

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

**REGULAR MEETING
July 05, 2023**

The regular meeting of the Township of Franklin Planning Board was held at the Board of Education Building located at 2301 State Highway 27, Building 1, Somerset, NJ, and was called to order by Chairman Orsini, at 7:45 p.m. The Sunshine Law was read, the Pledge of Allegiance said, and the roll was taken as follows:

PRESENT: Councilman Anbarasan, Theodore Chase, Erika Inocencio (arrived at 8:00 p.m.), Sami Shaban, Robert Thomas, Maher Rafiq (arrived at 8:00 p.m.), Rebecca Hilbert, and Chairman Orsini

ABSENT: Jennifer Rangnow, Mustapha Mansaray, and Charles Brown

ALSO PRESENT: Mr. Eric Bernstein, Special Board Attorney, Mark Healey, Planning Director, Darren Mazzei, Township Engineer, and Christine Woodbury, Planning & Zoning Secretary

MINUTES:

- **Regular Minutes – April 19, 2023**

Chairman Orsini made a motion to approve the Minutes, as submitted. Mr. Thomas seconded the motion, and the roll was called as follows:

FOR: Mr. Thomas, Ms. Hilbert, and Chairman Orsini

AGAINST: None

RESOLUTIONS:

- **Asha Abraham / PLN-17-00001 – Ext. of Time**

Ms. Hilbert made a motion to approve the Resolution, as submitted. Mr. Thomas seconded the motion, and the roll was called as follows:

FOR: Councilman Anbarasan, Mr. Thomas, Ms. Hilbert, and Chairman Orsini

AGAINST: None

- **Royal Somerset Inn, LLC / PLN-23-00001**

Mr. Thomas made a motion to approve the Resolution, as submitted. Ms. Hilbert seconded the motion, and the roll was called as follows:

FOR: Councilman Anbarasan, Mr. Thomas, and Ms. Hilbert

AGAINST: None

PUBLIC COMMENTS:

Chairman Orsini then made a motion to open the meeting to the public for General Planning discussion, not related to B9 Schoolhouse, LLC. The motion was seconded, and all were in favor. Chairman Orsini explained to the public how the meeting would be run that evening, and also added that they would first have a Public Comment section to include any discussion regarding any matter that was not the subject of a hearing that evening. Additionally, the Chairman explained that the public would have an opportunity to ask questions of the three (3) witnesses that will give testimony at the hearing that evening, to include the Site Engineer, Landscape Architect and Architect, and then they would proceed with any further testimony from additional witnesses.

Seeing no one coming forward, the Chairman made a motion to close the meeting to the public for general comments. The motion was seconded, and all were in favor.

HEARINGS:

- **EWA SOMERSET 400 OWNER, LLC / PLN-22-00013**

Preliminary & Final Major Site Plan w/"C" Variances in which the Applicant wanted to demolish the existing building and construct two (2) warehouses totaling 370,776 sq. ft. at 400 & 600 Atrium Drive, Somerset; Block 468.01, Lots 21.06 & 21.14, in the Business & Industry (B-I) Zone - **CARRIED TO JULY 19, 2023 – with no further notification required.**

DL - 07/31/2023

- **THE JAIN CENTER OF NEW JERSEY / PLN-23-00011**

Applicant sought Site Plan and Sign Variance approval for construction of an entrance “archway” structure across the entrance/exit drive which connected to Cedar Grove Lane at 111 Cedar Grove Lane, Somerset; Block 468.07, Lot 45, in an R-40 Zone - **CARRIED TO JULY 19, 2023 – with no further notification required.**

DL - 08/24/2023

- **BALDWAS REALTY, LLC / PLN-22-00009**

Preliminary & Final Major Site Plan, Preliminary & Final Major Subdivision w/”C” Variances in which the Applicant sought approval to construct a 62,500 sq. ft. warehouse at 545 & 549 Weston Canal Road, Somerset: Block 516.01, Lots 4.03 & 5, in the Business & Industry (B-I) Zone - **CARRIED TO JULY 19, 2023 – with no further notification required.**

DL - 07/31/2023

- **B9 SCHOOLHOUSE OWNER, LLC / PLN-22-00011**

Mr. Peter U. Lanfrit., Attorney, appearing before the Board on behalf of the Applicant, B9 Schoolhouse Owner, LLC, in order to obtain Preliminary & Final Major Site Plan w/”C” Variances in which the Applicant wanted to construct two (2) warehouses totaling 244,975 sq. ft. at 96, 98 and 104 Schoolhouse Road & 15 Mettlers Road, Somerset; Block 514, Lots 1-3 and 60, in the Business & Industry (B-I) and Rural (RR-3) Zones.

Mr. Lanfrit then indicated that the hearing that evening was a continuation of the Application for B9 Schoolhouse. He noted that Traffic testimony was given at the last hearing on June 21, 2023 by their Traffic Consultant and cross-examined. He went on to explained that during the questioning, there was a request by one of the Board members as well as by the counsel for the objectors as to the number of trips that would be generated as a result of this project. He then stated that Mr. Chase, the Applicant’s Traffic Consultant, submitted a report to the Township within the time frames provided and should be marked into evidence as Exhibit A-1, with that day’s date of July 5, 2023,a Trip Generation Summary for total trips from this project-based solely on ITE.

Mr. Bernstein, Special Board Counsel, indicated that it can be marked Exhibit A-1 with that day’s date, and that they would figure out where to put it in the queue, but pointed out to Mr. Lanfrit that the Applicant did not have cross-examination or comments.

Mr. Lanfrit reminded Mr. Bernstein that at the end of the last meeting after the request was made to submit the Trip Generation Summary, that he had asked Chairman Orsini and Counsel for the objectors whether they wanted the Traffic Consultant back that

evening and the answer was “no”, which was why he wasn’t there that evening. He added that if the Board wanted to hear from Mr. Chase again, they would make him available, but the information he got at the last meeting was that he did not need to come back. Chairman Orsini agreed with that statement.

Mr. Lanfrit then moved on and reminded everyone that they attempted to put into evidence certain exhibits at the last meeting. He went on to explain that those exhibits were as a result of discussions that were had at the prior meetings where Board members asked them to make certain changes to the plans. Mr. Lanfrit then indicated that the Board ruled that those exhibits should have been provided in advance and did provide those after the last meeting to the Township as well as to the Counsel for the objectors. Mr. Lanfrit then suggested that he could bring the three (3) gentlemen who prepared the exhibits come back up and go through them. He noted that those gentlemen were at the last hearing on June 21, 2023 as well as the meeting prior to that, May 3, 2023.

He introduced all three gentlemen, starting with Kyle Kavinski, Site Engineer employed with Dynamic, Bryan Hanes, who was the Landscape Architect, and Mr. Westhafer, the Architect. Special Counsel to the Planning Board, Mr. Bernstein, then swore all three (3) gentlemen, collectively, and did testify as follows:

Mr. Healey then reminded the speakers that if they were going to pass the microphone back and forth between them, that they were very sensitive and that they needed to speak directly into them.

Mr. Kavinski, Site Engineer, was the first to testify. Mr. Kavinski indicated that he prepared the exhibit on the screen, which was a new exhibit and not part of the original submission. He then added that the exhibit was prepared in response to the comments made by certain Board members and members of the public at previous hearings. It was duly marked into evidence that evening as Exhibit A-2, dated May 30, 2023. Mr. Kavinski then described to the Board the changes that were made to the Site Plan by his office as a result of the previous hearings.

Mr. Kavinski stated that there was a request to add bike racks to each building. He indicated that they added one bike rack near the office area on the southwestern corner of the larger building as well as another bike rack on the northeastern corner of the smaller building. He then went on to explain that they now have sidewalks on Schoolhouse Road as well as connections into each building from Schoolhouse Road into the area where the parking lots were as well as any connections to the smaller buildings just off of Schoolhouse Road. He added that they had also provided a cross connection with library to connect both buildings per your request.

Mr. Kavinski indicated that they were also provided an EV charging space for EV requirements, one EV compliant, and they shifted a solid six (6)-ft. fence to the berm. He also indicated that they provided a four (4)-ft. high post rail fence at the top berm to introduce to the Scenic Corridor.

Mr. Kavinski testified that anyone walking down Schoolhouse Road now had the ability to reach either of the buildings through a sidewalk. Additionally, when someone would reach the building, there were sidewalks along the front of the building to get those people to either the office or the warehouse park. The Board had no questions of Mr. Kavinski at that time.

Mr. Lanfrit next introduced his next witness, Mr. William Westhafer, Architect. He stated that he was present at the prior hearings and that there were some requested changes to the architectural plans. He told the Board that the new plans were prepared by him or his people under his direction. Mr. Westhafer then entered into the records as Exhibit A3, prepared on June 21, 2023. He then discussed the changes that were made to both the larger and smaller buildings as a result of discussions that the Board had with him at the prior meetings. He told the Board that the clerestory windows were now single ones where they were double windows before, reducing the amount of clerestory windows from two (2) windows per bay to one (1) window as shown on the building elevations, thereby cutting in half the illumination from these windows. He added that the feature was on Building A which was on the Mettlers Road side of the property (west side) and face Mettlers Road. Mr. Westhafer then went on to state that the only other changes were not visible in the drawings was that Building B, the smaller building, was also now solar ready, which he believed was a request at the direction of the Board. There were no questions at that time from the Board to Mr. Westhafer.

Next, Mr. Lanfrit then introduced Mr. Bryan Hanes, Landscape Architect, who stated that he had numerous exhibits that were prepared by him as a result of changes that were made to the site. He indicated that those changes basically dealt with both the frontages up on Schoolhouse Road as well as the frontages on Mettlers Road. Mr. Hanes then went on to state that they had added any additional 301 trees to the site. He then explained that it included two (2) drawings, with the first one indicating the original 575 trees that they had proposed and was part of the original plan set. Mr. Hanes told the Board that the second page included the additional 301 trees that total 836 now.

Mr. Bernstein asked to let it show that a Board member had arrived, and they would share microphones.

Again, they then stated that the additional 301 trees were added primarily in the west buffer in the back side of the building, between the building of the pond as well as the frontages both on Mettlers and Schoolhouse Roads. Mr. Hanes then testified that the exhibit that was now on the board was an original exhibit, showing the existing landscape at the corner of Mettlers and Schoolhouse Roads, which they intend to retain, with the exception of some of the dead trees. He added that the next exhibit was what they were proposing to supplement that with, which showed the view in Year 1. He told the Board that there were a few additional trees being added, but that it was a relatively mature landscape on the corner at the moment. He moved on to the next exhibit, stating that it too was part of the original submission and shows the same

corner, at the intersection of Mettlers and Schoohouse Road, showing a view towards the east. Mr. Hanes indicated that they were looking at the existing vegetation that was intended to remain and described the location of the proposed building as behind the existing vegetation in the middle of the drawing to the right. Mr. Hanes then moved on to the next exhibit, which he indicated was also an original exhibit and part of the original plan set, showing Mettlers Road as it existed today. Moving on to the next exhibit, Mr. Hanes stated that it showed the landscaping that was proposed to include a combination of evergreen, deciduous shade trees, flower trees, shrubs, and prairie grasses. He then stated that there was berming in that area going from the building out toward the road, which remained the same. Mr. Hanes then described the proposed fencing in that area, a split rail fence, which was more decorative than noise reducing and more in keeping with the Scenic Corridor. He then went on to show the next exhibit showing what was seen at 10 years, placing the building to the right and not along that view. Mr. Hanes then moved on to the next exhibit, noting that it was part of the original plan set and showed an existing landscape with the building and the berm in the background. He added that this is what the building would look like with new additional landscaping being provided to the site. Mr. Hanes stated that the building would be a light green color, now having the entire building in that color whereas before it was going to be painted partially in that color. Moving on to the next exhibit, Mr. Hanes stated that it depicted what the landscaping that was proposed in Year 1. He indicated again that there would be a combination of evergreen, deciduous plant material works its way from the road up to the top of the berm. Mr. Hanes testified that very little of the building would show at Year 1, but that it was visible right now. Moving on to the next exhibit, which Mr. Hanes states was showing a new image with the additional trees and was marked into evidence as Exhibit A-4 from June 21, 2023. To make the record clear, Mr. Hanes stated that the original submission had a drawing that showed the proposed landscaping at Year 10, but also added that they had a similar image to the one showing on the screen that was minus the additional trees. He testified that as a result of comments again from Board members, the Applicant and Mr. Hanes decided to add additional trees at that location to provide further protection of the building in Year 10. Mr. Hanes indicated that the intention was for it not to be visible after the additional plantings. He then moved on to the next exhibit, stating that it showed what the site might look like in the winter from the same viewpoint as the previous exhibit. Since this was a new exhibit, Mr. Hanes entered it into the record as Exhibit A-5 with the same date of June 21, 2023. He explained how they utilized Photo Shop to create wintertime view in that area, to show that the deciduous trees would have lost their leaves and basically, the screening would be created by the evergreens, plantings, the berm, and the color of the building. Mr. Hanes noted that very little of the building would be visible in the wintertime, and that there may be a small corner just at the end of the parking lot there. He then moved on to the next exhibit that showed a view further south on Mettlers Road looking back towards the building and was part of the original plan set. Again, due to discussions at previous meetings, Mr. Hanes indicated that they enhanced the landscaping in this area and the next slide was brought up showing Year 1 with landscaping above and beyond what was in our original submission packet. He entered that as Exhibit A-6, June 21, 2023 into the record. Mr. Hanes then indicated to the Board the kind of plantings that were included and where they were placed to hide

the building. He indicated that they extended the planting off of the berm into the wetland buffer area with a combination of evergreen, deciduous shade trees and flowering trees. Mr. Hanes stated that he also prepared a view for the Board of the same location at Year 10. He entered that exhibit into the record as Exhibit A-7, with the same June 21, 2023 date. Mr. Hanes discussed that some of the trees would be planted in the vicinity of the wetlands buffers and that they would adhere to wherever these trees were allowed, working with the Township to relocate them out of whatever may be a prohibited area. Mr. Hanes moved on to the next exhibit, noting that it was in the original plan set, showing view again further south on Mettlers Road moving back to the north towards the building of the existing landscaping. He then added that he enhanced the landscaping at that location and was showing a view of Year 10 landscaping. He then entered it into the record as Exhibit A-8, dated June 21, 2023.

Mr. Bernstein interjected at that time, asking the public to please keep the talking down so that the testimony could be heard to be entered into the record.

Mr. Hanes then moved on to the next exhibit coming around to the Schoolhouse Road side showing the smaller building in the foreground, with proposing landscaping in Year 1. He noted that it was the original exhibit with enhanced landscaping shown along Schoolhouse Road and was entered into the record as Exhibit A-9. Again, Mr. Hanes stated that the trees along Schoolhouse Road were going to be a combination of evergreen and deciduous. He then added that the next exhibit would show that same view in Year 10 and was marked into evidence as Exhibit A-10, stating that that is what the building would look like from the road at that point. Mr. Hanes then went to the next exhibit showing the larger building at the entrance point with a Year 1 view of the landscaping. He entered this into the record as Exhibit A-11. He added that the next exhibit showed the same view at Year 10 and would be entered into the record as Exhibit A-12. Mr. Hanes then discussed the focus on Mettlers Road was to have a combination of both the deciduous and evergreens, using the evergreens as a screen through the 12 months of the year and then provide a native landscape of canopy trees and flowering trees. Mr. Hanes then showed the next exhibit, showing a view looking back towards the smaller building with Year 1 enhanced landscaping and entered into the record as Exhibit A-13. He entered into the record the Year 10 view at the same vantage point as Exhibit A-14. Mr. Hanes indicated that there was one more exhibit to study the light spillage and is a nighttime view taken along Mettlers Road about halfway down the property line and taken in the summertime showing the larger building. The exhibit was then entered into the record as Exhibit A-15.

Mr. Thomas commended the Applicant for probably one of the most enhanced landscaping proposals he has had a chance to review in any project. He asked whether there was going to be any provision for a schedule of maintenance so that the Board could have some reasonable expectation that the landscaping would grow to Year 10 maturity and not have to be replaced or be gone. Mr. Lanfrit then indicated that once the project was complete, there would be a maintenance bond that they would have to post to ensure that if any of the trees do not make it, they would have to replace them. He went on to explain that the second item whereby if trees were to be removed or die,

they would have to be replaced or they would be inconsistent with the Site Plan. He added that they would have to replace any trees even beyond Year 2, but that there would no longer be a maintenance bond after the second year. Mr. Thomas then chimed in stating that that was exactly what he was trying to prevent, especially if they would have to replace large amounts of landscaping after Year 2, then they would be starting over again, and it might take 30 years to get to Year 10 growth. Mr. Thomas stated that he wanted assurance that there would be someone connected with the Applicant, builder and the company or end-user who would be designated or in charge of following a procedure to make sure the landscaping survived and indicated that it would be a big part of any approval. Mr. Lanfrit stated that he was sure that they could produce a maintenance program and submit to the Township staff for their review. Mr. Thomas asked that they provide that maintenance program to the end user to follow for their compliance going forward. Mr. Lanfrit stated that they would put something together and provide it.

Chairman Orsini asked that the record show that Ms. Rafiq had arrived, and they needed to provide her with a microphone.

Mr. Bernstein, Special Council to the Planning Board, asked how detailed the landscaping plan would be on the Site Plan for the Township to be able to determine exactly what trees were being planted and where for the purposes of addressing the issue and the ultimate potential maintenance issues to know that they would be actually trying to replace tree for tree in the same or similar species. Mr. Lanfrit indicated that they did provide an exhibit and submitted it of the new Landscape Plan with all of the trees, so the Township had that already. Mr. Hanes testified that they provided a list of the types of trees and species being planted, so the Township also has that.

Chairman Orsini then asked if there was any irrigation or sprinkler system planned, and Mr. Hanes stated that there was none planned. The Chairman stated that the most important reason that trees fail is lack of water and felt that that issue needed to be addressed. Chairman Orsini then wanted to know the breakdown between evergreen or deciduous trees within the 301 extra trees. He noted that screening should happen year-round given the location of your Application and there was only one (1) exhibit with only a wintertime view and the rest with a summertime view. He wanted to know what the Applicant had done in terms of enhancing the evergreens as a proportion of those 301 trees. Mr. Hanes said he did not have a breakdown of evergreens within the 301 trees but noted that 30% of the 874 total trees on-site were going to be evergreens. A discussion ensued regarding the fact that the Chairman did not think that number was high enough and that they would like to see more evergreens to cover and screen the buildings year-round. The Chairman added that they made that same comment at the last meeting that there should at least be more evergreens up by the building and near the fence area and build out from that and put in some deciduous trees but have a fall-back layer of evergreen trees to screen the building year-round.

Mr. Thomas noted that there was a tree deficit and wanted to know what it was reduced down to, and Mr. Hanes stated that it was down to zero and that they were actually

providing three more than what was required. He added that there was no more tree deficit and that they were able to provide all the required trees on-site.

Mr. Shaban asked what was being shown in the cover photo. Mr. Hanes indicated that it was an aerial view for the site perspective from Schoolhouse Road and leaning toward the entrance. Mr. Shaban asked to flip to Exhibit A-8 because he felt that the building exposure was a lot different to him than other ones. He stated that it was his understanding that Exhibit A-8 was a Year 10 rendering, and he wanted to know what the Year 1 rendering look like for the same area. Mr. Hanes stated that he did not have a Year 1 rendering for that view. Mr. Shaban asked if there were ways to get more mature trees to start with and Mr. Hanes answered in the affirmative and that the trees that they were proposing for Year 1 drawings were what was required. Mr. Shaban asked whether more mature trees were being considered, and Mr. Hanes stated that they actually had three (3) of them that were planned to be more mature. He added that one was in the view corridor about which they were most worried. Mr. Shaban asked for clarification that they were only considering three (3) more mature trees out of 800+ trees that were being planted on-site and then asked for Mr. Hanes to flip to Exhibit A-9. Mr. Shaban asked if there were more deciduous trees that were added in that area and Mr. Hanes stated that there would be a combination of deciduous and evergreens. Mr. Shaban wanted to know if the same ratio was in place – 70 to 30, and Mr. Hanes answered in the affirmative. A discussion ensued as what that would look like in the wintertime and also what it would look like within 10 years. Mr. Hanes indicated that there would be less leaves on the trees in wintertime. Mr. Shaban asked to see A-13 and wanted to see the nighttime rendering and being concerned about light spillage onto neighboring properties.

Mr. Westhafer, the Architect, stated that anyone would see lights, but it was not spilling lights onto other properties. He added that the concept of light spillage would be the Applicant shedding foot candles across to the adjacent properties and that there would be no foot candles transmitted beyond the property line. Mr. Shaban said that Mr. Westhafer did a good job with Year 10 views, but wanted to know what it would look like at night at Year 1. Mr. Westhafer indicated that someone would see a little more of windows that were there. He said it was the side of the building that they have the clerestory windows. A discussion ensued with Mr. Shaban stating that they just don't seem to know, by looking at the renderings, and that was the point of the fact that a lot of this was speculation and shown in a way that showed the best case scenarios of summertime renderings with the one(1) nighttime rendering at Year 10 with no indication of what Year 1, Year 2, Year 3 looked like. Chairman Orsini concurred and wanted to see Year 10 in the wintertime view and include a high ratio of evergreen trees to screen as a year-round basis.

Ms. Rafiq asked why there were not planting more mature trees., and Mr. Lanfrit indicated that they were planting what was required according to the Township ordinance and also get into the situation where trees planted at a larger size may not survive. A discussion ensued regarding younger, smaller trees having a greater chance of survival during transplant and beyond than larger, more mature trees of all kinds. Ms.

Rafiq asked how they arrived at include three (3) larger trees and wanted to know if more of those could be included. Mr. Hanes stated that they could add more mature trees with a request from the Board.

Councilman Anbarasan asked about whether certain trees were spaced too close together where they might fail, and Mr. Hanes indicated that he felt that they were perfectly spaced.

Ms. Hilbert then opened a discussion regarding being planted within the wetlands accidentally. Mr. Hanes stated that they did not plan to plant any trees in the wetlands, but within the wetlands buffer and did not foresee any problems. Mr. Lanfrit stated that if there were any problem, they would work with the Township to relocate those trees if it were necessary.

Mr. Mazzei, Township (CME) Engineer, asked if they were using the tree calculation from Dynamic of 871 or the 1,041 total trees that included Christmas trees that were originally excluded. Mr. Hanes indicated that it was the Dynamic number of 871 trees they were using. Mr. Lanfrit indicated that the property was farmland assessed and had Christmas trees on it and were being sold for retail. He indicated that it was his opinion that those trees were exempt from the tree replacement ordinance. He added that if he were wrong, they would provide additional trees on-site or contribute to the Shade Tree Fund. He said that he would be working with staff to come to a resolution of that issue.

Mr. Shaban asked if the Christmas trees were the only difference in the two tree counts, and Mr. Mazzei answered in the affirmative. A discussion ensued, and the Chairman stated that he felt that the ordinance was silent on that issue and open to interpretation.

Mr. Shaban then asked for clarification about the three (3) mature trees being planted on-site in a strategic area that needed the coverage and that the owner requested a particular type of tree. Mr. Lanfrit stated that both statements were true. The reasoning for the screening with mature trees in one 1) area was that they felt it was a way to help screen from Mettlers Road and because part of the building was felt to sit up higher in that area and more exposed.

Ms. Hilbert brought up the previous discussed regarding deer eating the vegetation and wanted to know if they ever concluded about that. Mr. Hanes indicated that there would always be a problem with deer, but that they tried to select species that were less attractive to them and planting details we can protect the stems and the trunks of the tree from rubbish.

Seeing that there were no more Board questions, Chairman Orsini asked for a 10-minute break at that time. The meeting resumed at that time to allow Mr. Lieberman, Objector's Counsel, to cross examine the three witnesses on their new testimony. They would then allow the public to question the three (3) witnesses and their new testimony and go from there if there was time for Mr. Lieberman to put on his witnesses tonight or not.

Mr. Stewart Lieberman, Esq., of Lieberman, Blecher and Sinkevich, indicated that he represented the community members that had been identified previously. Mr. Lieberman started with Mr. Kavinski, the Applicant's Engineer. He first asked how many EV stations would be put on the site, and Mr. Kavinski answered by stating there would be four (4) EV charging stations. Mr. Lieberman then asked if they were going to be rapid charging stations or slow charging stations, and Mr. Kavinski stated that he did not know that answer. Mr. Lieberman then wanted to know if they were going to be Tesla or generic, and Mr. Kavinski stated that he did not know. Mr. Lieberman indicated that all Tesla stations no one would be able to use and if they are not rapid, they were rally not usable, so he asked for them to look into that situation and four (4) seemed pretty shy of what the number of them should be. He asked if they were for employees or public, and Mr. Kavinski answered that they were for the employees and not the public. Mr. Lieberman then asked if they knew the brand of the charging station, and Mr. Kavinski stated that he did not believe a brand had been chosen. Mr. Lieberman indicated that they should consider making them available to the public.

Mr. Lieberman then brought up the topic of sidewalks for pedestrians within the site and wanted to know if bikes could access them. Mr. Kavinski indicated that the walkway was wide enough for bikes to use, but that they had a bike lane available on Mettlers Road for that purpose as well as a bikeway across Mettlers Road as well.

Mr. Lieberman then asked Mr. Westhafer, Architect some questions related to the reductions of windows on Building A, and Mr. Westhafer pointed to the clerestory windows being cut in half only on the elevation facing Mettlers Road. Mr. Lieber asked why they were not doing all of the windows on that view, and Mr. Westhafer indicated that the windows chosen were the area that they understood to be the most sensitive to the audience related to light spillage. Mr. Westhafer indicated that they addressed the windows that were on the Mettlers Road side of the building that was of most concern and that the clerestory windows were a benefit to the occupants and the daylighting was good for the health of the employees, so they did not want to reduce them everywhere. He added that the lower elevation windows were for the office area and not the warehouse and they did not reduce the number of windows for that area. He added that those office windows were low and virtually not visible in most exposures and were not a concern for the Mettlers Road elevation.

Mr. Lieberman then addressed questions to the Landscape Architect, Mr. Hanes, first about the Christmas trees and when they stopped selling Christmas trees in that area. Mr. Lanfrit indicated that he had that answer. He stated that he believed they stopped selling the Christmas trees when the property was sold about two (2) years ago. Mr. Lieberman asked if anyone could verify that information as Mr. Lieberman thought it was about 10 years ago. Mr. Lanfrit stated that that information was not true because there were farmland assessments up until the time the property was sold. Mr. Lanfrit indicated that as part of the farmland assessment, you have to grow the trees and sell them as well to generate income and be on the form that was submitted to the Tax Assessor's office.

Mr. Healey then interjected and told Mr. Lieberman that the Planning Board did not decide the replacement requirement and there was language in the ordinance that says you do not include Christmas trees or trees that were cut down as far as nursery. He added that the Township Engineer had jurisdiction on that issue, and he is already opined that number is around 1,000, and the Applicant did not have any ability to appeal that through this Board or the Zoning Board either.

Mr. Lieberman then asked Mr. Hanes, Landscape Architect, whether the Applicant would be willing to put in more mature trees on the site as part of the replacement tree count. Mr. Hanes stated that they had not had that discussion with the Applicant. They then discussed the mature tree survival rate being good if the tree planting protocol was very carefully followed, and Mr. Hanes concurred with Mr. Lieberman on that. They then discussed the percentage of evergreens being planted as being 30% of the total trees to be planted on-site. Mr. Lieberman asked if they could increase that percentage to 50% or 60% evergreen so that there would be better visibility shielding. Mr. Hanes stated that he did not have that conversation and designed the project to what he thought was perfect. That being said, Mr. Hanes agreed with Mr. Lieberman about a higher percentage of evergreens being introduced into the mix. Mr. Lieberman then asked if someone could bring up Exhibit A-5, indicating that it was the view from Mettlers Road at 10 years. He asked where the same view was for Year 1. They mentioned that same view in the wintertime from Exhibit A-9 showing the landscaping from Mettlers Road at Year 1. He indicated that it looked really barren to the left side with a lot of lawn and not a lot of trees, bushes, or shrubs. Mr. Hanes stated that a question was asked earlier whether the trees showing on the A-9 exhibit were planted too closely together and he stated that the exhibit suggested that they were not and that they were perfectly spaced. He added that when the trees go in initially, they needed to have some intermittent growth. Mr. Lieberman then asked what the scale was on the rendering, and Mr. Hanes stated that it was a perspective rendering and that there were no scale to perspective renderings. Mr. Lieberman then stated that he was trying to get some perspective on how far apart the trees shown in the rendering were from each other. Mr. Hanes then stated that if he was talking about the younger, proposed trees that the largest spacing for some of the bigger planting trees that were spaced 20-24 ft. in the center, so approximately 24 ft. apart. They then discussed a protocol that landscape architects use in terms of planting distance, with Mr. Hanes noting that the planting distance depended upon the type of trees you are planting. The reasoning used in Exhibit A-9 for the spacing of the trees seen on that exhibit was that the overall size of the canopy determined spacing.

Mr. Lieberman then wanted to know how many feet of the building could be seen as you are on Mettlers Road, and Mr. Hanes was not able to tell him. Mr. Lieberman then asked how long it would take for the visual gap showing on Exhibit A-9 to close up and not be visible. Mr. Hanes did not know exactly but indicated that if the tree was growing at a normal rate, it might take 5-7 years to fill that gap. Mr. Lieberman then wanted to know the average mortality rate that Mr. Hanes might envision, and Mr. Hanes could not say and that there was no standard for that. He did indicate that there were certain

variables that might affect the mortality rate of newly planted trees such as time of planting, the way that they were dug, the way that they were transported and how they were planted and handled by the contractor, how long they were out of the ground and how much water they received. He added that maintenance was a key factor as well. Mr. Lieberman then asked who would be maintaining the trees, and Mr. Hanes stated it would be the owner, but did not know who would be hired to do the work and what their capabilities were. Mr. Hanes indicated that they would be responsible for temporary irrigation during the establishment of the plant material as well as maintenance of pruning and removing dead branches. He added that watering was typically done with a watering truck and that there was no plan to put in an irrigation system because the L.E.A.D Program went against it – to certify the overall sustainability of the building. Mr. Hanes added that the program only allowed temporary irrigation and suggested that native plant palates only be used so that over the long term it will not need irrigation. Mr. Hanes indicated that primarily all the plants being used were of the native plant palate. Mr. Lieberman then opened a discussion with Mr. Hanes regarding including more mature trees, and Mr. Hanes stated that mature trees grow slower so it was hard to say which would close the gap sooner.

Mr. Lieberman then utilized Exhibit A-15 to show the night view and what he saw as a haze in the picture that was over the tree line that he thought was from internal lights, and Mr. Hanes that his assumption that the rendering was pickup light from the lights in the building and, when questioned, didn't think that more mature trees would ever block out the haze that was seen in the night sky.

Mr. Lanfrit objected because there were ordinances which required them to get to zero-foot candles at the property line. He added that they have submitted a Lighting Plan and it showed zero-foot candles at the property line and that was their obligation. Chairman Orsini stated that Mr. Lieberman was simply asking about what was being seen in the exhibit, which he thought had been answered in that I depicted potentially the way the building's lighting would loo behind these trees in the sky.

Chairman Orsini gave the public an opportunity at that time to ask any questions of the three witnesses that just gave testimony. He did point out to the public that it was not the time for opinion or comments. Chairman Orsini made a motion to open the meeting to the public for questions, the motion was seconded, and all were in favor.

Mr. Vikram Bhargava, resident of Canal Walk, Somerset, NJ, came forward. Mr. Bhargava wanted to know when the first year of landscape growth would begin and how long would the construction period last. Chairman Orsini indicated that Mr. Bhargava's general questions were not questions for the three (3) witnesses that just gave testimony.

Mr. Healey again explained that the public was being given the opportunity at that time to cross-examine the witnesses who just gave testimony just like the Board and Mr. Lieberman did.

Ms. Kitty Stillufsen came forward. She indicated she wanted to ask a question about native plantings. She spoke about the lack of an irrigation system to maintain the plantings and the rationale given was because they were planting native plants and native trees. She discussed how even native plantings and native trees would need to be watered or they would die and wanted to know if there was a replanting program if they did. Mr. Hanes answered in the affirmative and indicated that there would be a guaranteed period of time where if a tree/plant died during that period the contractor would be responsible for replacing it. She then asked what the period of time was, and Mr. Hanes stated that it would be either a one (1)- or two (2)-year period. Chairman Orsini interjected that it would definitely be a two (2)-year minimum.

Ms. Evelyn Silverstein, 11 Hardenbergh Street, Canal Walk, Somerset, NJ. Ms. Silverstein asked to see the slide that showed the landscaping on Schoolhouse Road. Ms. Silverstein then asked if the plan included the designation of what type of tree would be planted where. Mr. Hanes answered in the affirmative. She questioned what type of trees would be planted in front of the building, and Mr. Hanes clarified that she would see deciduous trees planted in front of a row of evergreen trees in the winter. Ms. Silverstein asked to see the same slide in the winter view, but Mr. Hanes indicated he did not have that slide. Mr. Lanfrit indicated that there was an exhibit that was put in which showed all of the trees that they were planting. Mr. Hanes had the first slide brought up. Ms. Silverstein wanted to see the exhibit on the Schoolhouse Road view. She also asked the percentage of evergreens being planted versus deciduous that were planned for along Schoolhouse Road, and Mr. Hanes stated he did not have it broken down by Schoolhouse versus Mettlers. He again testified that the total number of evergreens was 30% of the overall number.

Ms. Shana Collidge, 2201 Jockey Hollow Trail, came forward and asked to show the slide that shows the pond. She was interested in seeing the trees that were being placed on the other side of the pond, which is the residential part of Lot 60. Mr. Lanfrit stated that their plan only showed what was being constructed on the site that was zoned B-I. Ms. Collidge wanted to know who would guarantee the thriving of the newly planted vegetation. Mr. Lanfrit indicated that they were obligated to have a maintenance bond for two (2) years after the Certificates of Occupancy were issued and have to comply with the Site Plan forever unless it is amended so that if a tree dies, the owner will still have the obligation to replace it even after the expiration of the bond period.

Chairman Orsini added that the public was not responsible for enforcement – it is the Township.

Mr. Jim Solomos, 7315 Minuteman Lane, Canal Walk, Somerset, NJ came forward. Mr. Solomos had questions about what consideration would be given to be protected from the noise and pollution. Mr. Westhafer stated that the siting of the buildings with the internal truck port which will have significant impact on reducing the noise from the loading area. The other protection he mentioned is that they had confirmed that there will be significantly less than the maximum allowable decibel level by a margin of about

20 percent from the rooftop mechanical units Chairman Orsini asked if there was a bill or law in NJ that required the back-up beeping of trucks had to be disabled, and Mr. Lanfrit indicated that there was no statute or local ordinance that he knows of that requires that, and Mr. Westhafer stated that he believed the beeping was an OSHA requirement

Dr. Chase stated that there was discussion among the Environmental Commission about two (2) alternatives to the beeping and one was some sort of white noise and the other is a strobe light and believed that the two (2) alternatives were OSHA approved.

Mr. Brian Levine, Priscilla Lane, Somerset, NJ came forward. Mr. Levine wanted to know if they would be able to see more of the light in the building during the winter months when it gets darker sooner than what was shown on the exhibit, and Mr. Hanes answered potentially you could. Mr. Levine wanted to know if all the trees would buffer the sound from the trucks to the warehouse. Mr. Hanes indicated that they might a little bit, but not significantly. He then asked if the trees would absorb the pollution from the idling or running trucks, and Mr. Hanes stated that yes, it potentially could. Mr. Levine then asked if the renderings were accurate or at least 90-95% accurate. Mr. Hanes indicated that he could not guarantee that. Mr. Levine then asked about tree replacement after the two (2)-year bond and Mr. Lanfrit indicated that the Township has recourse against the property owner after the two (2) years. Mr. Levine then asked if more mature trees could be planted, and Mr. Hanes indicated that it was possible. They discussed the owner's preferred tree being the Theodore Cedars. He then opened a discussion with Mr. Hanes about trees surviving without irrigation methods. Mr. Levine asked if two (2) wheelchairs or two (2) strollers pass each other on a 5 ft. wide sidewalk, and Mr. Kavinski stated that they could not, but that 5 ft. was what was required per ADA compliance,

Mr. Alex Strauss, 285 Hazlitt Way, Somerset, NJ, came forward. Mr. Strauss asked what would happen if the property was sold to another owner. Mr. Lanfrit stated that the approval runs with the land and the obligation for maintenance of the landscaping runs with the land no matter who owns the property. Mr. Strauss then asked Mr. Kavinski about his report on page 12. Mr. Lanfrit stopped him by objecting because the questions that were to be asked that evening revolved around the testimony given that evening not from a previous meeting. Mr. Bernstein stated that they should let Mr. Strauss ask his question and then decide whether there might be an objection.

Mr. Strauss referred to Mr. Kavinski's environmental report and say that the project did not involve the displacement of viable farmland and yet everyone has heard about the Christmas trees on the property. Mr. Bernstein allowed the question. Mr. Kavinski indicated that the viable farmland – Christmas trees – as part of the development were not included in the calculation for the tree replacement calculations; however, the proposed development did disturb the previous Christmas tree location and they are being disturbed.

Mr. Brad Ferenzz, 95 Saratoga, Somerset, NJ. Mr. Ferenzz indicated that he enjoyed the rendering of the evening picture, but that there were no trucks in the picture. He was wondering if it was their understanding that the building was going to guarantee that there will be no trucks at night regardless of the noise ordinance. Mr. Lanfrit stated that there was a truck prohibition right now on Mettlers Road, which had nothing to do with the Application that was before the Board that evening. Mr. Ferenzz stated that it had quite a lot to do with the Application because they were showing the public that there would not be lighting disturbances and they were being told that there would be no noise pollution, and he wanted to know if there would be a restriction that there would be no night trucking. He wanted to know if they had any renderings of what that might look like if night trucking was allowed. Mr. Lanfrit repeated himself about the truck prohibition on Mettlers Road and that no trucks were permitted on Schoolhouse south of the subject property that still existed today.

Mr. Healey then asked Mr. Ferenzz to clarify his questioning, which he did saying that the renderings showed no truck or vehicle traffic on Mettlers Road or on the driveway into the property.

Mr. Ferenzz then asked about what he heard that evening of roof-top air conditioning units that might contribute to the noise pollution. Mr. Westhafer stated that there was a split system above the office (3,000 sq. ft. space) along with heating and ventilation units on the warehouse portion, all of which were well under the ordinance limits percent. He had a discussion regarding the roof-top units and their uninsulated sound. Mr. Westhafer stated again that the noise from the units were all well under the ordinance limits. Mr. Ferenzz then asked again for the length of the bond and Mr. Lanfrit stated that there was a two(2)-year bond per Township ordinance. He then drew Mr. Kavinski's attention to what he heard earlier about a pond being located on the property, and he answered in the affirmative about the inclusion of a pond on the property. Mr. Ferenzz wanted to know if there would be irrigation to avoid any standing water, and Mr. Kavinski stated it was an existing pond with no changes proposed to it.

Mr. Joseph Danielsen, 49 Marcy Street, Somerset, NJ, came forward. Mr. Danielsen wanted to see the colorized aerial exhibit. Mr. Danielsen opened a discussion about a driveway that appears to be on the western side of the building and on the southern end. He wanted to know how wide the driveway was, and Mr. Kavinski stated it was a 24 ft. wide driveway. He then wanted to know what the green objects were west of the building, south of the building and north of the building. Mr. Kavinski indicated that they were all trees. Mr. Danielsen wanted to know if they were an accurate representation of what those trees would look like, and Mr. Kavinski indicated that it was the canopy from the Landscape Architect Plan. Mr. Danielsen wanted to know at what age those trees were because he had never seen trees look so overcovered like a grass lawn. Mr. Hanes attempted to answer his question, but Mr. Danielsen did not want to hear about industry standard but at what age was maturity. Mr. Hanes indicated that they tended to show trees at two-thirds of their maturity size. He added that he could not estimate the age. Mr. Hanes stated that he was showing the trees, the canopy, the big ones at 24 ft.

There was back and forth between Mr. Danielsen, Chairman Orsini and Mr. Hanes and felt he was not getting an answer to his question.

Mr. Shaban asked if what they were looking at in the aerial was a Year 1 or Year 10 view, and Mr. Hanes indicated that it might be a 15- to 20- year view. Mr. Danielsen indicated that he felt he was dealing with a hostile witness and Chairman Orsini described the interaction as an uncooperative one. Mr. Hanes stated that it was not an easy question to answer because it was not easy to project growth rate when a tree is older.

Mr. Danielsen asked at what angle was the point of view of the image to the building. Mr. Lieberman asked for the slide to be identified before they go on. Mr. Lanfrit stated that it was in the original submission and was Year 10 before the enhanced landscaping was added. Mr. Hanes stated that on the Key Plan on the bottom right-hand corner, the arrows indicate the direction of the view. Mr. Hanes stated that they would call it 15 degrees from perpendicular. They looked at a few slides and Mr. Hanes indicated that it was from the same angle. He asked them to go forward to a different slide, and Mr. Hanes stated that that one was 25 degrees perpendicular. Mr. Danielsen then asked what the position of the virtual viewer or more possibly the position of the camera. Mr. Hanes stated that the position was indicated with a red arrow in the lower right-hand corner and the dot would be the position of the camera in the middle of Mettlers Road. So, Mr. Danielsen got some clarification from Mr. Hanes that it appeared to demonstrate what it would look like to an average person who is standing in the middle of the street. Mr. Hanes agreed with that assessment. Mr. Danielsen then asked if there was a reason why they were not providing a photo at zero degrees perpendicular to the building where someone would not be looking through so many trees. Mr. Hanes said that the view was the one they thought projected the project. Mr. Danielsen then asked if there was an angle that a person could exist on the road, on the sidewalk or in the homes of Canal Walk where it would be zero degrees and they could see that building for that angle of view. Mr. Hanes answered in the affirmative. Mr. Danielsen then asked if it was correct that they did not choose to provide them and Mr. Hanes in the affirmative. Mr. Danielsen then asked if there was a reason why he was intentionally omitting those opportunities of view. Mr. Hanes stated that they were trying to portray convey the experience of someone travelling down the street. Mr. Danielsen asked Mr. Hanes that if he were travelling down the street, at some point would not he be perpendicular to the building and Mr. Hanes answered in the affirmative. Mr. Danielsen then asked if Mr. Hanes had intentionally omitted that, but Mr. Hanes stated that he did not do that intentionally, but that they just made a different choice. Then Mr. Danielsen asked Mr. Hanes if he could have provided that view, and Mr. Hanes answered in the affirmative. Mr. Danielsen questioned Mr. Hanes about the view angle of the photo up on the screen and Mr. Hanes questioned what he meant. Mr. Danielsen asked if he knew what type of lens was used to take the photo, and he responded that he did not. Mr. Danielsen's questioning regarding the angle of view was met with Mr. Hanes stating that he did not know the angle. He further questioned Mr. Hanes asking if that by providing the photos, it would be to provide the public and the Board a fair representation of what the view would be. Mr. Hanes answered in the affirmative. Mr.

Danielsen continued his questioning of Mr. Hanes regarding the view angle of the human eye, with Mr. Hanes not knowing what the number would be. Mr. Danielsen posed another question to Mr. Hanes wondering if someone stood in the middle of the street looking at a warehouse, would they be able to see more to the left and right using just their naked eye. Again, Mr. Hanes did not know, but stated potentially, yes. In their continuing discussion, it came out that Mr. Hanes did not take the photo they were looking at and that it was stated by Mr. Hanes that it might have been a cropped photo. Mr. Danielsen then asked if he had provided any real photos of real warehouses that were 10 years or older with screening within the Application to give everyone an example of what it would look like. Mr. Lanfrit interjected that they had not and was not a requirement on the Township's checklist. Mr. Danielsen said he was not discussing the requirements and asked why they did not provide a real photo of a real warehouse with real screening to give us an example of what it looked like. He told Mr. Lanfrit that the question that was posed to Mr. Hanes was why the Applicant's witness had not given the Board and public a real photo with honest perspectives of a human that knows what it should look like with their two human eyes. Mr. Lanfrit indicated that his witness indicated that he provided what he thought was an accurate depiction of the views of that building at various times and at various stages during the development of the site. Mr. Danielsen then repeated what Mr. Hanes did tell him was that the accurate view he was talking about was taken with a camera that's been cropped and not what it would look like with human eyes. Mr. Lanfrit came back with the statement that Mr. Hanes answered the questions. Mr. Danielsen stated that Mr. Lanfrit was answering questions all night long so he must be a witness and wondered whether Mr. Bernstein, Special Planning Board Counsel put Mr. Lanfrit under oath and he replied that Mr. Lanfrit was sworn in, but the answer is "no" he doesn't have to be sworn because he is an officer of the court. Mr. Bernstein told Mr. Danielsen that Mr. Lanfrit was not giving testimony and that it was representation. Mr. Danielsen indicated that he sat on the Planning Board with a few of the members here that evening and heard Mr. Lanfrit represent many, many applications. He then said he would like to ask Mr. Lanfrit if he could give him an address in Franklin Township that can represent the buffering and be similar to what they are representing in the night's Application that looked similar with all the quality buffering. Mr. Danielsen stated that he would not provide it because he felt that it would not exist.

Mr. Danielsen then opened a discussion with Mr. Westhafer, who told him he was the Site Architect. Mr. Danielsen then asked him if he had the expertise to talk about lights, and Mr. Westhafer testified that his office collaborated with the Landscape Architects in preparing the exhibits. Mr. Westhafer asked if there was a lighting question he could answer for Mr. Danielsen. Mr. Danielsen then had a discussion with Mr. Westhafer regarding "light spillage" which was mentioned earlier in Mr. Westhafer's testimony. Mr. Westhafer then told Mr. Danielsen that the definition of "light spillover" was if the lighting showed foot candles beyond their property line, and that would be considered light spilling over onto an adjacent property. Mr. Danielsen then asked all of the witnesses if they had provided any photos that showed a zero-angle shot after one (1) year and daylight hours during the winter months. Mr. Hanes testified that none of them have presented anything that described that. Mr. Danielsen then asked if they intentionally

omitted that view and Mr. Lanfrit objected. Mr. Bernstein indicated that the Applicant had chosen not to provide to the Board at this time a rendering that would show what he indicated could be shown. Mr. Danielsen wanted to know why he did not have to answer why he omitted those facts, and Mr. Bernstein stated that if he omitted it, he would live and die by the omission. Mr. Danielsen then asked Mr. Hanes again why he had not provided a photo that showed the zero-angle shot after Year 1 during daylight hours during the winter months. Mr. Hanes, once again, told Mr. Danielsen that they just chose different views that they believed characterized the entire project.

Mr. Danielsen asked Mr. Hanes if it was fair to say that he only showed views that were beneficial to the Applicant and not derogatory or laying heavy on the Application for approval. Mr. Hanes answered in the negative.

Mr. Danielsen then wanted to speak to a qualified witness that evening regarding the Scenic Corridor. Chairman Orsini indicated that they were only limiting questions that evening that related to the testimony given by the witnesses on that night. He added that Mr. Danielsen would have an opportunity in the final question/answer section of the process.

Mr. Danielsen, once again, asked the same question of Mr. Hanes as to why they did not provide an image, virtual or real, of the light pollution at a zero angle from the middle of the road or from a position of the homes in Canal Walk. Mr. Lanfrit objected, and Chairman Orsini sustained because they had all heard the testimony multiple times and it was by ordinance that they cannot have light spillage beyond their property lines. The Chairman also added that the Township Engineering Dept. reviewed their plans and have stated that they do not have a single foot candle go beyond their property line. Mr. Danielsen then withdrew the question.

Mr. Danielsen then asked for the exhibit that showed a night image to be brought up. Mr. Bernstein stated that the Exhibit was A-15, and Mr. Danielsen wanted to know what the purpose of presenting that image was and what was its value. Mr. Lanfrit indicated that the Board, at the previous hearing or two asked them to present that and that is why it was prepared. Mr. Danielsen, once again, took notice that Mr. Lanfrit was answering as if he were a witness, and Mr. Bernstein stated that he was indicating what the basis of the proposed purpose was. Chairman Orsini told Mr. Danielsen that the Applicant's attorney can respond to a question like that because it did not require a licensed professional to tell you why they presented the exhibit. Mr. Bernstein repeated the question for Mr. Westhafer, the Architect, Mr. Danielsen took offense wanting Mr. Westhafer's voice on the record, which it would be when providing his answer according to Mr. Bernstein. He repeated the question as follows, why was the image picked and what was the basis of creating it. Mr. Westhafer answered that it was the same orientation as the day images, so they had to prepare some night and day from the same perspective. Mr. Bernstein then asked if it was without having angles and was 25 percent from the road. Mr. Danielsen corrected him by stating that it was a 25-degree angle. Mr. Bernstein then asked if it was the angle from the road at night at some point

in the summer based on landscaping Year 10. Mr. Westhafer answered in the affirmative.

Mr. Danielsen then asked if it was fair to say that the perspective, the point of view in this is for someone standing in the middle of the road? Mr. Westhafer stated that he thought it was more accurate to say that it is someone driving down the road. Mr. Danielsen then asked Mr. Westhafer if he could have provided this nighttime to of someone walking on the sidewalk or from the point of view of the homes of Canal Walk, and Mr. Westhafer answered in the affirmative and that they could portray any number of images and view points.

The Chairman told Mr. Danielsen that he did not know if anyone else wanted to come up and that he had been speaking for 20-25 minutes already and they did not need to hear again why they chose certain exhibits and certain angles – its just what they chose to show the Board and public.

Mr. Danielsen was asking the same questions of the night view as the day views; The Chairman indicated the same and stated that they did not have to go through what was already covered.

Mr. Danielsen then asked if a similar photo was taken differing from the same point on the ground but at a zero angle, would you see more light on this property compared to this angle that's obscured by more trees He added to that by saying was it fair to say that you would see more light at a zero angle, i.e., from the point of the view of the beautiful homes of Canal Walk. Mr. Westhafer said that there were virtually an unlimited number of views that could be shown, so he did not think he could answer Mr. Danielsen's question. Mr. Westhafer indicated that some would show more, and some would show less and that they would have to evaluate every shot to know that answer.

Mr. Arnold Schmidt, 134 Hickory Road, Somerset, NJ, came forward. Mr. Schmidt brought up the topic of noise, and he was wondering if the Applicant was planning to have a noise expert to testify so that they could ask questions about the environmental impact statement in the EIS report. Mr. Lanfrit stated that there was no requirement for them to submit a noise study and they were not proposing to submit any testimony by a noise expert. He went on to state that the Architect has testified based on his design of the building, his opinion as to noise, and so they will not be calling a noise expert to testify at that juncture. Mr. Schmidt asked how he could ask questions of a noise expert if there was not going to be one present at the meeting.

Chairman Orsini indicated that the Applicant was testifying that they believed they will stay within the Township's noise ordinance, given there was buffering and the equipment on the roof , and assumed that was so because there has to be by ordinance. He added that the Applicant was stipulating that by lack of a presentation, they were not going to generate more noise at their property line than what the Township ordinance would tolerate.

Mr. Schmidt indicated that his concern was that they would be generating noises into the residential property lines. Chairman Orsini stated that they were maintaining that their buffering and their landscaping and their screening of mechanical equipment on the roof is going to mitigate that. Mr. Schmidt stated that one of the witnesses that evening stated that he could not say whether the buffering, the trees, the plants that were there was going to be enough to buffer the noise.

Mr. Westhafer wanted to make one clarification by stating that they were not screening the units, but that they calculate the noise emission based upon the noise output of the units and this distance and confirmed that it would be below the ordinance maximum. Chairman Orsini then indicated that as a Board, they could ask the Applicant to screen the units and he indicated he thought they would.

Mr. Schmidt brought up again the topic of the noise from the trucks on-site and the noise from the back-up beepers on-site. The Chairman stated that he could ask those questions, but none of the witnesses here that evening would have testified to any of those issues because they were not certified noise experts. Chairman Orsini then mentioned that Mr. Lieberman planned to put on a noise expert, but that they were just about done tonight once the public testimony was over. He also indicated that the Applicant was not required to bring forth a noise expert.

Mr. Schmidt asked whether a noise expert wrote or prepared that part of the EIS study and was there a noise part of the EIS. Mr. Lanfrit stated that the EIS was prepared by Dynamic Engineering and signed by Mr. Kavinski. He went on to state that Mr. Kavinski received input from various other parties in his company or outside his company. Mr. Lieberman objected and stated that he thought the witness had to state that fact, so the Chairman asked that Mr. Kavinski, Site Engineer, answered that question directly.

Mr. Kavinski indicated that they were providing mitigation for noise. He added that the building that they were providing truck support for was located to block the loading dock from both sides. Mr. Schmidt stated that he did not answer his question, which was "was there a noise expert involved in writing the noise portion of your EIS?" Mr. Kavinski indicated that the noise expert was not involved.

Mr. Bernstein, Special Counsel to the Board, indicated that the Township code did not require they provide a noise expert now. He added again that Mr. Lieberman, apparently was going to call at some point, a noise expert. He added that it was also well within the purview of the Board to ask for a noise expert, either generated by the Board's Engineering office or another party, for which we can ask the Applicant to potentially pay. Mr. Bernstein then stated that the Applicant was relying on the EIS they submitted, and the testimony was that they have not consulted with a noise expert relative to the statements made in the EIS. He added that it was then up to the Board to decide what weight or lack of weight they wish to put on that report.

Mr. Schmidt indicated that he was not satisfied with the first submission of their EIS report as he felt it was severely lacking. He then noted that the second report had quite

a bit more information, but it really did not tell anything about how the noise was going to impact the residents surrounding the property, just about the noise on the subject property. Mr. Schmidt told the Board and public that he was a Certified Noise Enforcement Officer for 30 years and he felt it would be nice if the Board ask the Applicant to have a noise expert come to a hearing to testify and be questioned.

Mr. Bernstein indicated that his office would consult with an internal Township individual and will discuss it with the Chairman. He added that it may also be impacted based on what Mr. Lieberman provided to the Board.

Mr. Schmidt reminded the Board and Application that if back-up beepers were disabled and OSHA found out about it, they would likely be fined. He then discussed the idea Dr. Chase mentioned regarding OSHA approved strobe lights that could replace back-up beepers in some applications.

Seeing no one else coming forward from the public, he made a motion to close the public portion of the meeting. Mr. Shaban seconded the motion, and all were in favor.

Mr. Bernstein asked Mr. Lanfrit if he was planning to present any additional witnesses, and he answered in the negative. He did, however, reserve the right to call additional witnesses on rebuttal and mentioned that he had at least one (1) rebuttal witness and may have more than one (1). Secondly, Mr. Bernstein indicated that for purposes of the record, Mr. Lieberman's office asked late last Friday afternoon, June 30th, sent his office a letter indicating that based on the change of the EIS, of the Environmental Impact statement, that the Application should be deemed incomplete as it is in violation of Township Code Section 119-199F7. Mr. Bernstein went on further to state that he asked Mr. Lieberman to provide his office, Mr. Lanfrit's office and the Township Planning Department a response to explain Mr. Gand's letter, which he stated he received that opinion early on July 4th and reviewed the statements in it. He then indicated that Mr. Lieberman was recommending that we have a rolling incompleteness. Mr. Bernstein went on to explain that the completeness never really ended for the purposes of the time of application because at any point along the way, if an applicant made a change in exhibits submitted, or the like, that will, therefore, deem the application incomplete. He added that Mr. Gand decided to go forward and say the application is, therefore, incomplete, and based upon the Township's recent ordinance, which defined there will no longer be any warehouse that, therefore, this application should be dismissed because they can no longer have warehousing. Mr. Bernstein then stated that it was his opinion that there was no such thing as a rolling completeness in the law. He told the Board and public that if Mr. Lieberman's office would like to try again to get it included in the law, there were options available to him at the appropriate time and the appropriate place. However, he further stated, that it was well within the Board's purview, based upon the representation by the Site Engineer at the last hearing, not this one, but the prior one, in which the information regarding the EIS was removed to either seek additional information related to the EIS and that information, or in making this determination, deal with the fact that the EIS is in the manner in which it is. Continuing, Mr. Bernstein stated that it was now within the

purview of the Board what they want to do or not want to do. Mr. Bernstein then stated that it was a rhetorical question for tonight, but that he wanted Mr. Lieberman and his office to be aware that it was his (Mr. Bernstein) office's determination that the matter was not deemed incomplete and that the matter was going to go forward for purposes of completeness. Additionally, Mr. Bernstein indicated that it did not mean that the issue of the EIS was resolved either.

Mr. Bernstein indicated that they would be back on Wednesday, July 19th, 2023 and the matter will go forward subject to all comments he made.

Chairman Orsini then told the Board and the public that on July 19th, they would start with Mr. Lieberman's witnesses. Mr. Healey, at that point, interjected that it would be held at the same time and same location as that evening. Mr. Bernstein then asked Mr. Lieberman if all his expert's reports were submitted. Mr. Lieberman answered in the affirmative, that he believed that they were and that he thought they had a large number of them. Bernstein then told Mr. Lieberman that any report not in by July 9, 2023 would not be considered or reviewed by the Board. Mr. Lieberman indicated that they will be in.

Dr. Chase then asked about the applications that were postponed twice. Ms. Woodbury indicated that the Planning Board would be having a special meeting on July 26, 2023 in the Township Council Chambers for any applications that we have had to move forward because of the subject meeting. Chairman Orsini added that in Christine's absence, she sent out an e-mail out asking the Board to attest. Chairman Orsini indicated that he would be there on July 26th. Ms. Woodbury then addressed the Board, stating that it was especially important for all members to let her know if they were not going to be able to be at the meeting on July 26th to make sure they had a quorum. Mr. Shaban indicated that he would not be able to attend that meeting. The Chairman stated that Board members could let Ms. Woodbury know if they were available for that meeting by e-mail.

Mr. Healey then announced, to be clear, that the continuation of the B9 hearing that night would be held on July 19th at 7:30 p.m. in the same location they were holding the meeting that evening.

Mr. Bernstein then made a motion to continue the subject Application to July 19, 2023 at 7:30 p.m. and would be heard without further notification required. Chairman Orsini seconded the motion, and all were in favor.

The meeting was **CARRIED TO JULY 19, 2023 at 7:30 p.m. here at the Board of Education School Building, 2301 State Route 27, Building 1, Somerset, NJ, – with no further notification required.**

DL - 7/31/2023

COMMITTEE REPORTS:

There were 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 10:33 p.m., and Ms. Rafiq seconded the motion. All were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
September 1, 2023