

1. FLAG SALUTE & CERTIFICATION OF COMPLIANCE

Chairman Yechiel Herzl called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Ally Morris 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 *The Star Ledger* and posted on the bulletin board in the office of the Township of Lakewood at least 48 hours in advance. The public has the right to attend this meeting, and reasonable, comprehensive minutes of this meeting will be available for public inspection. This meeting meets the criteria of the Open Public Meetings Act.”

2. ROLL CALL & SWEARING IN OF PROFESSIONALS

Mr. Garfield, Mr. Stern, Mr. Sabel, Mr. Flancbaum, Mr. Herzl, Mr. Isaacson, Mr. Meyer were present.

Mr. Terence Vogt, P.E., P.P., C.M.E. was sworn.

3. MEMORIALIZATION OF RESOLUTIONS

1. **SP 2374 Congregation Toldos Yaakov Yosef**
670 Squankum Road Block 104, Lots 13 & 59.01
Preliminary and Final Major Site Plan for a school

A motion was made and seconded to approve. All were in favor.

2. **SP 2381 512 Chestnut, LLC**
512 Chestnut Street Block 1087, Lot 20
Preliminary and Final Major Site Plan for an office building

A motion was made and seconded to approve. All were in favor.

4. PUBLIC HEARING

1. **SP 2109A RD Lakewood, LLC**
Pine Street & New Hampshire Ave Block 961.01, Lots 2.02 & 2.03
Amended Preliminary and Final Major Site Plan for a hotel

Mrs. Morris said this is a continuation from the August 11th public hearing.

Mr. Herzl said let's go over who can vote since it's a continuation.

Mrs. Morris said present at the last meeting was Mr. Garfield, Stern, Sabel, Herzl, Isaacson, and Meyer.

Mr. Jackson said I'm off now. Mr. Ulaky is taking over.

Mr. Herzl said Mr. Ulaky are you there?

Mr. Ulaky said yes I'm here.

Mr. Jackson said I'm signing off for now. Thank you.

Mr. Herzl said we confirmed we have 5 people that were present at the first meeting.

Mr. Ulaky said yes, 5 people is a quorum if that's satisfactory to the applicant's attorney.

Mr. Pfeffer said I think all 6 that were here last time are here now.

Mrs. Morris said yes, all 6 are here now. I'm not sure how long they can all stay. If we lose one, we would still have 5 and a quorum.

Mr. Pfeffer said ok.

Mrs. Morris said for the record Mr. Flancbaum stepped down on this application.

Mr. Herzl said Mr. Pfeffer, where are we holding?

Mr. Pfeffer said we had given all direct testimony. Mr. Gasiorowski, who is present, had asked Mr. Flannery some questions and our traffic engineer Mr. Kennel. Mr. Gasiorowski also put on the testimony of his professional, Mr. Gemma. We were at the point where we had asked some cross examination of Mr. Gemma. I was going to call Mr. Flannery to address some of the issues raised by Mr. Gemma, and then we are basically done.

Mr. Herzl said Mr. Gasiorowski, do you have any more professionals you'd like to testify?

Mr. Gasiorowski said I do have one more professional I'd like to testify. His name is Al Litwornia. He is a licensed professional engineer as well as having qualifications to give testimony as a traffic expert. He has in fact appeared before this Board in that capacity on at least half a dozen cases. I will call him at the conclusion of Mr. Pfeffer's case. My understanding is you have concluded your case but are going to call a rebuttal witness.

Mr. Pfeffer said yes, last time we were here we were up to Mr. Flannery to address some of the issues raised by Mr. Gemma.

Mr. Gasiorowski said earlier today I made a call to Mr. Ulaky and emailed to him a series of documents. I'm of the opinion that there is in fact a notice issue. I'd like to get a ruling from Mr. Ulaky if we can even proceed.

Mr. Ulaky said I have reviewed the information that Mr. Gasiorowski provided. In my opinion the notice is sufficient and adequately addresses the requirements of the Municipal Land Use Law. It specifically describes the proposed use of the property along with the requested variances. If Mr. Pfeffer has anything to add, he's more than welcome.

Mr. Pfeffer said I agree. I don't think Ron's seen a notice that he doesn't have an issue with. This issue is now being raised after 3 hours of testimony. I agree with Mr. Ulaky and we are fine with proceeding.

Mr. Herzl said we are going to proceed.

Mr. Gasiorowski said I'd like to state on the record that I object. I'd like to put the basis for my objection on the record.

Mr. Herzl said ok.

Mr. Gasiorowski said I'm looking at the notice that was sent out. The date published in the paper is August 1, 2020. In that notice, Mr. Pfeffer states, advises that he is seeking an amended preliminary and final site plan approval to construct a new five story...

Mr. Herzl said I can't hear you clearly.

Mrs. Morris said I thought maybe it was my connection, but Mr. Herzl and I both can't hear you. You are very garbled.

The Board waited while Mr. Gasiorowski tried to call in to get a clear audio connection.

Mr. Gasiorowski said my objection was to the form of the order and the fact that it does not give adequate notice to the public. The notice says amended preliminary and final major site plan approval. The original approval under SP 2109 included a hotel and a bank. The amended application reduces the footprint of the proposed hotel. So what you're really doing is, this notice is saying to the public that there is an approval and now you're seeking to amend it. The fact of the matter is that SP 2109 no longer exists. That approval was vacated as a result of the appellate court decision. So that means you have a completely new application and you have to go to what would be the resolution that was in place by 2109. I sent documents to my colleagues, and if you look at an exhibit, I'll give you the exhibit number, and that exhibit shows the original approval and you'll see that it provides for a through street that goes from Pine Street out to Avenue of the Americas. Now this new application, your notice does not refer to that fact. My position is that the notice doesn't show that the resolution you'd be amending is that earlier resolution, which I believe was in 2010 perhaps, and that you're amending it by changing the elimination of that through street. If you look at the notice, it gives not indication to that. So anyone reading this notice would have no idea that you are eliminating that through street.

Mr. Herzl said Mr. Ulaky, would you like to respond?

Mr. Ulaky said as I said the notice is adequate in my opinion. It gives the public adequate notice of the proposal before the Board at this time. IT specifies in detail the application that is presented along with the requested variances.

Mr. Pfeffer said the point of the application is to give the public what the application is for, the time, the place, the area in question. Many times there are things that come up during the course of the application that make minor modifications. If we go on what Mr. Gasiorowski is saying, you could never make any change whatsoever to the application. We feel the notice is sufficient. It was sufficient enough to go forward for three hours of testimony, and only now, at the end, are they raising an issue.

Mr. Herzl said we will proceed. Who is going first?

Mr. Pfeffer said I ask that Mr. Gasiorowski proceed with his witness, I will call Mr. Flannery to finish up on Mr. Gemma who's not here this evening, but Mr. Flannery will probably have some rebuttals and responses to Mr. Gasiorowski's traffic and engineer testimony, I ask that his testimony hold until their witnesses are completed.

Mr. Al Litwornia, professional engineer majoring in traffic engineering and transportation planning, appeared and was affirmed. He said I have appeared before this Board before.

Mr. Gasiorowski said you were retained by me to give testimony. Did you review the earlier report submitted by McDonough & Rea?

Mr. Litwornia said yes.

Mr. Gasiorowski said have you reviewed the application and site plan?

Mr. Litwornia said yes.

Mr. Gasiorowski said you are aware of the fact that the earlier approval, which I would submit is still the only outstanding approval, called for a through street from Pine Street to Avenue of the Americas?

Mr. Litwornia said I understand that is what was called for previously, and it does not appear on the plans at the present time.

Mr. Gasiorowski said please present your testimony as you see fit.

Mr. Litwornia said as a result of reviewing the traffic report, I had some specific comments, as well as looking at the site plan. One of them is there is some additional geometric improvements required that are not mentioned in the report. One is the report uses a 50% queue in analyzing how far back cars will be stacked. In other words, the 50% queue means the cars will be stacked a certain distance back half of the time, 50% of the time. If you do that, usually you use 85% of the time. What that means is that, when you have a queue, like Pine Street approaching the intersection with New Hampshire, there's a 3 lane approach. As was mentioned in the report. A left turn lane, a through lane, and a right turn lane. If in fact 50% of the time cars in the left turn lane are stacked over a couple 100 feet back, which is what the Rea report shows, 196' back 50% of the time, since it's a 2 lane roadway until you get to the intersection which is widened, what happens is, if you're in the left turn lane, and most of the people are, that shows a very poor level of service in the Rea report. So the cars are stacked back. When they're stacked that far back and you're coming to the intersection, the left turn lane stacks all the way back until the road is only 1 lane wide in each direction. So if you wanted to go straight or make a right turn you can't do that because you can't get to the intersection. Oftentimes people will come to an intersection when they're driving, they'll see a right turn lane only, that is empty, but you can't get to it. Or they'll see a left turn lane that's empty. So you're standing there in the queue further back from the intersection. The queue that Mr. Rea pointed out was going to be 196' at the PM peak hour. But the left turn lane is only 145'. And this is with a 50% queue. A normal queue that you'd want to be conservative with would be a 85% queue. So that only 15% of the time you'd have a violation of that queue. With a 50% queue analysis, half the time the intersection is going to fail which isn't really an acceptable situation. The second thing to point out is usually there is a queue for vehicles leaving the site. When you have a site plan that shows 1 or 2, maybe 3 cars max stacked leaving the site, and you have over 100 cars parked on the site, usually what you do is you have a longer throat that is un-interfered with any internal aisles. Because if you have internal aisles stacking, they block the entrance into the site. And that will cause people coming in, they'll be stuck trying to get in. So usually for a parking lot of this size, like in Middlesex County usually requires three car stacking, and each County has different requirements. But this is on a city road.

Mr. Pfeffer said I want to object. We are in Ocean County here. We are not talking about Middlesex County.

Mr. Litwornia said I know, I didn't say that. I understand that this is Ocean County. But I haven't had a chance to look through the Ocean County requirements but usually, this isn't on a County road in this area, so that's not...

Mr. Pfeffer said again, I'm going to object. This application is going to have to be reviewed by Ocean County, they will have to review the traffic, and we've already agreed to meet all outside agency reports.

Mr. Litwornia said I'm just bringing this up so that the linemen can get a chance at making their comments because some of these concerns are not looked at by the County. Having been a County traffic engineer, I understand that it would be beneficial if every County traffic engineer and their staff had enough time to look in depth at every report that comes in front of them.

Mr. Pfeffer said I just want to confirm with Mr. Litwornia, you're not clear on what the requirements are in Ocean County, correct?

Mr. Litwornia said correct. I will follow through with a memo so that the Board will have my comments.

Mr. Herzl said it's also very clear that we still need Ocean County approval, is that correct?

Mr. Litwornia said correct. The comments that I made on the intersection of Pine and New Hampshire...

Mr. Pfeffer said I apologize, but I am going to object to Mr. Litwornia's credentials. Not as to general testimony, but specific testimony with regards to this project in Lakewood Township, Ocean County. Mr. Litwornia has just testified under oath that he's not familiar with what the County even requires. To say that anything he is stating is going to be relevant... I would ask that it all be stricken. I ask Mr. Ulaky to give some guidance to the Board if we can even proceed with Mr. Litwornia's testimony.

Mr. Ulaky said he is qualified as an expert and he is able to continue with his testimony.

Mr. Litwornia said I want to make clear for the record that I was referring to the intersection of New Hampshire and Pine, and I was referring to the eastbound peak hour approach with the numbers I was giving with the queues. The problem that you have with the traffic volume backed up considerably, it's also going to block the entrance and exit from Pine onto the site because the cars will be backed up that far since a great majority of the cars for the through lanes and the right turn lanes will never be able to get to their lanes. So basically you only have one lane from the intersection back, which is problematic.

Mr. Herzl said Mr. Ulaky I have a question for you. Isn't traffic on New Hampshire, because it's a County road, has nothing to do with the Lakewood Planning Board? It has to do with the County, and if they're coming we have to base it on the merits of the application, not on the traffic on New Hampshire Avenue.

Mr. Ulaky said yes, you have to base it on the merits of the application before you and as Mr. Pfeffer has stated it's going to be subject to getting all outside agency approvals, including Ocean County.

Mr. Litwornia said I'm bringing this up because the municipality has the responsibility to look at the site drives. And the site drives create the problem, it is in fact the geometry that's used, the application is continued, because the vehicles will stack and block access in and out of the site from the Pine Avenue access.

Mr. Stern said Mr. Litwornia, I'm not following entirely what the problem is. But is there a suggestion of how this could be fixed?

Mr. Litwornia said to fix it, I would recommend that the left turn lane be extended and that a 95% queue lane be used in the analysis to be more conservative, not using a 50% queue which is never used. I don't use a 50% queue when you have a problem, to be conservative you have to use a 95% queue on parking ratios and traffic analysis at intersections.

Mr. Pfeffer said I want my objection on the record that these numbers are never used. We've submitted a report, by our licensed professional, it's Mr. Litwornia's opinion that these numbers are never used.

Mr. Stern said I'm trying to understand what he's saying. Mr. Litwornia, what is the 50% stacking and what is 90% stacking. Where is it, and why is it important?

Mr. Litwornia said the 50% means 50% of the time you will be exceeding the stacking that you are referencing in your report. 95% means that 95% of the time, maybe 15% of the of the time you'll have an exceedance of your queue. It's not really a good idea to go with a 50% number, that means 50% of the time your analysis is in failure position.

Mr. Herzl said are there any roads in Lakewood that-

Mr. Litwornia said you want to go with the higher percentage. It's easier to recognize that if you went with parking. If you had a study that said 50% of the time you had ample parking, that would mean that 50% of the time you can't park. So if you went with a 95% number, that means that 95% of the time you have ample parking on site. Does that clarify it more?

Mr. Stern said yes. One more follow up question. Physically, how would you modify this plan to address your concern?

Mr. Litwornia said I would re-do the analysis with the 85% analysis to show what the 85% queue would be at the driveway as well as on each of the approach lanes. Once I had that, then I could say, like for the east bound approach, it has a left turn lane. You'd have to increase those lanes so that they would go further back so that you wouldn't clog the approach. You would alleviate that problem with the stacking all the way past the drive.

Mr. Herzl said would you lose any parking by moving it back, widening the road?

Mr. Litwornia said I don't believe so. You might lose some parking by deepening the throat of the entranceway on Pine, because you don't want to clog the entranceway, you want to keep it clear flowing coming in off of the highway.

Mr. Garfield said at the last meeting, wasn't it mentioned the possibility of an entrance off Boulevard of the Americas?

Mr. Herzl said I don't think so. Didn't they say that was a different ownership?

Mr. Litwornia said I'm not familiar with that. You did bring up another comment I had, which is on parking. On parking I found that the Township Ordinance is pretty good. The question that I had was what type of a hotel is this? The applicant's traffic engineer mentioned a couple things. One, it's a general hotel using the ITE data. The ITE data does not include in the land use conferences, scale events or weddings, just a small meeting room, no weight room or amenities. So it's not a large-scale hotel that's supposed to have those amenities. So if in fact it's approved, the trip generation and parking data used in the report would have to have a caveat that weddings and large conference meetings wouldn't be eligible to be held there because those aren't the type of facilities that were used. And the traffic report from ITE that were referenced had minimal numbers of observation. They had approximately 8 readings of what the average number of parking or trip generations were. So it was basically on 8 hotels, and none of them were in this area. I will provide that in the document to the Board to make it clearer. In other words you can see from the definition of hotel use, it didn't include any large-scale events which would be catered affairs, that type of larger scale conference was not included in the definition of parking requirements and

traffic generation that Mr. Rea provided. And the ITE recommends that you have a local count of a local hotel to use something like that as opposed to using Florida and California or some other far-away place, especially when you have less than 10 readings. If you have less than 10, it becomes statistically significant, so if you have less than 10, usually a local count of a similar facility is recommended by ITE.

Mr. Stern said one final question. The concerns you expressed regarding the ingress and egress coming out to Pine Street, I think you said the throat, if that bulb that's coming out from the land owned by the retention basin. If somehow the applicant could get an easement, like on the road coming down, on more of the land including that bulb, would that help? If so, what would you recommend.

Mr. Litwornia said I would recommend that a longer clear throat be provided so that it's not a problem. And I would recommend that we take a look at the fire department comments making sure that we have fire department vehicles can access it without any trouble. I would recommend we make sure they have ample access and turning radiuses with the improvements, and make it a deeper throat. It could be across the detention basin and have it elevated so that it doesn't interfere with the detention/retention basin. That's a possibility.

Mr. Stern said does deeper mean wider?

Mr. Litwornia said I don't mean depth below grade, I mean further away from Pine Street so there's no intersection with turning movements or roadway aisles that intersect the main entrance and exit until you are at least three car lengths away from Pine.

Mr. Herzl said does the Fire Department have any comments on this project?

Mr. Vogt said February 6, 2020, they said as indicated plans are acceptable as proposed.

Mr. Herzl said thank you. Mr. Litwornia, do you have any other comments?

Mr. Gasiorowski said I have a question. Mr. Litwornia, you were present when I stated in an earlier approval there was approval for a through traveled way from Ave of the Americas to Pine Street. With some of the comments you have, the effect is that we may need that through passageway from Pine to Avenue of the Americas.

Mr. Litwornia said it would reduce some of the queues and the traffic at the intersection of Pine and New Hampshire, and that would be an improvement for the region. By reducing the traffic at the intersection of Pine and New Hampshire, you would be improving the performance of that intersection. By creating some additional choices for motorists to make.

Mr. Herzl said Mr. Gasiorowski, any other questions?

Mr. Gasiorowski said no.

Mr. Pfeffer said I have some follow up questions. Mr. Litwornia, did you have an opportunity to visit the site in question?

Mr. Litwornia said I believe I did previously, but not in the last six months.

Mr. Pfeffer said when you say previously, do you mean several years ago for the last application?

Mr. Litwornia said several years ago, yes.

Mr. Pfeffer said did you prepare a report based upon this application?

Mr. Litwornia said no but I do have comments based on publications. What I will do is provide a copy of what I referenced to the Board.

Mr. Pfeffer said Mr. Chairman, I'm going to object to any post-hearing memos being submitted as we will not have an opportunity to review them or respond to them.

Mr. Ulaky said I agree with that objection.

Mr. Herzl said it has to be presented tonight and put on the record and people can ask questions about it.

Mr. Pfeffer said Mr. Litwornia, are you in agreement that the traffic plan and traffic report would have to be approved by Ocean County Planning Board?

Mr. Litwornia said I believe so, yes.

Mr. Pfeffer said and you agree this is a County intersection, correct?

Mr. Litwornia said they have to approve the intersection, since it's a County road at the intersection.

Mr. Pfeffer said were any of your concerns on internal, on-site traffic concerns? Or are they only off-site?

Mr. Litwornia said the one internal was on the Pine Street driveway, which does not have a deep enough throat, which can create a problem. That also can be a problem with that intersection if in fact the left turn lane isn't extended back. They will create a problem at the Pine Street entrance to the site.

Mr. Pfeffer said but again those are off-site issues that you are concerned will back up on site, correct? They're not created by anything on-site, it's all created by the intersection with the County road.

Mr. Litwornia said well they're created by the intersection with the County road but they're also at the intersection because that throat isn't deep enough, they're going to clog up the intersection, the first internal drive inside the site. And that might back up traffic onto Pine Street. That would be hazardous.

Mr. Herzl said Mr. Pfeffer, does the County look on that entrance, or Terry would you answer that.

Mr. Vogt said I'm honestly not sure how in detail they are going to look at the entrance because that's a local improvement. They will look at it to make sure the intersection will function per their standards if this is approved. I can't tell you honestly how closely they're going to look at an onsite improvement.

Mr. Pfeffer said one further question. You indicated, at least I thought I heard you say, that the Township Ordinance is sufficient regarding parking. Are you aware that this application exceeds the parking requirements of the Ordinance?

Mr. Litwornia said yes.

Mr. Pfeffer said that is all.

Mr. Garfield said does this traffic that he's talking about include the delivery trucks which could back up an entrance. Sometimes they're 18 wheelers.

Mr. Herzl said Mr. Pfeffer, is your traffic engineer on tonight.

Mr. Pfeffer said he is not on tonight but Brian Flannery is.

Mr. Herzl said ok. I would like your professional to answer that.

Mr. Brian Flannery, professional engineer and professional planner, appeared and was affirmed.

Mr. Herzl said can you respond to Mr. Garfield's question?

Mr. Flannery said what was the question?

Mr. Garfield said if this takes into account the flow of trucks, 18 wheelers and city trucks, and how they'd handle this approach.

Mr. Flannery said yes it does. It was indicated in the report prepared by McDonough and Rea, and the turning movements were shown on the plans submitted by FWH Associates.

Mr. Herzl asked if any Board members had any other questions for the professionals.

Mr. Vogt said I want to add one thing. Page 5 of our review, we did comment on the vehicular circulation plan. As indicated, we are requiring some final interior changes. I believe that was agreed to at the last hearing.

Mr. Pfeffer said if Mr. Gasiorowski is done with his witness, then I'd like to call Brian Flannery back to address Mr. Gemma's comments from last meeting and any final comments he may have.

Mr. Flannery said the first thing I want to address is Mr. Litwornia's comments, since they're fresh in everyone's mind. As I listened to it, he made a bunch of subjective comments.

Mr. Gasiorowski said I'm going to object to Mr. Flannery responding to questions dealing with traffic. He was not called as an expert in the field of traffic to start off, he's never been qualified as an expert in traffic, I was told he's being called now to rebut Mr. Gemma's comments.

Mr. Pfeffer said if we could have Mr. Flannery answer questions regarding his expertise in this field.

Mr. Herzl said Mr. Flannery has testified plenty of times on traffic.

Mr. Gasiorowski said that doesn't make it right.

Mr. Flannery said for Mr. Gasiorowski, I thought he heard when I testified... I did work for the New Jersey Department of Transportation back in the 80's. I have submitted traffic reports, I have testified on traffic issues, I've been qualified as an expert on traffic issues. With respect to this project, the traffic report was done by McDonough and Rea, a well-qualified traffic expert. This is an application which was submitted in March. It was scheduled on at least 4 different meetings. If there was a problem with the traffic, and Mr. Litwornia knew there was a problem, he had plenty of time to prepare a report and provide documentation on the deficiencies he sees. The majority of the deficiencies that he refers to are with respect to the intersection with Pine Street and New

Hampshire Avenue, which is a County intersection. If Mr. Litwornia was the County engineer, he would require many improvements. He's assuming that the Ocean County Engineer is not as qualified as him and is not going to ensure that the traffic flows safely. I know Mr. Ernst, who's been an engineer for well over 30 years, and his staff, and I am confident that they will review the traffic. If the County Engineer agrees with Mr. Litwornia's assessment that we need the center turn lane extended, we're happy to do that. The subjective comments with respect to the internal circulation also were not provided with any documentation. The Board has a qualified engineer, RVE has traffic engineers to review that. If something needs to be changed with respect to the internal, which was indicated in the RVE report on page 5, and we agree to do that. If there's any subsequent during resolution compliance, we'll also agree to do that. Mr. Litwornia has indicated that he hasn't looked at the site, he doesn't know what Ocean County requires. I don't have an explanation for why he would come to the meeting at this point and not have details to provide to the Board to back up his opinion. The one thing he indicated was that we should compare it to a local facility. The local facility that we have to compare this to is the Hilton Gardens, which is just around the corner, and it was done with the same type of parking calculations. I've been there many times, I know a lot of people have been there, and there's been no problem with that. He indicated we should use a local facility, and we have that. He indicated that the intersection should be proper and I am confident that the County Engineer will do that.

Mr. Gasiorowski said is the site plan for the Hilton you are referring to, has that been submitted into evidence before this Board?

Mr. Flannery said no it has not.

Mr. Gasiorowski said ok. I have a question of Mr. Flannery.

Mr. Pfeffer said is it in reference to his credentials? We are at the point where Mr. Flannery was rebutting. You can ask all the questions you want, but at the appropriate time.

Mr. Herzl said Mr. Flannery please continue.

Mr. Flannery said this application is submitted with de minimis relief. We went over that at the last meeting. The de minimis relief relates to 9 extra square feet on a sign, and 6 parking spaces that are within 20' of the property line. Those 6 parking spaces are within 20' of an adjoining parking lot and a detention basin. I'd like to provide some clarifying testimony since the last meeting. The question came up of the ownership of the basin. The basin was owned by the Township, the Township transferred ownership to Cedarbridge Development Corporation. Cedarbridge Development Corporation transferred ownership to the three adjoining properties. This is one of them. It will be owned and maintained by an association consisting of the three adjoining property owners, so it's no burden on the Township. The other clarifying testimony I'd like to provide is I had indicated it was a dry basin. It is in fact a retention basin so it has water in it all the time. It provides for attenuation and recharge of the flow, and this is a basin that's been approved by CAFRA and it was approved to accommodate the runoff from 80% impervious cover on this site. The Board had asked with respect to a sidewalk from Pine Street. FWH submitted a plan to the Board and the plan highlights in orange the sidewalk that was proposed, along the frontage and internal. The Board asked for additional sidewalk to connect the Pine Street sidewalk to the internal sidewalk, and in the exhibit in purple it's been added. Additionally, there would be sidewalk in the middle of the parking lot so in response to the wishes of the Board we are agreeing as a condition of approval that sidewalk would be provided as indicated on this exhibit.

Mr. Herzl said why does the middle sidewalk, doesn't go anywhere.

Mr. Flannery said the middle sidewalk, and we would have crosswalks, provides that if somebody is in this back area and they want to walk to the front, they don't have to walk all the way to the west of the site. There is a middle sidewalk to get to the facility. The de minimis relief requested for parking within 20' of a side and the sign, we provided justification for that at the meeting.

Mr. Herzl said you stated before that there were only 6 parking spaces that you're seeking a variance for?

Mr. Flannery said there are 6 parking spaces that are within 20' of the property lines.

Mr. Herzl said and how much excess spaces do you have?

Mr. Flannery said we have 40 extra parking spaces.

Mr. Herzl said technically, you could take away the 6 spaces and you're variance-free regarding the parking.

Mr. Flannery said that's correct. And if we took 9 square feet off the sign, we would be variance-free with respect to the sign. My testimony at that time was the relief that is requested is de minimis, and it had no adverse impact on anyone. Mr. Gemma testified, his testimony when I heard it, he didn't indicate that there was any adverse impact from the 9 square feet. None of the neighbors or general public or objector are going to be hurt. The 6 parking spaces, it's the same thing. The adjoining aren't going to be hurt. The general public, it's actually a benefit. Why would we not want to have 6 additional parking spaces.

Mr. Herzl said I agree. And the six parking spaces are adjoining another parking lot right?

Mr. Flannery said that is correct. The positive and negative criteria that we have to prove is that there's no adverse impact on the general welfare, and also that it doesn't impair the intent and purpose of the zone plan and zoning ordinance. Mr. Gemma, who has been doing this a long time, he was very creative and he referenced page 8 of the 2017 Master Plan, number 10, and he said there one of the land use strategies is strictly enforce bulk standards of the Unified Development Ordinance to prevent overbuilding of individual sites. And his opinion was, based on that, if you grant any relief it's contrary to the Master Plan, and therefore we can't show the showing that there's no detriment to the zone plan and zoning ordinance. That argument, based on this one comment, in my opinion, is the biggest stretch I've ever seen. The Master Plan is 257 pages, so we took one bullet point on page 8 and said based on that the Planning Board shouldn't be granting any variances. But if you look at, read what it said, it says strictly enforce bulk and yard zoning standards of the UDO, to prevent overbuilding of individual sites. So now the question is the 9 square feet extra on the sign over building of this site? The answer is clearly no. Are the six extra parking spaces over building of this site, especially when they're not required by Ordinance? The answer is clearly no. So my opinion and testimony is that the relief is C2 variances, the benefits have to outweigh the detriments. I gave that testimony. With respect to the objection that it substantially impacts the zone plan and zoning ordinance, I think that's the biggest stretch that I've ever seen.

Mr. Herzl said thank you. Any Board members have any questions for Mr. Flannery.

Mr. Gasiorowski said I have questions if Mr. Pfeffer is done.

Mr. Pfeffer said I have no additional questions.

Mr. Gasiorowski said Mr. Flannery, as I understand it, with regard to this application, you are giving both planning testimony as well as with regard to traffic which would include parking as well.

Mr. Flannery said that is correct.

Mr. Gasiorowski said there is a specific Ordinance which deals with parking for hotels, and it's predicated upon the square footage and/or the number of rooms.

Mr. Flannery said it has no correlation to the square footage, it's strictly on the number of rooms.

Mr. Gasiorowski said I said and/or. So it's predicated solely on the rooms. Your testimony with regard to the number of parking spaces is predicated solely on the number of rooms.

Mr. Flannery said that is correct.

Mr. Gasiorowski said would that number change if in fact this existing site had a liquor license?

Mr. Flannery said no.

Mr. Gasiorowski said would it change if it had a banquet hall where weddings and bar mitzvahs could be conducted?

Mr. Flannery said it would be based on the configuration of the banquet hall and the configuration of the rooms. My testimony is that based on the plans submitted, this facility by a strict interpretation of the parking ordinance in Lakewood would only require one space for every room. As I testified at the prior application, FWH put the ordinance requires 1 per room plus 20, which is what's been done in the past.

Mr. Gasiorowski said I want to talk about what the ordinances say. So all of your figures are predicated solely on the number of rooms. You did not take into account the fact that this facility has a banquet hall and may in fact have a liquor license. You did not consider that at all, did you?

Mr. Flannery said that's incorrect.

Mr. Gasiorowski said what did you allocate for parking necessary for having a bar mitzvah there.

Mr. Flannery said the parking that was stipulated on the plan as required by ordinance added 20 spaces. And then an additional 40 spaces was provided beyond that. So there were an additional 60 parking spaces provided.

Mr. Gasiorowski said I have no further questions.

Mr. Pfeffer said Mr. Flannery, is it your opinion that this ordinance meets or exceeds all ordinance requirements with respect to parking?

Mr. Flannery said yes.

Mr. Herzl said Mr. Ulaky, I think we have to open to the public.

Mr. Ulaky said yes sir.

Mrs. Morris said I have a letter received via email. She read it into the record.

Cedarbridge Development LLC
641 5th ST
Lakewood NJ 08701
908 783 2222

August 20, 2020

VIA E-MAIL

Township of Lakewood Planning Board
Municipal Building
231 Third Street
Lakewood, NJ 08701
Attn: Ally Morris, Planning Board Administrator

Re: Application of RD Lakewood, LLC ("Applicant") for Amended Preliminary and Final Major Site Plan Approval concerning Block 961.01, Lots 2.02 & 2.03 (the "Application")

Dear Ms. Morris:

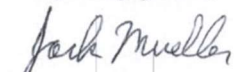
As you know, Cedarbridge Development LLC ("Cedarbridge") is the long-standing redeveloper of the Cedarbridge Redevelopment Area (the "Redevelopment Area"). We are submitting this letter in support of the above-referenced Application.

Cedarbridge's redevelopment agreement with Lakewood Township contemplates that the Redevelopment Area will become a dynamic business center with office, retail and hospitality uses, which, today, is creating jobs and critically needed tax ratables.

A core need for the many companies in the Redevelopment Area is an onsite hotel, and the Applicant was identified by Cedarbridge at the earliest stages of development to fit that need. In order to continue attracting important businesses to the Redevelopment Area, it is vital to be able to provide a full-service hotel that can accommodate the needs of business travel and provide conference facilities. No other hotel is currently located within the Redevelopment Area.

The Cedarbridge redevelopment project is thriving, and its ongoing success will rely upon its ability to provide key services such as that proposed by Applicant. With the proposed hotel use permitted under applicable zoning, we urge the Planning Board to approve this Application. Cedarbridge has received public notice of the Application and has no objections to the variances, waivers or other relief described therein, or as may be required by the Planning Board.

Very truly yours,



Jack Mueller
CEO Cedarbridge Development LLC

Mr. Gasiorowski objected to this public comment. He said it's all-encompassing and Mr. Mueller should be subjected to cross-examination.

Mr. Pfeffer said he's not the applicant.

Mr. Ulaky said the Board can take the comment at face value.

Mr. Pfeffer said this has been the process since COVID started, people email in comments and opinions. The Board heard his opinion and I disagree with Ron's objection.

Mrs. Morris said she had no other comments received via email.

Mr. Herzl asked for any other public comments and no one in the meeting came forward.

Mr. Stern said I had a question for Mr. Gasiorowski, I'm not sure if this is the appropriate time to ask it. What are you objecting to? You had some very good experts, but I'm not understanding what the crux of your objection is.

Mr. Gasiorowski said I stated in the very beginning we are not objecting to the proposed use. IT is permitted. We raise issue solely with the amount of parking. I presented Mr. Gemma's testimony which the Board can take into consideration.

Mr. Stern said your client is the Hilton, right? Why do you care, shouldn't you want this to be the worst application ever with lots of problems and then they'll all come to your hotel. I don't understand what the pretext is here.

Mr. Gasiorowski said I'm retained by a client. Every person who is a property owner in the Township has the right to question an application and in so make it better for the community. At the least hearing there was a lot of questioning by the Board on an additional access off New Hampshire. Tonight I questioned that the last standing approval calls for a through street between Pine Street and Avenue of the Americas. Those are things that I think this Board should consider to make it a better application. My client is looking to make it a better application.

Mr. Stern said so your client is being a good Samaritan in having you and your experts be here tonight.

Mr. Gasiorowski said he's a good citizen, he has a right to do that.

Mr. Stern said excellent.

Mr. Herzl said Mr. Gasiorowski, do you have anything in closing?

Mr. Gasiorowski said I have appeared before this Board on many occasions. I know that you are a conscientious Board that is well acquainted with the community and all the things involving uses of your property. My first objection which was raised had to do with the fact that the notice was improper. Secondly is the inadequacy of the parking. Those are my only comments in closing.

Mr. Herzl said thank you.

Mr. Pfeffer said as you heard both at this meeting and the last meeting, Mr. Gasiorowski has indicated his client has no issue with the use of this application however they are concerned with regard to the two variances. The two variances as Brian Flannery has testified to basically add 6 additional parking spaces and there's no setback to another parking lot. There is no negative affect on the other property owner or on the Township. Additionally we are asking for a 7 square foot variance for the sign. Again, we could make the sign a little smaller and get rid of those 6 parking spaces and be a variance-free application, but that's not really what's in the best interest of the Township. We've created a very nice ratable for the Township that has additional parking, 46 extra spaces give or take. We have exceeded the parking requirements even though Mr. Gasiorowski indicates we should not have those extra parking spaces. His professionals indicated we should go by the strict reading of the ordinance which would be a smaller site, but there's no benefit to the Town, it's a negative to the Town by having a hotel this size. As far as notice, Mr. Gasiorowski raised this issue over three hours into the testimony. We feel we are sufficient on the testimony, and at this time I would ask that the Board approve this application as presented and I thank you for your time.

Mr. Herzl said thank you very much. At this time I would ask for a motion.

Mr. Garfield made a motion to approve.

Mr. Stern said I'd like to second, but I'd like to ask Mr. Garfield if he'd accept an amendment. The bulb out thing, the throat... We would approve the plan but in the even the applicant could get an easement from the group that owns the basin, if they could get an easement to utilize a piece of that bulb and widen the throat, we the Board would approve that subject to the approval of our engineer.

Mr. Herzl said I want to clarify. The motion is that the applicant should try to move it over. But if he can't, for whatever reason, then we are approving it. Is that correct?

Mr. Stern said yes. We aren't requiring it, we aren't even requesting it. But if he can get it and if he wants it, we hereby approve that we would be ok with them widening that throat.

Mr. Herzl said Mr. Garfield, is that ok with you?

Mr. Garfield said yes. I think it would be a benefit to the Town.

Mr. Pfeffer said I'm still not clear.

Mr. Herzl said the motion was that you are not required to change the throat, but it would be a benefit according to the Planning Board if you could widen it.

All were in favor, with the exception of Mr. Sabel who left before the motion.

- 2. SD 2446 Chasidei Skulen de Lakewood**
555 & 559 Park Avenue Block 238, Lots 8 & 10
Minor Subdivision to create 4 lots

Mr. Flancbaum returned and Mr. Meyer left.

Mr. Vogt said from my August 28th review under zoning, it's permitted uses. No bulk variances have been requested. We will ask for confirming testimony on that. Parking has been addressed in terms of number. The only relief that we know is necessary is with respect to providing street trees along Park Avenue.

Mr. Abraham Penzer, Esquire, appeared on behalf of the applicant. He said good evening. He presented Brian Flannery, professional engineer and professional planner, who was affirmed.

Mr. Flannery said the subject property is 2 lots, 150' wide on Park Avenue. There are two existing houses and we are proposing a subdivision for two duplexes. As you can see on the tax map, it's in an area that has a lot of townhouses and duplexes. We submitted an aerial showing that. This is a use that's going to fit well in the area. It's a very simple application with no variance relief requested. What exists today is a 50' strip with a house on it, 50' of trees, and a 50' strip with a house on it. What we are proposing is a subdivision that's going to leave the 50' of trees, which are deed restricted, and provide for a duplex on the remaining side of each of those. With respect to Terry's report, no variance relief is required. The duplexes will fit between the 7' side yard setback and the conservation easement and we will comply in every respect with the Ordinance. We are indicating that a minimum of 4 parking spaces per unit will be provided. If the proposed duplexes have more bedrooms then more parking will be required. No variance relief is required.

Mr. Herzl said you have to talk about the trees.

Mr. Flannery said the only relief we are asking for is a design waiver with respect to street trees along Park Avenue, and you can see from the aerial there are trees already existing along Park Avenue and my testimony is that the existing trees that are there be maintained to the maximum extent practicable and the existing trees there comply with the intent of the ordinance with respect to street trees. Testimony was requested on whether there will be basement apartments, and the testimony is that they will be regular duplexes in Lakewood, the same as all the others you can see on the aerial. And we will comply with all the other comments in the letter.

Mr. Herzl said Mr. Penzer, this has anything to do with the synagogue or no?

Mr. Penzer said it's separate duplexes. This is a by-right application and there is not a single variance.

Mr. Stern said why are the woods deed restricted, how did that happen?

Mr. Penzer said because the property is an undersized property that the Township sold specifically because it was undersized, and they said they would give it to them in order to give some more woods over there but you can't build on it.

Mr. Stern said ok. What does it do for you? It gives a little bit more...

Mr. Penzer said it gives oxygen and O2.

Mr. Herzl said ok. Any other questions from the Board?

Mr. Isaacson said Brian can you show me the duplex, I don't see it on the plan.

Mr. Flannery said there's no duplex shown on the plans. The setback lines are shown, so the duplexes will fit within those lines. They won't be any closer to the property line than the 7' setback that is shown. It won't extend-

Mr. Herzl said it will be totally conforming.

Mr. Isaacson said so what will the total width of the duplexes be?

Mr. Flannery said the side is 28', we have a 7' setback, so it would be a 21' on each side. So a 42' wide duplex.

Mr. Isaacson said what's the parking arrangement going to be, stacked?

Mr. Flannery said in all likelihood it will be stacked but you have room in the front and the option of maybe making it an L shape in the front. They're going to be custom duplexes, and they'll fit there.

Mr. Stern said Brian we had, the last application on Joe Parker, you guys did something amazing and made the hideous stacked parking on a County road go away and made a beautiful U-shaped parking. And we were all so happy with you.

Mr. Flannery said yes.

Mr. Stern said this is a really busy road too. I would hate to have to see people back out into this road.

Mr. Herzl said I think you have a problem, you can't put the houses back to much because you have the trees over there and that's deed restricted.

Mr. Flannery said the deed restriction is in the center. If we didn't have the deed restriction we'd be happy to put something through that would accommodate the same type of situation, but we don't have that. The difference between here and Joe Parker, first of all it's not a County road, secondly, if you look at the aerial, all of the vehicles on the other side of the street back out. That creates a situation where the cars have to drive slowly. When someone comes in on these conforming lots with plot plans that meet the requirements, to the extent that they can provide a turn around, that's an availability. But we have a different situation here than on Joe Parker. On Joe Parker there was variance relief requested, this is a minor subdivision to divide two lots into 4 conforming lots.

Mr. Stern said you've got a point that everybody else takes their lives into their own hands backing into the road. Your applicant might as well do it as well.

Mr. Isaacson said why didn't you submit architectural.

Mr. Flannery said because it's a minor subdivision, and architectural are not required with a minor subdivision.

Mr. Isaacson said I know, but you've submitted minor subdivisions with architectural. Why is there no design.

Mr. Flannery said as Mr. Penzer indicated, we have to apologize because there's no variances. That's an unusual situation. When you're looking for variance relief, you have to show why the Board should grant the variances and how the benefits outweigh the detriments. So this is...

Mr. Jackson said Mr. Flannery is correct. I believe that when variances are requested, sometimes an applicant can provide specific plans that might mitigate some of the issues that are caused by the variance relief. In a by-right application though, they are entitled to cut the lots up like they want and there are no requirements for architectural plans or layouts or anything like that. Whoever buys the lot is free to do whatever they want, provided they conform with the laws or get a variance. A variance is under your discretion to approve, and you might say I don't want to approve this unless I'm satisfied with the architectural. But this is not the case, so Mr. Penzer and Mr. Flannery are right.

Mr. Isaacson said Brian correct me if I'm wrong. The entire duplex is going to be 21' wide?

Mr. Flannery said that is correct.

Mr. Isaacson said that's not one side of the duplex, that's the entire duplex.

Mr. Flannery said no each side will be 21' wide.

Mr. Isaacson said ok.

Mr. Flannery said for a 42' wide duplex. That's the maximum they could be. If someone wants to come in a little narrower, they can.

Mr. Herzl said Brian, you're stipulating that there will be no variances when you build the building.

Mr. Flannery said that is correct.

Mr. Jackson said that's true no matter what, but nothing would stop you from going to the Board of Adjustment.

Mr. Herzl said ok. We're not granting him any variances.

Mr. Jackson said if they want variances they would have to go to the Board of Adjustment.

Mr. Flannery said that is correct.

Mr. Herzl opened to the public.

Mrs. Morris and Mr. Jackson confirmed they did not receive any comments via email. No one on the call came forward to speak.

Mr. Garfield said we are here to help the town beautify. One thing I've always seen is toys all over the lot. Is it possible to figure out some type of cabinet to put in the back yard so these toys can be put away?

Mr. Jackson said that is the type of thing that the Planning Board can recommend to the governing body. And in a case with variances on the appropriate application, you might think that's an appropriate thing you ask an applicant for. But in this by-right application, there's really no leverage to ask for that extra kind of amenity.

Mr. Herzl said thank you and asked for a motion.

Mr. Flannery made a motion to approve and Mr. Garfield seconded. All were in favor.

3. SD 2439 Shlomo Wilner
303 Albert Ave & Charity Tull Ave Block 827, Lots 4 & 5
Minor Subdivision to create 3 lots

Mr. Vogt said from our August 27th review, zoning, variances necessary include minimum lot area and lot width. We are asking, actually we got a response on parking, there's three spaces and the applicant has clarified that there

is no basement and therefore three spaces is sufficient. I believe that's it in terms of zoning, and I'm not aware of any design waivers.

Mr. Joe Kociuba, professional engineer and professional planner, appeared and was affirmed.

Mr. Jackson said applicants are supposed to have attorneys to direct you, but in this format I think we need to have some latitude. The applicant is online, that's acceptable, we'll try to expedite this and facilitate it.

Mr. Kociuba said the application is a 3 lot minor subdivision in the R-20 zone. We've had several of these approved in recent memory, creating 3 single-family lots, 75 feet wide. On the Development Plan you'll see we are proposing to maintain an existing house that's on the property now. We'll be demolishing a small portion of the garage on the right side to make it conform to the central lot, and proposed two single-family dwellings adjacent. There are lot area and lot width variances required. 16,875 square feet where 20,000 is required, and 75' wide where 100' is required.

Mr. Herzl said could we see the tax map. What in the area...

Mr. Kociuba said I have a highlighted screen I could show or send it off to Ally...

Mrs. Morris said what sheet number of the tax maps is it?

Mr. Kociuba said 112. The property is at the corner of where Read Place was. It's all single-family here, and a number of 75' wide lots have been created in that area. Lots 1.01, 1.02, and 1.03 immediately north are the same exact dimensions as proposed. Lots 5.01-5.03, they balanced it by doing two 80's and a 65, not quite sure, I believe the intent there was to save a house, but those average out to 75. You also see east of there, on East Spruce, Lots 31.03, 31.04, 30.01, 30.02, 75' wide lots. Also to the south of that on Read Place, there are 4 75' lots in a row.

Mr. Herzl said what's on Lot 4.

Mr. Kociuba said existing Lot 4 is actually the front of the property. The applicant has obtained a vacation of Read Place. Half of Read Place. Previously, the street to the rear was vacated by Ordinance, and most recently Read Place. So the applicant has obtained all of the land and all of the vacations for this application.

Mr. Herzl said Read Place was vacated? So why can't you make the lots wider?

Mr. Kociuba said that's how wide they are with the vacation.

Mr. Herzl said so what percent would you say in the area is 75' wide.

Mr. Kociuba said I haven't quantified that, but there are certainly quite a few. 6 immediately north of us. So of the 8 lots immediately north, 6 of those are 75'. And I would say maybe 30% of the lots in Block 855 are all 75' wide.

Mr. Herzl said so your testimony is that it fits in the area.

Mr. Kociuba said I certainly think it's commensurate with the area, commensurate with previous approvals, and becoming generally the standard width in this particular section.

Mr. Herzl said do you have any issues with Terry's report?

Mr. Kociuba said we have no issues with anything in his letter. He did highlight three parking stalls is sufficient.

Mr. Herzl said let me talk about the parking. What's in the basement right now.

Mr. Kociuba said right now there is no basement, it's a crawl space.

Mr. Herzl said it's not going to be 8' high? It's 4' high?

Mr. Kociuba said it's a small existing home.

Mr. Herzl said and the other two homes?

Mr. Kociuba said the other two will have basements and we are proposing 4 parking spaces per house.

Mr. Herzl said and should you take this house down and make a new house, you agree to make 4 parking spaces?

Mr. Kociuba said yes, we have no objection.

Mr. Herzl said so the only place you are asking for 3 is by the existing house, and you are testifying there is no basement.

Mr. Kociuba said correct.

Mr. Herzl asked about sidewalks in front.

Mr. Kociuba said sidewalks existing, they will be repaired during construction as necessary. Curb exists. We are proposing street trees, we've added one additional tree as requested by the Board Engineer. We will provide all the plan amendments being requested in the report. We will comply with building height. The only variances requested are for lot area and lot width.

Mr. Herzl said could you put it on the record the reason you are asking for the variances.

Mr. Kociuba said the variances would promote the C2 promotion of the population density and the general welfare, that the lot area and lot width are commensurate with the area, and provide an appropriate population density for this location.

Mr. Herzl said and you feel there is no detriment by approving these variances?

Mr. Kociuba said I do not feel there will be any detriment to the public good, again as we note 75' wide lots exists throughout the area. There will be no substantial detriment to the zone plan and zoning ordinance.

Mr. Herzl asked for any questions from the Board. There were none. He opened to the public.

Mrs. Morris and Mr. Jackson said they have not received any emails from the public.

Mr. Herzl asked if Mr. Wilner wanted to speak.

Mr. Jackson joked he's ahead of the game, he should stay quiet.

Mr. Herzl closed to the public after seeing no other public present in the meeting room, and asked for a motion.

Mr. Garfield made a motion to approve and Mr. Flancbaum seconded.

Mrs. Morris said she just received an email from Mr. Zeines. There is a delay in the video broadcast, so I recommend we hear that now.

Hi.

I am not a member of the fire department.
The nearest fire hydrant is over 1,500 feet away.

I believe this an additional hydrant should be added on Albert Avenue.

Please address this issue.

Moshe Zeines
112 Elmhurst Blvd, Lakewood, NJ 08701

Mr. Herzl said do we have any comments from the Fire Department on this application?

Mrs. Morris said yes they commented twice. The most recent is June 24, 2020, and they said plans are acceptable as proposed and additional fire hydrants are not needed.

Mr. Herzl said thank you and asked again for the motion.

Mr. Garfield said the motion stands. Mr. Flancbaum said his second still stands. All were in favor.

5. APPROVAL OF MINUTES

6. APPROVAL OF BILLS

7. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Ally Morris
Planning Board Recording Secretary