested

Mr. John O'Brien Esq. appeared on behalf of the applicant. He said the site is located on Lehigh Avenue, west of Swarthmore Avenue and this application will allow the applicant to own the site for their business and expand the existing facilities and provide for future expansion. Mr. Voeltz is the project engineer for the applicant.

Mr. Voeltz said the site is currently vacant, wooded and there is no wetlands on the site. It is 3.6 acres and they are developing about 60% of that site and 1/3 of the site will stay in a green state. There will be 2 driveways with total access to Lehigh Avenue; the one to the southerly entrance will be the primary entrance where the school buses will come into the site. They have asked for a variance for a wider driveway because these are buses and they need better access and proper turning movement. The access to the north will be used to access the front of the building and will be used primarily for employees, visitors and staff. They have also done an architectural plan which shows 2 stories, but because of economics, they are only building one story on this application which will consist primarily of offices and a side bay area of 6 bay areas for the maintenance of the buses. It also contains a wash down facility to clean the buses on a regular basis. The project also contains an underground storage tank for the diesel fuel and they have an onsite infiltration basin which will collect all the storm water management that runs off the site and right now they are waiting for CAFRA approval. The project has approval from the FAA, OC Soils and OC Planning Board.

Mr. Neiman asked how many buses will be parked here and Mr., Voeltz said the plans show parking for 89 buses (48 large, 30 smaller) and Mr. Neiman asked how many spaces for employees and Mr. Voeltz said they have parking in front of the building but usually what happens is the employees park where there is an empty space from the bus, then take their bus on the road and when they come back and drop off the bus, they take the car. Mr. Neiman asked where they are currently located and Mr. Voeltz said 999 Airport Road which is currently Bennet's building, Mr. Neiman just wants to make sure there is enough parking and asked how many spaces and buses are in the facility that they are in now and the owner, Adiola Ademosu was sworn in and said they have currently have 23 big buses and 15 small buses and 4 minivans and where they are they don't have enough room. Mr. Neiman asked if they comply with the RSIS and Mr. Vogt said he is not sure they are under the RSIS code, it is a parking variance based on the township code because Mr. Voeltz said township code is 1 parking space per employee, so the requirement would be 1 per employee and 5 per executive. They do have parking in front of the building and they also have spaces for the buses, and when those buses are on the road, those spaces are empty and becomes a parking space. A lot of the bus drivers are also arriving from mass transit so they are brought to work by buses. Mr. Voeltz said they would comply with the comments in the review letter.

Mr. Banas said he noticed the details in the plans but on the plans themselves, he cannot locate any stop signs and Mr. Voeltz said they are intended to be there and they will be in there. Mr. Banas asked how the flow of traffic would go around the fuel loading area and Mr. Voeltz said they have 2 way traffic in front of the maintenance doors so they can pull in and straight out of the building; the building itself is approximately 52 ft. in width and there are doors on both sides. The buses will come in from Lehigh Avenue and come around and diagonally park in the

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slots. Mr. Banas said he was referring to the vehicles parked along the fence and Mr. Voeltz said they are the minibuses.

Mr. Vogt said they have to have testimony provided on the disposal of waste and Mr. Voeltz said they show a disposal area on a pad large enough for 2 dumpsters and it will be private pick up and they will comply with applicable regulations. Mrs. Ademosu said they currently have an outside vendor (All Time Tires) that currently come and collect the oil, which is in 55 gallon drums and are collected every other week. Mr. Vogt asked about the HVAC and Mr. Voeltz said all the condensers are at ground level on the back of the building and he doesn't think it will cause any problems.

Mr. Banas said he only saw the evidence of one sign in the western section and Mr. Voeltz said they asked for a variance of 10 ft. back instead of the 15 ft. due to the visibility on the curve and they are trying to preserve as many trees as they can. Mr. Neiman asked if it was in the site triangle and Mr. Voeltz said no.

Mr. Neiman opened the microphone to the public

Gerry Ballwanz, Governors Road, Lakewood was sworn in. She said it is 3.6 acres and said where the buses are being parked is going to all be black topped and impervious surface and one acre will be undisturbed trees and woodlands and Mr. Voeltz said they have about 65% impervious coverage which means the remainder will either be plants, trees or grass- he said CAFRA only requires 10%. She asked what would happen in the future if they need more blacktop because they will need more buses, would they expand the area where the trees are and Mr. Voeltz said not without an approval. She asked about the wash down area and where the dirty water from the buses being collected and disposed and Mr. Voeltz said it will be discharged into the LMUA sanitary sewer and said this is not uncommon for many of the industrial facilities to have their own wash down facilities and not contract with the public works to use theirs as she suggested.

Seeing no one else, this portion was closed to the public

Motion was made by Mr. Herzl, seconded by Mr. Fink, to approve

ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr., Akerman; yes, Mr. Banas; yes

7. SD # 1682 (Variance Requested)
Applicant: Pat Brown
Location: intersection of Georgian Terrace & Arboretum Parkway
Block 25.08 Lots 65 & 67
Minor Subdivision to realign existing lot lines

Mr. Vogt prepared a letter dated August 6, 2009 and is entered in its entirety. The applicant seeks minor subdivision approval to eliminate a portion of an existing lot line and re-subdivide two (2) existing single-family lots known as Block 25.08, Lots 65 and 67. The existing lots front Georgian Drive with existing Lot 65 also having frontage on Arboretum Parkway. There are existing dwellings, driveways and appurtenances on both lots. The proposed subdivision will result in enlarging Lot 65 (proposed Lot 65.01) and reducing the size of existing Lot 67

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(proposed Lot 67.01). The site is situated within a residential area. *We have the following comments and recommendations per testimony provided at the 7/7/09 Planning Board workshop hearing, and comments from our initial review letter dated June 23, 2009:* Zoning- The parcels are located in the R-12 Residential District. Single-family detached dwellings are a permitted use in the zone. *Fact.* Testimony should be provided as to whether any new construction or expansion of either of the existing dwellings is contemplated as a result of the proposed subdivision. *Per testimony at the 7/7 hearing, the subdivision is requested due to the unique shape of the lot to accommodate potential future expansion of the existing home on Lot 67, and/or other potential future development. Confirming testimony should be provided at the public hearing.* Per review of the Subdivision Map and the zone requirements, the following variances are required for proposed Lot 21.01: Lot Area (Lot 67.01, 11,048 s.f. proposed, 12,000 s.f. required) – proposed condition. *Fact.* Lot Width (Lot 67.01, 87.24 ft proposed, 90 ft required) – existing condition. *Fact.* Minimum Single Side Yard setback (Lot 67.01, 5 ft proposed (requested), 10 feet required) – new condition. *Fact.* Minimum Combined Side Yard setback (Lot 67.01, 15 ft proposed (requested), 25 feet required) – new condition. *Fact.* Testimony should be provided by the applicant's professionals regarding the existing stairwell structure shown on new Lot 65.01, within 1.4 feet of the lot line, and whether variance relief is necessary for this structure as well (as an existing condition). *Testimony must be provided at the public hearing.* The applicant must address the positive and negative criteria in support of the requested variances, including but not limited to the 5 foot single side yard setback variance requested for proposed Lot 67.01. *Testimony must be provided at the public hearing.* Review Comments- Per review of the subdivision plan, each existing/proposed lot contains an existing dwelling, each having its own driveway. The driveway for the home on proposed Lot 65.01 appears to have room for at least four (4) cars, and the driveway for the home on proposed Lot 67.01 appears to have room for at least two (2) cars. Parking should be provided to the Board's satisfaction. *Fact.* The existing dwellings on both lots will remain. Again, testimony is required to address whether new construction or expansion within one or both lots is contemplated as a result of this subdivision. *Per testimony at the 7/7 hearing, the subdivision is requested due to the unique shape of the lot to accommodate potential future expansion of the existing home on Lot 67, and/or other potential future development. Confirming testimony should be provided at the public hearing.* The plan indicates existing curb along Georgian Terrace and Arboretum Parkway. The curbing is in adequate position. The Board should determine whether sidewalk is necessary. We note that there is no existing sidewalk in the immediate vicinity of the property. *Per testimony at the 7/709 hearing, the applicant did not propose sidewalks since there are none on adjacent properties, and the lot frontage is heavily-vegetated. The Board expressed a preference for having sidewalks installed. This issue must be addressed at the public hearing to the Board's satisfaction.* No information is provided on the plan regarding existing water and sewer service to the dwellings. We assume that both dwellings are served by public water and sewer. Confirming testimony is necessary, as well as whether addition service is required. *Testimony must be provided at the public hearing.* Proposed construction details must be added to the plan (if any construction is proposed or required by the Board) in accordance with applicable Township or NJDOT standards. *Fact.* Proposed lot numbers must be assigned by the Tax Assessor and the plat signed by the Tax Assessor. *Fact.* A six foot (6') wide shade tree and utility easement should be provided on the plan (unless waived by the Board). Similarly, shade trees should be provided (unless waived by the Board). *This item remains outstanding.* Compliance with the Map Filing Law is required. *Fact.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; *Fact.* Water and Sewer Approvals (if necessary); *Fact.* Ocean County Soil Conservation District (if necessary); *Fact.* All other required outside agency approvals.

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Mr. Sam Brown Esq. appeared on behalf of the applicant. He said this is a minor subdivision to re-align the rear of the westerly lot and the idea is to square off the lots. He lives on the lot to the right and Pat Brown is his wife. It would make his lot more usable and they would transfer to another owner or be developed. He said there is a residence on both lots and some of the variances in the letter are pre existing. Mr. Brown said there was a question at the technical meeting whether there is an intention to add sidewalks to these lots and testified that the lot to the right is a heavily wooded lot and the entire area end up to a dead end and there are only 6-7 houses that empty onto this dead end and there is very little vehicular traffic and none of the lots have sidewalks. He brought in pictures along with a petition from the neighbors asking that they please disturb their neighborhood by adding sidewalks where it will be an eyesore and something that will not actually work or fit and which adds no inherent value. He also said each of his neighbors are in favor of this application.

Mr. Neiman asked if there are currently 2 homes on these lots and Mr. Brown said yes.

Mr. Flannery is the engineer for the applicant and said this is just to re-align the lot line in the back because each of the lots is like a slice of pizza and the back portion is unusable and this application will make one of the lots usable and the other lot will not have the useable lot but they did not have one to begin with. The variances for lot area and lot width are pre existing conditions and they are asking for a variance for minimum side setback of 5 ft. and combined setback of 15 ft. so the lot can be developed in a reasonable manner with a house that could be wider instead of longer and narrow as with the current condition. The other issue is the sidewalk and the photographs that they will introduce show that putting in a sidewalk here really will not do any good for safety and they are hoping to convince the board that this is a compelling situation, there will be a lot of trees and grading that will be disturbed and the neighbors are the ones who would have use of that and Mr. Brown has photos and a petition. Mr. Flannery said in his opinion you can grant the variances without any detriment to the zone plan or zoning ordinance.

Mr. Neiman asked who owns the property next door and Mr. Brown said at the time of the application it was owned by 1317 Georgian LLC who had signed onto this application and has subsequently been transferred and they know what the applicant is doing here. Mr. Brown said he did speak to the neighbor on the other side and they said they have no problem with this application. Mr. Neiman asked what future development are they talking about and Mr. Brown said there is a house on the site that a lot of people may want to live in and expand at some future date and they want to make sure that the building envelope is adequate. Mr. Brown said there is a note in Mr. Vogt's review letter that speaks about a variance on the lot to the right, something about stairs at the lot line and Mr. Flannery said that is a pre existing condition and Mr. Jackson typically says to be conservative they should ask for that variance as well.

Mr. Banas said he thinks the sidewalks are necessary and Mr. Kitrick suggested they mark the pictures into evidence- Mr. Brown said the pictures are marked 1 through 19 and were marked exhibit A1 and depict the area surrounding the subject site including the subject site. Mr. Neiman said he recalled at one time Mr. Brown going to public works requesting that dead end be side walked and Mr. Brown said he did not. Mr. Flannery said it is a unique situation because not only is it the knocking down of trees but also a grading issue. Mr. Flannery said he recalls another application that was similar on North Lake Drive where they were not required to put in sidewalks because the neighborhood was established.

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Mr. Banas said he was asked previously about sidewalks and said they are absolutely necessary. He looked at the plan and sees that there are a lot of people that can live here- Lot 63, 65, 56 and across the street he cannot see if they have sidewalks; Lot 52 and Lot 62 are all going to have people at one point in time, if they don't exist, will exist. Mr. Banas said Mr. Flannery should be corrected because he indicated that they have been asking for sidewalks for about 2 years and said he has been fighting with the board for about 8 years, if not longer. Mr. Banas said another attorney who has been fighting with the board is Mr. Penzer and Mr. Banas has convinced Mr. Flannery that sidewalks are necessary and there is an inherent need for them. Mr. Penzer finally agreed with Mr. Banas about putting sidewalks in and has said that sidewalks that were in place in Sunset Avenue are only 3 ft. wide and they should have made them put in wider ones because the people are using them. Mr. Banas said we do not know what we need today, but he knows that when they develop something, if we don't put in sidewalks at this time, we have messed a golden opportunity. They just suggested to the municipal government the zero lot line and this is a perfect example of the need for sidewalks, so he would indicate that even if it looks strange to begin with it is necessary. Meetings that they have had with the State dealing with the expansion of Route 70, they have constantly added that sidewalks or other developments need to be put in place at this point even if they might look bad because there is no expansion.

Mr. Neiman said with development yes, but looking at this application and these photos, as a compromise and this could be put into the resolution, if the applicant does in the future, knock down the home or puts an addition to the home, sidewalks would be required then. Mr. Brown said if he was sitting in his position he would insist that any new development have sidewalks, but this is an established neighborhood and they are just re-aligning the rear lot line to make a bigger lot and the amount of disturbance that would be required to put in sidewalks would far outweigh the benefit of putting in the sidewalks coupled with the fact that all of the neighbors have asked that they don't put sidewalks in. He asked the board to look at the photos again and Mr. Banas said all the photos he has are of the upper digits and there is only one that shows any kind of degree of elevations (photo #15) yet he sees 7 photos that are basically flat. Mr. Brown said most of the photos that he is looking at is probably neighboring properties- if they talk about the subject property (photo #6-10) you would see the amount of disturbance that would be required to put in sidewalks and you would see where he is coming from. Mr. Banas said he is not about to argue, they know his position and said there is a rule that whenever a property comes before this board, the entire property is up for review.

Mr. Neiman said he thinks there is a compromise on the table: if there is future development on that property, they will be requiring sidewalks and it will be a part of the resolution. Mr. Brown asked if that would be a function of the building department and Mr. Neiman said that is a function of the planning board and they can put it into the resolution. Mr. Brown asked if that would be for the lot that is more flat or would that apply to both lots and Mr. Neiman said any for the 2 subject lots that is redeveloped.

Mr. Kitrick said to make things clear, he asked if they meant the development of that property, such as an addition or is a deck considered substantial and Mr. Flannery said the building department routinely submits plot plans for additions to engineering and engineering makes the determination. Mr. Kitrick asked if substantial means they would submit a plot plan and Mr. Neiman said yes. Mr. Banas said he did not know what they were discussing and Mr. Neiman said they were discussing this application and that they were not going to require sidewalks now, but if they do any substantial building, sidewalks will be required. Mr. Banas said he would not support anything like that.

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Mr. Akerman said the message he is getting from the board members is they want sidewalks right now. Mr. Brown said it is not practical and Mr. Akerman said they should discuss it because the vibe he is getting from the members is that they want sidewalks. Mr. Brown said he is also in support of sidewalks wherever it is possible, but said it is simply not practical here and all the neighbors are against it. Mr. Banas asked where the neighbors were and the Mr. Browns' testimony is hearsay. Mr. Brown said he still wanted to enter the petition and Mr. Kitrick said they have not yet gotten to the public portion but if he had neighbors that are supporting his application, it would be better to hear from them rather than a petition, unless it was notarized and Mr. Brown said he understood.

Mr. Vogt asked about the shade tree easement and Mr. Flannery said they will add one.

Mr. Neiman opened the microphone to the public

Seeing no one, this portion was closed to the public

Mr. Neiman said in his opinion, if there is any substantial building to either of these 2 lots, sidewalks will be required and that should be put in the resolution and Mr. Brown said the applicant is fine with that-that would change the nature of the application from a simple alignment to something more substantial. Mr. Fink asked if that can be enforced and Mr. Kitrick said it becomes a code enforcement issue and Mr. Akerman said they enforce it and asked Mr. Kielt. Mr. Kielt said if they question to him is, is it enforceable and he said the answer is he is not so sure. Mr. Flannery said his office has to submit a plot plan for every building permit and one of the checklist items is for sidewalks, so it will be addressed at time of building permit and if it is in the resolution, they would be required to put in sidewalks.

Mr. Kitrick said the question is years from now, when they come for a permit, will they be referencing the resolution.

Motion was made by Mr. Banas, seconded by Mr. Fink, to approve the application with the variances and to include sidewalks in this application

ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; no, Mrs. Koutsouris; no, Mr. Akerman; no, Mr. Banas; yes

Mr. Brown suggested a compromise-the lot that is more negatively impacted by sidewalks is the lot to the right, it is the lot on the right and it is almost physically impossible to put in sidewalks, he said lot 67.01 would have sidewalks on it and the more difficult lot would not. Mr. Neiman said he was going to add something; that in the event that there is going to be future building on the lot on the right, whether it is going to be enforced or not, that it be a requirement- so right now they will put one in and if there is future building on the other lot, they will put it in then.

Motion was made by Mr. Herzl to that effect, seconded by Mr. Fink

ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; yes, Mrs. Koutsouris; yes, Mr. Akerman; yes

Mr. Banas said the new lot is 67.01 and that is where they will be putting the sidewalks in anyway so yes.

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8. SD # 1683 (Variance Requested)
Applicant: Shmuel Friedman
Location: Route 9 north of Cushman Street
Block 430 Lots 9 & 54
Preliminary & Final Major Subdivision

Mr. Vogt prepared a letter dated August 11, 2009 and is entered in its entirety. The applicant is seeking Preliminary and Final Major Subdivision approval. The applicant proposes to subdivide two (2) existing lots (Lots 9 & 54 in Block 430) into seven (7) proposed lots. New Lots 54.01 through 54.06 will be proposed townhouse lots. New Lot 9.01 will be a proposed commercial lot. The applicant is also seeking Preliminary and Final Major Site Plan approval. The Site Plan approval for the proposed new townhouse lots (54.01-54.06) is included in conjunction with this Subdivision approval. The Site Plan approval for the proposed new commercial lot (9.01) is a separate application. The property to be subdivided, totaling 2.33 acres, consists of existing Lots 9 and 54 in Block 430. Existing Lot 9 is a narrow, deep lot of 1.83 acres in area, and contains a 2-story office dwelling, a garage, a shed, and other appurtenances. The existing structures will be demolished and all appurtenances removed. The lot fronts on the west side of River Avenue (Route 9), between Pine Boulevard and Cushman Street. Existing Lot 54 is a rectangular lot of 0.50 acres in area, and contains a 1-story dwelling with a potable water well and an individual septic system, a shed, and other appurtenances. The existing structures will be demolished and all appurtenances removed. The lot fronts the north side of Cushman Street and borders existing Lot 9 hundreds of feet west of Route 9. Proposed commercial Lot 9.01 will contain 1.26 acres and proposed townhouse Lots 54.01-54.06 will vary in size from 0.08 to 0.66 acres and total 1.07 acres. The applicant is proposing to construct six (6) townhouses for the site plan application associated with this subdivision. All proposed townhouses will be twenty-five foot (25') wide by fifty-four foot, eight inches (54'-8") long. Each proposed unit will consist of an unfinished basement, a first floor living area, a second floor with five (5) bedrooms, and an attic with another two (2) bedrooms. The proposed units will also have rear decks and separate accesses to the unfinished basements and first floors. Individual driveways capable of parking four (4) vehicles are proposed for each unit. The majority of the adjacent and surrounding properties are developed. *We have the following comments and recommendations per testimony provided at the 7/7/09 Planning Board workshop hearing, and comments from our initial review letter dated July 2, 2009:* Zoning -The site is situated within the HD-7, Highway Development Zone. Per Section 18-903H.2.b., of the UDO, under "conditional uses" in the HD-7 zone cites "townhouses". *Fact.* The applicant should provide testimony to address proposed future development (if any) in the rear portion of proposed Lot 54.01 for the townhouses which totals 0.66 acres in area. *Testimony will be provided at the public hearing.* Per review of the site plans and application, no variances are requested for the townhouse site plan. Should any variances be deemed necessary by the Board, the positive and negative criteria should be addressed. *Fact.* Per review of the site plans and application, the following design waivers appear necessary, at a minimum: Minimum thirty foot (30') buffer from the property line to the proposed use. The Board may reduce the required buffer to fifteen feet (15') if the developer provides a dense landscape screen. (Section 18-803E.2.b.). *Fact.* Providing sidewalk along the property frontage (Section 18-814M). Curb exists along Cushman Street, but no sidewalk exists in front of the project or is proposed. *Per testimony at the 7/7/09 meeting, the applicant agreed that sidewalk would be provided. Sidewalk is not depicted along the frontage on the revised plans. Testimony is necessary to support the necessary waiver.* Review Comments- Site Plan/Circulation/Parking- In accordance with Section 18-1010B.6., of the UDO; "each unit shall have

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an area designated for the storage of trash and recycling containers". Neither the Site Plans nor the Architectural Plans address this matter. *4' x 8' trash enclosures are now proposed in the front of each unit as indicated on revised Sheet 4 of the plans. A detail(s) is necessary for the proposed enclosures.* An Outbound and Topographic Survey prepared by Clearpoint Services, LLC is referenced in the general notes, but is not provided. *A copy of the survey has been provided. This item has been addressed.* According to RSIS, for townhouses containing four (4) bedrooms or more, the parking shall be 2.5 off-street spaces per townhouse unit. The applicant proposes seven (7) bedrooms plus an unfinished basement for each unit. The applicant provides four (4) off-street spaces per unit. Each proposed unit will have a driveway large enough to park four (4) vehicles. Testimony shall be provided on the adequacy of the off-street parking. *Testimony is necessary from the applicant regarding the adequacy of proposed parking.* The existing curbing and paving on Cushman Street is in excellent condition. As a result of proposed new sanitary sewer main installation, proposed water and sewer service connections, and new driveway construction, virtually the entire road will be disturbed. We recommend road reconstruction with one side curb replacement for the entire length of the project frontage. At the location where sanitary sewer is being installed east of the project, we recommend a mill and overlay be done to return the road to its present condition. The Site Plans must be designed to show the required improvements. *Per the applicant's engineer's cover letter, the applicant seeks direction from the Board regarding this recommendation.* The proposed rear yard setback in the zoning table shall be corrected. The correct value is 22.7 feet, which is still in compliance. *This item has been corrected.* Additional dimensioning is needed on the site plan, particularly around the proposed units with the all the proposed sidewalk jogs. *The 'jogs' have been removed from the revised site plan per our recommendation. Additional dimensioning of the building units and sidewalks should be provided during compliance review (if this project is approved by the Board).* It is not clear whether the proposed driveways are bituminous or concrete. A construction detail is needed. *The revised plans indicate that the proposed driveways will be bituminous concrete. A detail has been added to Sheet 8 of the site plans. This item has been addressed.* The applicant should provide Homeowner's Association (HOA) documents for the development to the Board's Professionals for review. *Fact.* Architectural- An architectural plan set was submitted for review. Per review of submitted plans, the average building height will be thirty-one feet nine inches (31'-9"), and will house six (6) identical townhouse units of twenty-five feet (25') in width. Two foot (2') breaks between every pair of units is proposed as required. Testimony should be provided regarding the building height to insure compliance. *Testimony should be provided at the public hearing.* The applicant's professionals should provide testimony regarding the proposed building, facade, and treatments. We recommend that renderings be provided for the Board's review and use prior to the public hearing, at a minimum. *Testimony should be provided at the public hearing.* Testimony should be provided as to whether any roof-mounted HVAC equipment is proposed. If so, said equipment should be adequately screened. *The revised site plans show the air conditioning units at ground level at the rear of each building. This item has been addressed.* Horizontal layout coordination between the architectural plans and the site plans is required, the dimensions do not correspond. *Fact. Coordination can be provided during compliance review (if this project is approved by the Board).* The architectural plans show all the units at the same elevation. The site plans show vertical breaks between each unit. Coordination is required. *Revisions have been made to the architectural and site plans, and appear to be adequate. Additional revisions, if necessary can be addresses during compliance review.* Grading- A detailed grading plan is provided on Sheet 5. *Fact.* Seasonal high water table is conservatively estimated between nine and ten feet below existing grades. Therefore, the proposed basement floor elevations have the required minimum two foot (2') separation from the seasonal high ground water table. *Fact.* Vertical breaks between the units should be in eight

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inch (8") increments. *Vertical breaks have been provided as requested on the revised Grading Plan.* Per review of the current grading plan, additional grading is necessary for stormwater management purposes and to prevent directing runoff onto adjoining properties. *Additional grading has been provided on the revised Grading plan, which is sufficient to confirm that the proposed design is feasible. Additional grading will be required during compliance review (if approval is granted), particularly for proposed curb and apron improvements along the property's Cushman Street frontage.* Stormwater Management- The proposed project is piping and directing stormwater runoff to an underground recharge pipe and trench system that is proposed within the gravel parking/display area on a neighboring property for stormwater management purposes. This practice should be reconsidered because of the potential for future ownership changes. *Per our meeting with the applicant's professionals, and as referenced in the engineer's 7/22/09 cover letter, the stormwater system proposed within the adjacent commercial parcel will serve the residential portion as well. An access easement will be provided for use (if needed) by the HOA.* Per the recharge calculations in the stormwater report, the piping system can recharge more than the increase in the 100-year storm event, using a field measured permeability rate of 70 inches per hour (in/hr). A permeability rate in excess of 20 inches per hour will not be considered for design purposes. *Per our recommendation, the stormwater system proposed on the adjacent commercial parcel has been revised assuming a permeability rate of 20 inches per hour. This item has been addressed.* We recommend that the system be analyzed using a more conservative recharge rate for outflow purposes, since recharge capacity of the underlying soils will likely decrease over time. The applicant's engineer should contact our office to review. The concept of underground recharge is favorable for this project given the favorable recharge rates and groundwater table within the property. Additionally a means of overflow should be incorporated in the design in the event that the system fails due to lack of maintenance. *As discussed at our meeting with the applicant's professionals, the gravel display parking area proposed on the adjacent commercial parcel has been regraded to minimize potential overflow. This grading will be reviewed in further detail in our site plan review for the commercial parcel.* A separate stormwater management system and stormwater management report must be prepared for the townhouse site plan. *A revised stormwater report was prepared addressing both sites, and will be reviewed in further detail in our site plan review for the commercial parcel.* The applicant's engineer must address how the proposed stormwater design will meet the NJDEP's and Township's water quality standards (for major development). *Fact.* A stormwater maintenance manual will be required in accordance with NJ Stormwater Rule (NJAC 7:8) and Township standards. Confirming testimony should be provided that the applicant will maintain the proposed stormwater management system. *Fact.* Traffic- A Traffic Report has been submitted for review, assessing impacts of this project as well as the commercial use proposed by the applicant on the adjacent property. *Fact.* As indicated in the report, the author concludes that both (auto, townhome) projects will not have a significant adverse impact on the Route 9 and Cushman Street intersection, since the estimated AM peak (LOS E) and PM peak (LOS F) will not change. *Fact.* Testimony should be provided by the applicant's traffic expert as to whether any of the other local Route 9 intersections or cross-streets (e.g., Pine Boulevard) will be impacted by this proposal, and whether any improvements are warranted for safety purposes. *Testimony will be provided by the applicant's traffic consultant at the public hearing.* The report indicates that a representative traffic expert will be available for testimony at the upcoming planning board meeting. Testimony will be necessary for the public hearing, at a minimum. *Testimony will be provided by the applicant's traffic consultant at the public hearing.* Landscaping- Proposed landscaping is illustrated on the Landscape and Lighting Plan (Sheet 6). As indicated on the plan, landscaping is proposed including six (6) Red Maples, twenty (20) Giant Arborvitae, twenty-three (23) Anthony Waterer Spirea shrubs and two (2) Japanese Holly shrubs. The plant

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count on the Spirea needs to be verified. *The revised landscape plan now included thirty-five (35) Spirea, with the correct plant count on the plant list.* The overall landscape design is subject to review and approval by the Board. *Fact.* The applicant should include the location of all proposed service laterals on the Landscape Plan to assure there are no conflicts with any of the proposed street trees. *Laterals are depicted on the revised Landscaping plan as requested.* A tree protection plan is not included in the submission. One should be provided, or the appropriate waiver sought. As noted on Sheet 6, eighteen (18) trees will be removed, including two (2) specimen trees. Compensatory landscaping is proposed. The existing tree identified as "T7" is being removed as part of this project, but the existing tree identified as "T22" is being removed as part of the commercial project. *Tree protection information and the requested clarifications are provided on the revised Landscaping plan, and appear satisfactory.* Lighting- There is existing street lighting on Cushman Street. No additional street lighting or site lighting is proposed. *Fact.* Utilities- Utility information (other than lighting) is provided on Sheet 5. As illustrated, a proposed sanitary sewer main will be extended on Cushman Street. Proposed sewer laterals will be installed from the proposed individual units and connect to the proposed main within Cushman Street. Proposed water services will be installed from the proposed individual units to an existing water main on the opposite side of Cushman Street. As described in the EIS report, water and sewer service will be provided through the NJ American Water Company. *Fact.* We recommend increasing the slope of the proposed sanitary sewer main to reduce the depth of excavation within Cushman Street. The depth of proposed excavation approaches fourteen feet (14') and there is only one property upstream of the terminal manhole which may require future service. *Per our meeting with the applicant's professionals, the proposed sewer depth and slope is being designed in coordination with services for adjacent developments.* All proposed utilities must be installed in accordance with Township requirements. *Fact.* Environmental- Site Description- Per review of the site plans, aerial photography, and a site inspection of the property, the undeveloped portion of the site is vegetated, including an oak-pine forested upland and open /scrub successional growth area as described in the submitted EIS report. *Fact.* Environmental Impact Statement- An Environmental Impact Statement (EIS) was submitted for the project, and is well-prepared. As indicated in the EIS, no significant vegetation or wildlife species were observed during site inspections of the property. *Fact.* In addition, habitat assessments of potential mapped areas as identified in NJDEP databases were performed, including assessments for Barred Owl, Cooper's hawk, Red-headed Woodpecker, and Northern Pine Snake habitats. No significant habitats for any of the above referenced species were found to exist on-site. *Fact.* Phase I/ AOC's- If existing, a Phase I study should be provided to address potential areas of environmental concern (AOC's), if any within the site (e.g., underground or above ground fuel tanks, septic systems, etc). At a minimum, we recommend that all existing debris and construction materials from demolition activities be removed and/or remediated in accordance with State and local standards. *Per our meeting with the applicant's professionals, no Phase I or known areas of environmental concern exist. As indicated above, we recommend that all existing debris and construction materials from demolition activities be removed and/or remediated in accordance with State and local standards.* Construction Details- Construction details (except for landscaping) are provided on Sheet 8 of the plans. *Fact.-* All proposed construction details must be revised to comply with applicable Township or NJDOT standards unless specific relief is requested in the current application (and justification for relief). Details shall be site specific, and use a minimum of Class B concrete @ 4,500 psi. Construction details are shown which do not apply to this project. *Revisions have been made, and will be reviewed in further detail during compliance review (if approval is granted).* A detail must be provided for the retaining wall. *A detail has been provided for a proposed timber wall. Further details must be provided to the Township prior to construction (if approval is granted).* Discrepancies in

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depressed concrete curb and sidewalk details must be corrected. *Revisions have been made, and will be reviewed in further detail during compliance review (if approval is granted).* Performance guarantees should be posted for any required improvements in accordance with Ordinance provisions. *Fact.* Final Plat- Compliance with the Map Filing Law is required. *Fact.* Proposed Lot numbers must be assigned by the Township Tax Assessor. *Fact.* A legend is required. *A legend has been provided on the revised plat.* Many of the certifications must be corrected. Since no roads are being created, the certification for acceptance shall be removed. *Certifications have been corrected on the revised plat.* The "27" in bearing "north 27 degrees, 00 minutes, 00 seconds west" must be corrected to "77". *This item has been corrected on the revised plat.* In General Note #1, Lot 45 shall be correct to 54. The overall square footage of the initial tract must be corrected. *This item has been corrected on the revised plat.* Typographical errors must be fixed in General Note #3. *This item has been corrected on the revised plat.* Should approval be granted, the proposed monuments shown to be set must be in place prior to submitting the Final Plat for signature. *Fact.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; *Fact.* Ocean County Soil Conservation District; *Fact.* Ocean County Board of Health (well and septic removal); *Fact.* Water and Sewer service (NJAW); *Fact.* All other required outside agency approvals.

Mr. Ray Shea Esq. appeared on behalf of the applicant and said no variances are requested. They are making 7 lots out of 2, all in the HD7 zone, one will be a commercial use and the remainder will be townhouses located on Cushman Street. Mr. Shea said they agreed to comply with the recommendations in the review letter. They will be putting sidewalks in.

Mr. Neiman had a question about parking and Mr. Shea said he was asking about the site plan and this is the subdivision. He said if they wanted to hear the applications together, he would not object and Mr. Akerman said he thought that was a good idea.

Mr. Fink asked if they were going to have sidewalks on Route 9 because he passes the facility often and he constantly sees women with strollers walking on Route 9 and Mr. Shea said sidewalks will be provided on River Avenue. Mr. Fink said he would still like to see the cars off the sidewalks and Mr. Shea said he agreed and said with this application the problem will be cured.

Mr. Walter Hopkin is the engineer for the applicant and Mr. Scott Kennel was present as the traffic consultant.

Mr. Neiman opened the microphone to the public for the subdivision portion of the application

Azriel Taub, 35 Cushman Street, Lakewood was sworn in. He said he is representing the people on Cushman Street and said they were very pleased with the new plans. He said they are happy the townhouses on Cushman Street will be a benefit to the neighbors and the larger lot in front will enhance the business.

Mr. Neiman said this plan is a much improved plan from the last one and commended the applicant for working to satisfy the neighbors.

Simon Weiss, 32 Cushman Street, Lakewood, was sworn in. He wanted to commend the applicant for revising the plans to satisfy the neighbors.

Ron Gasiorowski Esq. appeared and said he represented a group of neighbors, 2 of whom have

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spoken and said their remarks were accurate and the applicant has accommodated the wishes of the neighbors. He said the only thing he requested is when the resolution is memorialized, that it be recorded in Ocean County and Mr. Kitrick said that was acceptable.

Seeing no one else, this portion was closed to the public

Motion was made by Mr. Herzl, seconded by Mr. Fink, to approve the subdivision

ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; yes, Mr. Akerman; yes, Mr. Banas; yes

9. **SP # 1922 (Variance Requested)**
Applicant: Shmuel Friedman
Location: Route 9 north of Cushman Street
 Block 430 Lot 9.01
 Preliminary & Final Site Plan for proposed auto service building and display area

Mr. Vogt prepared a letter dated August 12, 2009 and is entered in its entirety. The applicant is seeking Preliminary and Final Site Plan approval. The applicant proposes to construct a 6,000 SF, one story auto display and service building with a total of twenty-three (23) parking spaces in the front of the above-referenced location. In addition, a 22-space "Gravel Display/Parking Area" is proposed in the rear of the property, behind the proposed building. Access to the proposed development will be provided by a driveway from River Avenue (Route 9). The tract is 1.26 acres in area, and contains a 2-story office dwelling, a garage, and appurtenances. The existing buildings will be demolished and all appurtenances removed. The property is located in the southern portion of the Township on the west side of River Avenue (Route 9), between Pine Boulevard and Cushman Street. The majority of the adjacent and surrounding properties are developed and in use as retail commercial businesses, consistent with the zoning. Per review of the above-referenced submission, we offer the following comments and recommendations: *We have the following comments and recommendations per testimony provided at the 7/7/09 Planning Board workshop hearing, and comments from our initial review letter dated July 2, 2009:* Zoning- The site is situated within the HD-7, Highway Development Zone. Per subsection H(1)f of the UDO, under "permitted uses" in the HD-7 zone cites "automobile sales rooms". Although the zone allows for "Personal service establishments", automotive service is not specifically listed. *Testimony is required from the applicant's professionals documenting the proposed service use as permitted within the HD-7 zone, including a brief description of how and when the facility will operate.* Per review of the site plans and application, the following variances are requested:

<u>Standard</u>	<u>Required</u>	<u>Proposed</u>
Side Yard Setback	30 ft	10 ft
Lot Frontage	150 ft	80.75 ft (*)
Parking within 150 ft of front	(non-conforming)	

(*) – Pre-existing non-conforming condition

Any and all other variances deemed necessary by the Board. The positive and negative criteria should be addressed. *Testimony is required from the applicant's professionals justifying all of the above referenced variance requests.* Per review of the site plans and application, the

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following design waivers appear necessary, at a minimum: Minimum 25 foot buffer from the property line to the proposed use, up to 50 feet from adjacent single family residential uses or zone areas (Subsection 18-803E2A). Providing sidewalk along entire property frontage (Subsection 18-814M). As noted on the plans, only a portion of the property's River Avenue frontage contains sidewalk. At the discretion of the Board, new sidewalk should be installed and existing sidewalk repaired or replaced where necessary. *Testimony is required from the applicant's professionals justifying all of the above referenced variance requests.* Review Comments Site Plan/Circulation/Parking - No survey plan is provided. Existing conditions are provided on Sheet 2, which is signed by a PE. The revised plans should contain a survey of existing conditions signed by a Professional Land Surveyor (PLS). A survey dated February, 2008 is referenced on the site plans. *A survey was provided and is acceptable.* As indicated in the site plans, access is proposed via a 24 foot wide, two-way entrance off of Route 9, leading to paved parking in the front of the property (23 spaces total) and twenty-two (22) gravel "Display/Parking" spaces proposed behind the building. All spaces except handicapped accessible will be 9' x 18' in size. Two (2) handicap accessible spaces are proposed in the front (paved) parking area. Testimony should be provided as to whether one or both of these spaces will be van accessible. *Testimony is required.* The gravel parking proposed to the rear of the building is angular, with a 16' foot wide one way access aisle proposed around the spaces. The applicant's engineer should review the proposed configuration, as a minimum one-way aisle width of 18 feet appears necessary for conventional parking ingress and egress. *During meetings with the applicant's professionals, it was indicated that the gravel parking area is for display vehicle parking only. This area is not intended for public parking and will be totally operated by the Applicant.* A 10' by 10' trash enclosure is proposed at the rear of the proposed gravel display parking area. Testimony should be provided as to who will pick up trash and/or recyclables from the site. The applicant's engineer must demonstrate accessibility to and from the proposed dumpster pad location. Finally, the waste receptacle area should be designed in accordance with Section 18-809.E. of the UDO. *The refuse enclosure is acceptable. However, additional details of the chain link fence gate are required to demonstrate that the gate complies with the requirement that the gate is self-closing and opaque. Our office has concerns regarding the location. An alternate location would be in the area of the northerly bump out in the front parking area.* Stormwater management is proposed via an underground recharge pipe and trench system located within the gravel parking area to the rear of the building. Per the stormwater report narrative, roof leaders from the building will also discharge into the underground recharge system. *Statement of Fact.* The Site Plan (Sheet 5 of 8) shows a 57' wide "Proposed Desired Typical Section" width of 57 feet from the centerline of Route 9 to the edge of the access drive proposed behind the front parking spaces. The limit of paved parking proposed in the front of the site is located immediately outside of the section width limit. The applicant's professionals must provide information and testimony regarding any future widening plans and/or property acquisition along Route 9, and potential impacts (if any) to the proposed front parking and access area. *Testimony is required.* No loading area has been identified on the plans. Testimony is required to address proposed loading and delivery operations for the facility. *Testimony is required.* A vehicular circulation plan should be provided to confirm accessibility for delivery, emergency and trash pickup vehicles that will need to access the site. *This item remains to be addressed.* Architectural- An architectural plan set was submitted for review. Per review of submitted plans, the building will be less than 25 feet in height, and will house an auto display preparation and service area, parts and storage area, a showroom, bathrooms and offices. The exact height of the building should be identified on the architectural plans and provided for the Board's consideration. *The architectural elevations plan indicates an average roof height at the front of the building to be 17' - 6".* The applicant's professionals should provide testimony regard the proposed building, façade and

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treatments. We recommend that renderings be provided for the Board's review and use prior to the public hearing, at a minimum. *Façade, roof and a portion of the wall materials are shown on the elevations plan. Colors and other details are not provided. Testimony is required.* Testimony should be provided as to whether any roof-mounted HVAC equipment is proposed. If so, said equipment should be adequately screened. *The location of the HVAC equipment has not been identified. Testimony is required.* Grading- A detailed grading plan is provided on Sheet 5. Consistent with existing topography, proposed grading will generally slope from the rear of the property towards Route 9. *Statement of Fact.* Per review of the current grading plan, it is generally acceptable for preliminary review purposes. Additional grading may be necessary for stormwater management purposes. *The grading appears to be satisfactory, with minor modifications to be addressed during the compliance review (if approval is granted).* Stormwater Management- As indicated previously, an underground recharge pipe and trench system is proposed within the gravel parking/display area for stormwater management purposes. *Statement of Fact.* Per the recharge calculations in the stormwater report, the proposed piping and recharge trench system can recharge the increase in the 100-year storm event, using a field measured permeability rate of 70 inches per hour (in/hr). *Statement of Fact.* We recommend that the system be analyzed using a more conservative recharge rate for outflow purposes, since recharge capacity of the underlying soils will likely decrease over time. The applicant's engineer should contact our office to review. The concept of underground recharge is favorable for this project given the favorable recharge rates and groundwater table within the property. Additionally a means of overflow should be incorporated in the design in the event that the system fails due to lack of maintenance. *An infiltration rate of 20"/hr. has been used for the basis of design. The infiltration system appears to be capable of controlling the increase in storm water quantity associated with the development. Minor modifications of the system can be addressed during compliance review.* A statement is made in the stormwater report that "Most of the proposed runoff generated from this site will be directed over the proposed pavement, gravel and grass to a series of infiltration pipes located under the gravel portion of the commercial site". The plans are unclear where curbing is and is not proposed (other than as depicted at the proposed Route 9 entrance). Assuming that no other curb is proposed in the gravel area, it is unclear how the sheet runoff from the gravel lot will be captured and directed into the proposed catch basins. Similarly, if no curbing or collection piping is proposed within the paved parking lot or access drive, it is unclear how stormwater from these areas will be collected and discharge into the proposed recharge system since these areas will be downgrade of the gravel lot. Design revisions may be necessary. *Curbing has been added and grading has been modified. Additional revisions appear necessary, but can be addressed during compliance review.* The applicant's engineer must address how the proposed stormwater design will meet the NJDEP's and Township's water quality standard (for major development) if the proposed paved areas are not recharged on-site. *The paved areas have been directed to an on-site infiltration system. The applicant has indicated that "Flow guards" have been added. A detail should be provided. These and any additional modifications which may be required can be addressed during compliance review.* A stormwater maintenance manual will be required in accordance with NJ Stormwater Rule (NJAC 7:8) and Township standards. Confirming testimony should be provided that the applicant will maintain the proposed stormwater management system. *The applicant has indicated that the storm water maintenance manual will be provided during compliance review.* Traffic- A Traffic report has been submitted for review, assessing impacts of this project as well as the townhomes proposed by the applicant on the adjacent property. *Statement of Fact.* As indicated in the report, the author concludes that both (auto, townhome) projects will not have a significant adverse impact on the Route 9 and Cushman Street intersection, since the estimated AM peak (LOS E) and PM peak (LOS F) will not change. *Statement of Fact.* Testimony should be provided

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by the applicant's traffic expert as to whether any of the other local Route 9 intersections or cross-streets (e.g., Pine Boulevard) will be impacted by this proposal, and whether any directional restrictions to the proposed access drive (e.g., right turn out only) are warranted for safety purposes. *Testimony is required.* The report indicates that a representative traffic expert will be available for testimony at the upcoming planning board meeting. Testimony will be necessary for the public hearing, at a minimum. *Testimony is required. The applicant has indicated that the traffic consultant will be available at the public hearing.* Landscaping- Proposed landscaping is illustrated on the Landscape and Lighting Plan (Sheet 5). As indicated on the plan, perimeter landscaping is proposed including twelve (12) red maples, twenty (20) Spirea shrubs and two (2) Japanese holly shrubs. *The proposed landscaping is shown on Sheet 6, Landscaping, Lighting and Tree Protection Plan.* The overall landscape design is subject to review and approval by the Board. *Statement of Fact.* Lighting- The proposed lighting design is also provided on Sheet 5 of the plans. Per review of the isometric data, the design appears to be adequate provided that shields are included to minimize spillover onto adjacent sites. However, the proposed light pole height is not identified on the plans. The height must be provided, and testimony provided as to whether the pole height meets Township requirements. *The proposed lighting is shown on Sheet 6, Landscaping, Lighting and Tree Protection Plan. A light fixture detail showing the pole has been added, but no dimensions have been provided. The proposed pole height should be indicated on the detail. Testimony is required regarding the proposed pole height.* Testimony should be provided relative to the hours that the facility will be lit, and whether timers are proposed. *Testimony is required.* A tree protection plan is not included in the submission. One should be provided, or the appropriate waiver sought. As noted on Sheet 5, seven (7) mature oaks and pines, and one (1) mature spruce will be removed. Testimony should be provided as to whether compensatory landscaping is proposed. *The tree protection plan is shown on Sheet 6, Landscaping, Lighting and Tree Protection Plan.* Utilities- Utility information (other than lighting) is provided on Sheet 3. As illustrated, proposed water and sewer services will be installed from existing systems within Route 9. As described in the EIS report, water and sewer service will be provided through the NJ American Water Company. *Statement of Fact.* Proposed fire protection for the building must be demonstrated prior to issuance of a building permit, at a minimum. *Statement of Fact.* All proposed utilities must be installed in accordance with Township requirements. *Statement of Fact.* Signage- The only signage information (other than directional signs) provided in the site plans is an identification sign detail provided on Sheet 8, which appears to comply with Township requirements. The sign will be set back 15 feet from the front property line as required by Code. *Statement of Fact.* The architectural plans depict (undimensioned) façade signs proposed on the front and right elevations of the proposed auto building. Information and testimony is required regarding proposed façade signs, and whether Board relief is necessary. Per our review of HD-7 zone requirements, freestanding and building mounted signage may not be permitted together unless relief is granted by the Board. *The applicant has indicated that the proposed building mounted sign will be 69 SF. Testimony is required in support of the relief required.* A full signage package for free-standing and building-mounted signs identified on the site plans (requiring relief by the Board) must be provided for review and approval as part of the site plan application. *Statement of Fact.* All signage proposed that is not reviewed and approved as part of this site plan application, if any, shall comply with Township ordinance. *Statement of Fact.* Environmental-Site Description Per review of the site plans, aerial photography and a site inspection of the property, the undeveloped portion of the site is vegetated, including an oak-pine forested upland and open /scrub successional growth area as described in the submitted EIS report. *Statement of Fact.* Environmental Impact Statement- An Environmental Impact Statement (EIS) was submitted for the project, and is well-prepared. As indicated in the EIS, no significant vegetation or wildlife species were observed during site inspections of the property. In addition,

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habitat assessments of potential mapped areas as identified in NJDEP databases were performed, including assessments for Barred Owl, Cooper's hawk, Red-headed woodpecker and Northern Pine Snake habitats. No significant habitats for any of the above referenced species were found to exist on-site. *Statement of Fact.* Phase I/AOC's- If existing, a Phase I study should be provided to address potential areas of environmental concern (AOC's), if any within the site (e.g., underground or above ground fuel tanks, septic systems, etc). At a minimum, we recommend that all existing debris and construction materials from demolition activities be removed and/or remediated in accordance with State and local standards. *Statement of Fact.* Construction Details- Construction details (except for lighting) are provided on Sheet 8 of the plans. *Statement of Fact.* All proposed construction details must be revised to comply with applicable Township or NJDOT standards unless specific relief is requested in the current application (and justification for relief). *Statement of Fact.* Performance guarantees should be posted for any required improvements in accordance with Ordinance provisions. *Statement of Fact.* Outside agency approvals for this project may include, but are not limited to the following: Ocean County Planning Board; *Fact* Water and Sewer service (NJAW); *Fact* Ocean County Soil Conservation District; *Fact* NJDOT (access, occupancy and utility opening permits); *Fact* All other required outside agency approvals.

Mr. Vogt said they identified parking within 150 ft. of the front as a variance but meeting with the applicant's professionals, they gave information that they will comply with the HD7 zoning requirement which indicates that you can have parking in the front yard setback if you maintain the 150 ft. building setback and you give a 10 ft. buffer strip which they have. Mr. Hopkin concurred.

Mr. Ray Shea Esq. appeared on behalf of the applicant.

Mr. Neiman asked how many parking spots are there for the auto service building and Mr. Hopkin said there is a total of 45 parking spaces with 22 spaces located in the front. Mr. Neiman asked how many spaces were being provided for the townhouses and Mr. Hopkin said 4 off street spaces per townhouse.

Mr. Neiman wanted to confirm there were going to be sidewalks on both Cushman Street and Route 9, along the entire frontage of this property and Mr. Shea said yes. Mr. Shea said there are no variances requested for parking on either the commercial or townhouse portion of the application. Mr. Neiman asked if this dealership is going to be working in conjunction with the one across the street and was told yes.

Shmuel Friedman, the applicant was sworn in and said it is the same ownership and they are expanding their sales and deal mainly with used cars and they also service the cars. Mr. Neiman requested he just clean up the site because there are a lot of people who walk in that area and to keep the cars off the sidewalk. Mr. Neiman asked if he had sidewalks at his adjoining site and Mr. Friedman said no and Mr. Neiman asked if he was proposing sidewalks there and Mr. Friedman said not at this time, it is a totally different site and across the street. Mr. Fink asked him to do him a personal favor and move those cars so people can walk by.

Mr. Neiman asked if applicant if they were giving testimony that they will comply with the comments in both review letters and Mr. Shea said yes. Mr. Shea said Mr. Kennel is here to answer any questions about traffic and Mr. Neiman said they did have a concern with right in and right out but Mr. Shea said the DOT would comment on that.

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Mr. Neiman opened the microphone to the public

Bezalel Tenenbaum, 48 Cushman Street, Lakewood was sworn in and said that the residents of Cushman Street appreciate all the work the applicant has done to satisfy their concerns.

Seeing no one else, this portion was closed to the public

Motion was made by Mr. Banas, seconded by Mr. Fink, to approve

ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; yes, Mr., Akerman; yes, Mr. Banas; yes

10. SD # 1509B (Variance Requested)
Applicant: Majestic Contracting
Location: Massachusetts Avenue, south of Prospect Street
Block 445 Lot 18
Preliminary & Final Subdivision & Site Plan for 17 two family townhouses

Tabled to September 1, 2009

6. CORRESPONDENCE

- none at this time

7. PUBLIC PORTION

- none at this time

8. APPROVAL OF MINUTES

- Minutes from August 4, 2009 Plan Review Meeting

Motion was made by Mr. Fink, seconded by Mr. Akerman, to approve

ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; yes, Mr., Akerman; yes, Mr. Banas; yes

9. APPROVAL OF BILLS

Motion was made by Mr. Fink, seconded by Mr. Akerman, to approve

ROLL CALL: Mr. Herzl; yes, Mr. Fink; yes, Mr. Neiman; yes, Mr., Akerman; yes, Mr. Banas; yes

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10. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

**submitted
Johnson
Board Recording Secretary**

Respectfully

**Chris
Planning**