

**TOWNSHIP OF FRANKLIN  
PLANNING BOARD  
COUNTY OF SOMERSET, NEW JERSEY**

**REGULAR MEETING  
October 12, 2022**

The regular meeting of the Township of Franklin Planning Board was held at 475 DeMott Lane, Somerset, New Jersey and was called to order by Michael Orsini, Chairman, at 7:30 p.m. The Sunshine Law was read, the Pledge of Allegiance said, and the roll was taken as follows:

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**PRESENT:** Councilman Anbarasan, Carl Hauck, Meher Rafiq, Theodore Chase, Mustapha Mansaray, , Charles Brown, Robert Thomas, Sammy Shaban, and Chairman Orsini

**ABSENT:** Jennifer Rangnow

**ALSO PRESENT:** Mr. Peter Vignuolo, Board Attorney, Mark Healey, Planning Director, and Christine Woodbury, Planning & Zoning Secretary

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Board Attorney, Mr. Peter Vignuolo, gave a brief introductory to what was going to be presented to the Board that evening, noting that the public would be able to ask questions/give comments during the General Public Comment section of the meeting that evening on general planning items not related to the Levin Properties discussion. He added that the public would also have an opportunity to give comments regarding the one (1) Discussion item on the agenda that evening as well after that presentation has concluded. Mr. Vignuolo explained that the presenter that evening would provide information to the Board regarding the request for the zone change, and the public would then be allowed to make comments regarding the request. As the Board may be asked to take some action on this matter in the future, the Board members would make no comment, nor will they ask questions of the presenter or the general public. Mr. Vignuolo went on to state that the Board's role that evening was to sit and listen to the presentation and to the public comment. At the conclusion of the presentation and public comment, he indicated that the Board would take no action regarding the presentation. Furthermore, Mr. Vignuolo indicated that, typically, the presentation such as the one being heard that evening, did not usually include a public comment section, however, in an attempt to provide the general public with an opportunity to offer its opinion regarding the request, the Board has decided to permit a public comment section to occur. Each member of the public would be permitted three (3) minutes to make comment during the presentation, and the Board would reserve the right to limit or end public comment should the public comments become repetitive and/or unproductive. Mr. Vignuolo then told the Board and public that should a member of the

public wish to concur with comments already made, it was suggested that they indicate that during the opportunity to speak rather than supply a lengthy repetitive statement. He then explained that the public comment section during the discussion was designed to permit an opportunity for individuals to bring information to the attention of both the presenter and the Board. Mr. Vignuolo indicated that the Board would respect the public's time by refraining from comment until the speaker was finished. He, furthermore, explained that the public comments section was not structured as a question/answer section, thus, neither the Board nor the presenter would provide a response to questions made by the public. Instead, the Board would listen and focus on the comments being made by the public as it was their opportunity to provide input on the matter. The Board Attorney then thanked the public for their anticipated cooperation that evening.

### **PUBLIC COMMENTS:**

Chairman Orsini then made a motion to open the meeting to the public for General Planning discussion. He reminded the public that anything discussed during this portion of the meeting was strictly related to General Planning Comments and not related to the Levin Properties discussion to be held later in the meeting. He also indicated that each speak would have a maximum of three (3) minutes to speak. Mr. Thomas seconded the motion, and all were in favor.

Ms. Loraine Suarez, 1228 Easton Avenue, Somerset, NJ, came forward. Ms. Suarez asked if the Planning Board had any jurisdiction over the bike path that ran from Rt. 287 to Foxwood Drive. She then noted that it had deteriorated terribly since its installation 40 years ago, when the road was one lane in one direction, now changed to double lanes in each direction. She asked if anyone from the Township or the County could restore that bike path. Seeing no one further coming forward, the public portion for General Planning Comment was closed. The motion was seconded, and all were in favor.

## DISCUSSION:

- **Levin Properties – 940 Easton Avenue, Somerset: Block 385, Lot 2.07.**  
Informal presentation to request a zone change to allow a 200-unit apartment complex.

Mr. John Wisnieski, Wisnieski & Associates, appeared before the Board on behalf of the Applicant, Levin Management. He indicated that the discussion that evening was about the property located at 940 Easton Avenue, Somerset, NJ at the corner of JFK Boulevard, a 27-acre property. He spoke about meeting with Township staff in 2019, 2022 and 2021 to talk about what they were thinking about doing and led to filing an application with the Zoning Board of Adjustment that was scheduled to be heard in January of 2022, but just prior to that scheduled meeting the governing body adopted a Resolution opposing the application. He indicated that they chose to withdraw the application and were there that evening to discuss what they were proposing. Mr. Wisnieski then told the Board that the Applicant was asking the Board to consider a re-zoning of the property, which was currently located in the G-B Zone, which he stated that at one time allowed for residential development. He further told the Board that there was an amendment at some time in the past that took the residential aspect out of the zone. Mr. Wisnieski stated that times change and situations change, so that the witnesses that would be speaking that evening would be explaining those changes that included the rise in e-commerce and a move away from brick-and-mortar stores, further enhanced by the pandemic. He went on to describe the big box retail site in Rutgers Plaza (over 100,000 sq. ft.) that used to be home to the K-Mart. He talked about K-Mart and its parent company running into financial trouble and declaring bankruptcy years ago, with no tenant occupying the space ever since that time. Mr. Wisnieski then described a number of locations in the state where towns were exploring the idea of replacing retail sites to mixed use site, with a residential component. He then discussed the State of NJ recognizing the opportunity the market is providing to make an exception to current zoning for conversions of retail and office space that have gone unused for a certain time period over a certain size to allow them to be converted to mixed use. Mr. Wisnieski then told the Board that these changes would affect the Municipal Land Use Law (MLUL) that would allow this conversation to occur as well

Mr. Sidney Singer, V.P. of Leasing, Levin Management, came forward. Mr. Singer then gave the Board and public background of the property that he indicated was originally developed in the early 1970's by Levin Properties and included a W.T. Grant store, a General Cinema movie theater, a supermarket, and other smaller shops offering retail products and services. He described when K-Mart took over the W.T. Grant location and when the cinema closed that prompted a redevelopment from 2001-2005 of the cinema demolition and construction of the Stop & Shop grocery store as well as a Chase Bank. He then spoke about Levin Properties looking into potential leasing opportunities within the site but explaining the effect that e-commerce has had in the post-pandemic retail environment. He then discussed the statistics that potential tenants look for regarding the traffic that would be realized at the subject site as opposed to other sites. He explained how one of the analytic reports that was issued by

Placer A.I. which tracks mainly through mobile devices that visit various shopping centers. He then discussed the results for visits to Rutgers Plaza over the past year had roughly 800,000 visits as compared to Bridgewater Commons, which had 6.8 million visits, 2.4 million in North Brunswick's Walmart, and 1.7 million in Piscataway's Walmart over the past year. Mr. Singer then spoke about the feedback they receive from current tenants, particularly as it related to the Easton Avenue corridor, which was considered a secondary market that was sandwiched between stronger retail markets such as Bridgewater, East Brunswick, North Brunswick, and Piscataway. He then talked about the potential anchors and junior anchors doing extensive research on how adding new stores would impact existing markets and were always looking at potential sales projections both for in-store and e-commerce sales. Since 2018, Mr. Singer testified that they had just not found any interested retailers for the anchor or junior anchor locations at Rutgers Plaza. He then focused on the former K-Mart property, noting its narrow frontage and its depth as not being sized for most big box stores that required additional frontage and those that required at least 200 ft. depth and a minimum height of 19 ft. He then also mentioned the limited visibility from the two adjacent roadways, which was very important to retailers. Mr. Singer then discussed how the close proximity to the Delaware & Raritan Canal (DRCC) brought up additional challenges as well as the increase in e-commerce that was enhanced due to the outbreak of COVID-19 that continued to increase. He spoke about some of the current tenants in Rutgers Plaza who have extended their leases and commitments to staying at Rutgers Plaza, but that they still need an anchor or junior anchor retailer to keep the location vibrant and successful.

Mr. Singer then spoke about Levin Properties working diligently for the past two (2) years to come up with alternative uses for the property that would bring a large amount of foot traffic to the property in place of the big box store and to keep the other current tenants viable. The idea of including a residential component to the shopping center was to keep the other tenants viable – even Stop & Shop expressed their concern, stating that they had seen business fall-off after the closing of K-Mart. The proposal to include residential properties at the center to replace an anchor store to the struggling center was brought up, especially since there were existing parking fields that were defined and adequate for the residential component. Mr. Singer then indicated that there was also a defined and adequate parking field for the retail component.

Mr. Jason Kaplan, President & CEO of the Kaplan Company, came forward. He explained that his company was predominantly a residential developer based in Highland Park. He explained that they were a third-generation family-run business and that their philosophy was to build and hold properties. Mr. Kaplan indicated that residential units were in high demand where retail was not and that they were very excited at the prospect of the proposal for mixed use retail. He stated that they own many residential units and understand the market. He then discussed building residential units into the current retail component that included a redesign of the circulation on the site and to work with outdoor spaces for farm markets and community activities at the site as well. Mr. Kaplan then detailed the amenities that were designed for the building, including a pool, fitness center, and lounges for community living as

well as elevators and interior corridors. He explained that there would be a 24-hr. maintenance management and EV charging stations that exceed the State regulations.

Ms. Roberta Hamer, Director of Real Estate Development for Stop & Shop, came forward. Ms. Hamer explained that they had been in discussions with Levin Properties and embrace what was being proposed and feel that the residential component would bring a great variety of foot traffic to the shopping center, which would bring life to what was now a very dead end of the property that was, in their opinion, an eyesore. She reiterated Mr. Singer's testimony that shopping centers were just not realizing big box anchor stores any longer like they had in the past. She indicated that should the former K-Mart site stay empty, it would impact their sales and impact their decision to stay in the shopping center.

Mr. Peter Stavrioides, Owner of Venus Jewelers, came forward. Mr. Stavrioides indicated that they had been located at Rutgers Plaza for the past 42 years and were a fifth-generation family jeweler that served Franklin Township and surrounding towns. He then spoke about including the mix use residential component to the shopping center that would benefit all of the tenants and need the enhancement desperately. He then noted that many attempts had been made over the past few years to entice a large commercial store to come in and even discussed breaking up the large space into smaller units to entice new businesses to no avail. He then added that most of the opposition that has come as a result of the proposal was based on hearsay and assumptions and not based on fact and data. Mr. Stavrioides stated that should the former K-Mart location stay vacant, he felt that one of the other anchor stores in the plaza might leave and the shopping center would go into further decline.

Mr. Christopher Atou, Managing Partner & Chief Appraiser of the Atou Group, a third-generation company, came forward. He indicated that his company was tasked with preparing a study of what the shopping center was now and what it will become if the Township did not take positive action. He indicated that if action was not taken with such a proposal that the Levin Properties was putting forth, he was confident that in 5-10 years the Board would be reviewing a proposal that would encompass the entire shopping center. He gave data that included a 3-mile radius of the proposed property that included 228,000 sq. ft. of vacant space on the market, which was double what should be available. He drew the Board's and public's attention to future trends such as areas in Westfield, Bernardsville and the Rt. 18 corridor in East Brunswick that had a lot of empty retail space. Mr. Atou then spoke of those towns being proactive in proposing the residential component. He then discussed the issue of when an anchor store leaves a shopping center and the other, smaller tenants then leave as well because the anchor store is what brings shoppers into the center. He then spoke about a residential use into the shopping center would bring foot traffic into the site and into the stores within the site. Mr. Atou then discussed the younger people that would be attracted to the residential component that was in walking distance of a grocery store and other stores within walking distance from their home. He added that those same younger people who be the future homebuyers in the Township in later years.

Ms. Kate Keller, Principal and Planner, with Phillips, Price, etc., based in Hoboken, NJ, came forward. She discussed how what was being proposed would impact the Township's Master Plan and how, practically, this type of re-zoning might affect the subject property and other properties within the G-B Zone throughout the Township. She added that what they were proposing that evening was the type of mixed-use option that would specifically support the existing tenants in the shopping center. Ms. Keller reiterated some of the testimony of other witnesses, stating that the trend of empty space in shopping centers and the impact of e-commerce that has been seen throughout the State. She then spoke about the change in 2012 to the Master Plan regarding residential uses within the G-B Zone (garden apartment and townhouses) that had been eliminated. Ms. Keller indicated that that was undertaken because it was determined that it was inconsistent with the intent and purpose of the G-B Zone. She then discussed the fact that the Master Plan was intended to be a fluid and ever-evolving document representing the changes within the community. She then testified that the proposal was specifically a mixed-use project to support retail and the continued retail use of the property. She then stated that allowing a mixed-use component here would not compromise the intent of the G-B Zone. Ms. Keller then cited some of the elements of the Master Plan that would be supported through the proposal before the Board.

Ms. Scott Turner, Consultant Engineer, employed with Menlo Engineering, came forward. Mr. Turner first indicated that the redevelopment of the site would include a reduction in both building (approx. 47,700 sq. ft.) and impervious coverage (approx. 63,700 sq. ft. reduction). With those reductions and a reduction in the overall parking demand on the site, while still being compliant with all the necessary standards, the overall coverages would be reduced by 4%. He indicated those reductions were important for site plan and circulation as well as for storm water management. Mr. Turner then indicated that there would be a decrease in runoff from the property and less of an impact on Seeley's Brook and overall reduction in discharge to the Delaware & Raritan Canal. He then spoke about being very close to receiving approvals from the appropriate outside agencies when the time was right. He then spoke of site circulation, noting that they would be keeping the current driveways on-site (off of JFK Boulevard and off of Easton Avenue), but change the configuration of the central drive aisle to keep it away from the residential component. He stated that the parking lots would be realigned and reassessed as necessary and parking spaces would be reduced by over 100 at the very least and an introduction of EV charging stations throughout the site.

Mr. Turner then detailed the proposed E-shaped apartment buildings as a 4-story apartment building with 200 units with 69 one-bedroom units, 123 two-bedroom units and 8 three-bedroom units, with 20% being set aside as affordable units (40 units). He noted that many of the outside amenities would be located between the legs of the E-shaped building, including the pool area and open courtyard space and open courtyard, and gathering spaces in the other area. He indicated that new parking spaces would be configured behind the apartment building, with ADA compatible spaces, sidewalks, and accessibility. Currently, Mr. Turner indicated that there were 1,257 parking spaces, and those would be reduced to 1,105 parking spaces with the proposal in conformance with

the Residential Site Improvement Standards (RSIS). He then spoke about the improvements to the multi-use retail building, including an expanded sidewalk and area for seating and outdoor dining. He then spoke about creating sidewalk access from the residential building to the Stop & Shop as well and additional landscape enhancements to include shade trees and hundreds of shrubs and thousands of ground cover plantings throughout the center. He added that there would be a sidewalk from Easton Avenue to enter the site as well.

Mr. Turner then indicated that the storm water management system was designed to meet the current storm water management regulations to include water quantity, water quality, groundwater recharge and the like. He then spoke about the large outdoor green space in front of the residential building that could be used for community events.

Mr. Carl Penke, Traffic Engineer employed with Langen Engineering & Environmental Services, came forward. Mr. Penke opened a discussion regarding the benefits of introducing residential(106,000 sq. ft.) into a commercial environment, creating mixed use projects where the residential component supports the commercial component. He also indicated that it created an environment whereby residents would not have to leave the site to find services, creating less traffic that would come from the site. He compared the potential traffic from the re-occupancy of the current empty retail space to the proposed residential component noting that it would be a much less intensive use (net decrease of over 450 trips per hour during the evening weekday peak hour and 4,000 additional trips per day) and the same trips per hour during the weekend peak hour and an additional 6,000 additional trips per day. He then reiterated Mr. Turner's testimony, stating the benefit of including sidewalks to make the site a more pedestrian friendly site with better connectivity.

Mr. Charles Shappell, Architect, Mino Wasko Architects, Lambertville, NJ, came forward. Mr. Shappell drew the Board's and public's attention to Sheet A-1 of the architectural plans. He discussed the fitness center, club room, two (2) entrances and drop off area on the first floor and two areas (one active and one passive) for recreation on-site. He noted that the passive recreation area was a park-like area with tables and benches along with a grilling area. He noted that all floors area configured the same way, but that the units that overlook the courtyards have balconies. Mr. Shappell then showed a 3D rendering of what the building would look like, including window details, architectural components and colors utilized on the building on all four (4) sides of the residential building. His final slide showed the revitalization of the retail spaces that carry over the modern design.

Mr. Wisnieski then gave his closing summation.

Board Attorney, Mr. Peter Vignuolo, then reiterated the rules of public comment, for the public's edification.

Chairman Orsini made a motion to open the meeting to the public for comments. The motion was seconded, and all were in favor.

Mr. Mark Maris, 179 Wilson Road, Somerset, NJ, came forward. He shared his concern about the accelerating traffic on Easton Avenue and the bottlenecks at both ends of that roadway within the Township as well as 200 units of people with children and the safety of potential residents to get in and out of the plaza safely. He also mentioned the overload on the school system with the addition of the children who would be living in these units. He stated that he didn't move to the Township to be urbanized in a suburban area. He also told the Board that there has been no initiation to help move people through the community by improving roadways and access routes.

Mr. Arnold Schmidt, 134 Hickory Road, Somerset, NJ, came forward. Mr. Schmidt noted that a number of tenants in the plaza went bankrupt and didn't leave due to decreasing traffic. He also added that the property owner let the plaza go into disrepair making it less desirable for new tenants to come in. Mr. Schmidt then read from an article that discussed the uptick in the need/want for brick-and-mortar stores.

Ms. Tina Nummela of 134 Hickory Road, Somerset, NJ, came forward. She mentioned traffic issues and didn't want to set a precedent for other developers to do the same and change the Township's quality of life forever.

Ms. Deana Luchs, 51 Patriots Way, Somerset, NJ, came forward. Ms. Lux discussed the many Levin Properties signs within many of the towns in Somerset County. She was very concerned with the high-density proposal being put forth, and that the Township needed more shopping opportunities here in Franklin rather than having to go to other neighboring towns. She then mentioned that the Chairman had put forth his opinion a few months ago that he was in favor of replacing the former K-Mart with residential development and hoped he would recuse himself from voting on any potential application in the future because he already made his position known.

Mr. Eric Perlman, 105 Hickory Road, Somerset, NJ, came forward. Mr. Perlman spoke about the trends that Mr. Wisnieski spoke of, but Mr. Perlman read from an article that was published by Levin Management and would refute the trends he spoke of that the need and want for brick and mortar stores was declining. He added that the article supported the need and want for brick-and-mortar stores, in direct conflict with Mr. Wisnieski's testimony that evening. Mr. Perlman indicated that Levin Management let the shopping center deteriorate, which would not entice new tenants.

Mr. Sophia Henderson, 18 Triplett Road, Somerset, NJ. Ms. Henderson stated she works with a trauma unit and complained about the horrible traffic on Easton Avenue and JFK Boulevard and all of the accidents that occur that they do not have enough ambulances to accommodate the numbers.

Mr. Edward Carway, 533 New Brunswick Rd., Somerset, NJ, came forward. Mr. Carway asked the Board to give credence to the public's comments. He indicated that he felt the case before the Board should be in front of the Zoning Board.



Ms. Terry Thorson, 18 Lebed Drive, Somerset, NJ 08873, came forward. Ms. Thorson was concerned about making a left-hand turn out of the center onto JFK Boulevard as it was very difficult and caused accidents there. She wanted to ask for solar panels on the site and was concerned that there would be activities on the green space in the middle of a parking lot.

Mr. Alex Strauss, 285 Hazlitt Way, Somerset, NJ, came forward. Mr. Strauss was concerned about the concern for fires regarding the use for building materials used in a four-story building. He then wanted to know why there was no side entrance for residents to go to the retail stores. He was concerned that trucks servicing the retail businesses would have to go around the residential building causing a potential safety hazard. He also mentioned all of the apartments that abut the site with holes in their fencing, causing a security issue.

Mr. Bill Carlisle, 25 Spring Street, Somerset, NJ, came forward and was sworn in. Mr. Carlisle was concerned of the precedence that might be set for other developers to ask for the same thing on another property in a commercial zone.

Ms. Catherine Sportak, 6 Larsen Road, Somerset, NJ, came forward. She spoke of Easton Avenue as being the third worst corridor in the state for traffic and accidents. She then told the Board that there were over 400 available apartments in Somerset already, so there was not a need for additional apartments, but restaurants and stores.

Seeing no one further coming forward, Chairman Orsini moved to close the public portion. The motion was seconded, and all were in favor.

#### **COMMITTEE REPORTS:**

No Committee reports discussed.

#### **WORK SESSION / NEW BUSINESS:**

There was no work session or new business discussed.

#### **EXECUTIVE SESSION:**

The Board did not enter into Executive Session.

#### **ADJOURNMENT:**

Chairman Orsini made a motion to adjourn the meeting at 9:20 p.m., and the motion was seconded. All were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
December 2, 2022