

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

**SPECIAL MEETING  
July 26, 2023**

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

**PRESENT:** Councilman Anbarasan, Theodore Chase, Jennifer Rangnow, Charles Brown, Robert Thomas, Meher Rafiq, and Chairman Orsini

**ABSENT:** Erika Inocencio, Sami Shaban, Mustapha Mansaray and Rebecca Hilbert

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

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**PUBLIC COMMENTS:**

Chairman Orsini then made a motion to open the meeting to the public for General Planning discussion, not related to the hearings that will be heard that evening, including EWA Somerset 400 Owner and The Jain Center of New Jersey, which would have their own separate public openings. Mr. Thomas seconded the motion, and all were in favor.

Ms. Debbie Stewart, 2 Farrington Plaza, Somerset, NJ, came forward. Ms. Stewart came to that night's meeting in order to make the Board aware of the issue with microphones and being able to hear the testimony given at the Board of Education building on Rte. 27. She then asked if there was anything they could do to get better microphones at that location, it would be very much appreciated. She then spoke about cross examination by the attorneys and public comment sections of the hearing at the Board of Education meeting. She wanted the Board to know that she felt that a lot of the line of questioning was repetitive, out of line, and became a mockery of the system. She then discussed the purposes of Zoning and Planning to allow cities to rationally plan to avoid ugly spillover into residential and other areas and where one person's activity was not supposed to have a negative affect upon another person's property.

Seeing no one else coming forward, Chairman Orsini made a motion to close the public portion. Vice Chair Brown seconded the motion, and all were in favor.

## HEARINGS:

- **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 AUGUST 2, 2023 – with no further notification required.**

**DL – 08/30/2023**

Mr. Thomas indicated that he had sat on three (3) or four (4) Applications with the following Applicant for approvals for different things, including the original one when the building was built. He told the Board that the site had an original condition attached to its original approval that the driveway had to be realigned or lined up with the driveway that was across the street coming out of the shopping center. He stated that it currently is still misaligned and that he had spoken to Mr. Lanfrit, who has represented The Jain Center of New Jersey, and was well aware of the situation. He then added that it had been mentioned again and had come up in some of the hearings, but nothing ever happened. Mr. Thomas then had a conversation with Mr. DeLuca who was representing the Applicant that evening, about whether they would be asking for relief from the original condition that had never been satisfied. He then discussed the history that the Board had with the Applicant, noting they got original approval for the building, clear cut the property of all trees from the entire 8–9-acre site within 48 hours, and then the land stayed vacant for four (4) – five (5) years before anything was built. Mr. Thomas also added that the Applicant had a pending approval for solar panels that was years old. He asked if they should get approval for the proposed project that was before the Board that evening if they would start the project right away and work on it continually to completion. Mr. DeLuca testified that they would formally ask for relief from the original condition to align the driveway with the one across the street and they were there that evening to speak to that. He stated that he would also, as their legal counsel, strongly encourage the completion of the proposed project. Mr. DeLuca also stated that they were there that evening to seek Preliminary & Final Site Plan approval as well as three (3) sign variances.

Chairman Orsini then pointed out that there may be an issue with notification and asked if they noticed for the three (3) sign variances. Mr. DeLuca indicated that they did notice for the sign variances and believed their notice included a catch-all phrase indicating that they were requesting all other necessary relief. He then stated that he would think that relief from a condition would be covered under that statement since they were now going to ask for relief for an original condition to align the driveway.

Mr. Clarkin, Board Attorney, then stated that Municipal Land Use Law (MLUL) required that if an applicant requested relief from a condition in which the Board deemed to be significant, then that relief for the condition must have been in the notice prior to the hearing. He said that now the Board must decide, in their opinion, whether or not they believe the condition was significant and if the Board did deem it to be significant, then they cannot hear their Application that evening. He went on to state that if the Board didn't deem it significant, then they could proceed.

A discussion ensued among the Board, and Chairman Orsini stated that since it was an original condition that was never taken care of, he believed that the alignment of the two (2) driveways was significant and should be noticed. He said that there might be people who live on Cedar Grove Lane and elsewhere that might like to see those driveways aligned and that he would like to have the opportunity to review the Applicant's reasoning for why they were seeking the relief and would want that to be noticed. The Chairman indicated that Somerset County might want to weigh in on the subject since Cedar Grove Lane was a County road, and Mr. Clarkin stated that they might also need to do a Traffic Study.

Mr. Clarkin then indicated that the Board agreed that the condition was significant and that the Board did not have jurisdiction because the notice was incomplete. A discussion ensued, and Mr. DeLuca indicated that the message was heard.

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

Mr. John DeLuca, Esq., Attorney, appeared before the Board on behalf of the Applicant, The Jain Center of New Jersey. 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 DATE TO BE DETERMINED –with notification required.**

**DL - 08/24/2023**

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

Ms. Jennifer Porter, Esq., Attorney, appeared before the Board on behalf of the Applicant, EWA Somerset 400 Owner, LLC. She stated that they were there before the Board to obtain 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 26, 2023 – with no further notification required.**

Ms. Porter gave all the information to prove proper notification was made for this hearing. She went on to state that the Applicant was prepared to demolish the existing improvements that were just under 350,000 sq. ft. of office space and over 1,500 parking spaces on a nearly 28-acre property. She added that the Applicant was prepared to consolidate the two (2) development lots and construct two (2) warehouse buildings. She then told the Board that the first warehouse building would be approximately 255,000 sq. ft., with two (2) potential office areas, and the second building would be approximately 115,000 sq. ft., also with two (2) potential office areas. Ms. Porter then added that the property would include , collectively, 250 parking spaces, 76 loading berths, 17 trailer parking spaces, and various other site amenities which would be described in detail during the testimony that evening. Also included would be a fire lane, lighting, and landscaping modifications to the emergency services through connection at Napoleon Court, and modifications to Atrium Drive, which was an existing, private roadway.

Ms. Porter then testified that warehouses were no longer permitted in the Business & Industry (B-I) Zone, their application was deemed complete prior to the effective dates of the two (2) Township Ordinances (437122 and 439122). She indicated that the Township agreed that those ordinances did not apply to the subject Application, so the use was permitted as of right, pursuant to the subject application and the zoning requirements in effect at the time of application, including specifically the 2020 Zoning Amendments relating to the B-I Zone and the related Master Plan Amendments that created the B-I Zone would apply.

Ms. Porter then enumerated the Variances being sought that evening:

- Front Yard (Parking) Setback: 50 ft. minimum required – Building B – 33 ft. proposed (Atrium Drive Extension)
- Loading Berth Depth: 147 ft. required – 135 ft. (Building A) and 130 ft. (Building B) proposed
- Width of Proposed Driveway Between Warehouses: Maximum 36 ft. required, and 39 ft. proposed to match the existing roadway of Atrium Drive

Ms. Porter then indicated that they would also be requesting some design waiver relief that would be discussed during the testimony. She then told the Board that the project had evolved significantly over the course of the past several months and had several meetings with the Township staff and engaged in significant discussions in terms of the design of the site. She then stated that originally, they were seeking a variance for

impervious coverage, but had reduced the size of the buildings to come into compliance related to that. Ms. Porter added that the Applicant had removed all parking from the front yard, with the exception of the limited number of spaces which were in front of Building B which fronted on the Atrium Drive Extension. Essentially, it fronted more like a driveway than a road and increased the setback at that location as well from 11 ft. to 33 ft. She went on to state that among the significant benefits of the proposed development was the allowance of the redevelopment of vacant office buildings and underutilized property in an area of the Township that was well-suited for the proposed use. She described the location as being appropriately placed along a private drive, with direct access to Davidson Avenue, with the site adjoining Route 287 at its northerly end and in direct proximity to Route 287, a regional transportation corridor, and consistent with the purposes of the B-I Zone. Ms. Porter went on to state that the property was surrounded by commercial and industrial developments, including light industrial and other warehouse development, and was not located adjacent to or near nor was any access proposed through any residential areas. She then discussed the landscaping and lighting plans around attractively designed buildings and would include EV charging stations, rooftop solar, a fire lane, and bike storage. She then discussed the Applicant, Woodmont Industrial Partners, who were partnering with Evawest in connection with the development of the site and were an affiliate of the New Jersey based Woodmont Properties, a leading national real estate company established in New Jersey in 1963.

Mr. Craig Stires, Site Engineer and Principal of Stires Associates, came forward and was sworn in. The Board accepted his qualifications. Mr. Stires then discussed the existing conditions on the property and then about the key features of the Site Plan. He showed an aerial rendering of the site and surrounding areas to locate the property for the Board members and entered it into the record as Exhibit A-1. He reiterated the testimony given by Ms. Porter related to the office building and parking that was currently on the property and discussed the two (2) wet basins in the front of the property. Additionally, he drew the Board's attention to the vacant lot (Lot 21.14) at the northern portion of the property that had been undeveloped since 1982. He indicated that they received approval for the Hampton Inn. Mr. Stires then spoke about the subdivision (Atrium at Somerset) that created Atrium Drive and noted that there were four (4) more detention basins that were designed, approved, and constructed as part of the overall subdivision development to cover 55% of all of the lots.

Mr. Stires then drew the Board's attention to the proposed conditions and entered into the record as Exhibit A-2, with the plan being that they would consolidate Lots 21.06 and 21.14 into one lot along with demolition of the existing office building and 1,500 parking spaces. He then testified that these would be replaced with a 255,000 sq. ft. warehouse and a 115,600 sq. ft. warehouse and would comply with the impervious coverage after a couple of iterations of the plans. He noted that the larger building would have 176 parking spaces to include 6 ADA parking spaces and 8 EV parking spaces, 44 loading docks and 17 tractor trailer parking spaces. He then detailed that the smaller building would have 83 parking spaces, 4 ADA parking spaces, 4 EV spaces and 32 loading berths. He then spoke about the Landscaping Plan and noted that they have a total of 194 trees required, and 117 proposed, but would work with Mr. Healey,

should the Application be approved, to get that to a total of 194 trees at a minimum and 700 shrubs and another 42 trees in the proposed basin as well as over 12,000 plugs of grasses at the bottom of the basin.

He then detailed the variances, stating that they required a variance for having 30 parking spaces in the front of the smaller building, but front on Atrium Drive extension which was part of the subdivision of the overall tract. With the consolidation of the two building lots, Mr. Stires stated that Atrium Drive extension was really becoming more of a driveway.

Mr. Stires indicated that there would be significant plantings in the Landscape Plan for the proposed development as there was also the same on the Hampton Inn site that was in the process of being constructed in front of the smaller building and in front of the 30 parking spaces.

Mr. Stires stated that they were also asking for a variance for the truck court, where the ordinance required 147 ft. berth depth for a WB-67, and they were proposing 135 ft. berth depth for the larger building and 130 ft. for the smaller building. Mr. Stires stated that the Township Engineer did not have any issues with the waiver of those distances.

Mr. Stires then indicated that they were asking for a variance for sidewalks for the entire frontage of Atrium Drive but were providing an interconnect between the two (2) buildings and also would be providing a sidewalk that would connect to the sidewalk in front of the Hampton Inn. It should be noted that that sidewalk led to the Doubletree Hotel where there was a shuttle service for public transportation, so they feel that that was satisfactory.

Mr. Stires then discussed the fire truck turning templates they showed on the exhibit and then pointed out the fire lane on the northerly side of the small building that they also showed a turning template on the plans. He offered that if they needed to show turning templates in other places on the plan, they could certainly add that.

Mr. Stires then opened a discussion regarding the Stormwater Management Plan and had many discussions with the Township Engineer (CME) as well as correspondence with the NJDEP regarding green infrastructure, the current regulations and how it was to be designed. He told the Board that they really wanted to preserve the two (2) basins in front of the larger building. Mr. Stires indicated that if they had additional impervious coverage, those basins would have to be removed. He then explained that if they reduced the motor vehicle surface area to those basins as well as maintain or reduce the impervious coverage to those basins, they could remain intact, and they were able to accomplish that as a design feature of the basins with the project. He then pointed out the other basins that were on the northerly side of the property and also comply with green infrastructure as they were bio-retention basins. Mr. Stires indicated that they went through three (3) rounds of testing for ground water recharge, and they were found to have none, so those basins would have to have under drains that ultimately convey to the outlet structure just because of the soil conditions on site.

Mr. Stires then addressed the remaining comments in the reports, he testified that they would work with the Township staff, with most of them being documentation tables needing further details just to confirm that the design met the current stormwater standards, which he believed they did.

Mr. Stires then drew the Board's attention to the Lighting Plan, noting that what was before the Board did not comply with the ordinance, so they now have an updated design that did comply.

Chairman Orsini then ask what the new calculation was for impervious coverage on the site. Mr. Stires indicated that it was 59.58% which was for the net area. The Chairman then told Mr. Stires that he noticed that they were still significantly over in parking required as compared to what was proposed. Mr. Stires stated that they based the parking needs for the warehouses on industry standards that the Applicant was looking to meet. He added that he thought it was a bit below what their typical standards were. Chairman Orsini stated that they had heard many warehouse applications in the last few years, and parking was below what Mr. Stires was proposing and even below what was recommended. The Chairman then suggested that the Applicant look into banking parking spaces until they have a tenant with a known parking requirement. He suggested that doing so would further reduce their impervious coverage.

Mr. Healey asked if Napoleon was going to be used for emergency access only, and Mr. Stires answered in the affirmative. Mr. Healey then asked if they were going to preserve the evergreens to the left of Napoleon to keep the existing curb-line, and Mr. Stires also answered in the affirmative. Mr. Healey then went on to ask if there was going to be any additional screening proposed to the right of Napoleon. Mr. Stires indicated that they did not have any planned for that area because it was kind of tight in that area and he wanted to maintain the swale that came off the properties from the southeast and not compromise the runoff from some of the other surrounding properties. Mr. Stires stated that they could put a fence on top of the wall there, as was suggested in Mr. Healey's review letter. Mr. Healey thought that would be a good idea to screen their property from the back side of World's Fair Drive properties. Mr. Healey then asked if the 194 trees were the result of the new calculations after considering the existing trees, and Mr. Stires answered in the affirmative and agreed to meet that 194-tree requirement on-site.

Dr. Chase stated that he noticed on the plan that there were four (4) trees on the slope leading to the more southerly basin that were 18-24 inches and was hoping that they could be kept. He then asked Mr. Stires why there were three (3) small detention basins at the north end. Mr. Stires stated that, as part of the new NJDEP regulations, the basins could not have more than 2-1/2 acres of drainage area to them in order to meet the green infrastructure. A discussion ensued.

Dr. Chase then drew Mr. Stires' attention to the Landscape Plan for Lot 21.14 and showed the listing of plantings, noting that it had red chokeberry twice with reference to

two (2) different scientific names. Mr. Stires stated that it means a kind of audit of the table to correspond with the plan set. He went on to testify that they had conditional approval from the Delaware & Raritan Canal Commission (DRCC) to make sure that every planting on the plans was native to New Jersey.

Mr. Thomas wanted to put on the record that there were 1,500 parking spaces on the existing property they were speaking of, so that there were that many cars going in and out of that property twice a day. He stated that he wanted to let the public know that it would be difficult for anyone to complain that the proposal for the two (2) warehouses would have a significant impact on traffic, especially if you include the two other vacant office buildings nearby. Mr. Thomas then asked if the site would be attracting passerby traffic, and Mr. Stires stated that it would not and that the Traffic Engineer could follow up with that topic.

Mr. Healey asked for clarification related to the cul-de-sac on the left side of the plan by asking if the parking there would be within 50 ft. of the easement. Mr. Stires answered in the negative and stated that that was one of the plan changes. Mr. Healey then described for the Board the difference between the net and the gross, stating that to the degree that the public may not traverse Atrium Drive, they can but that he treated it, for zoning purposes, as a public street. He added that the one variance they have for the parking lot setback was from that Atrium Drive extension, and he opined that that variance was less significant than if it was on the rest of Atrium Drive.

Vice Chair Brown stated that he was concerned that they were not seeking to construct sidewalks along the property boundary and disagreed on that decision and felt that it was necessary from a healthy commercial site development standpoint, considering that there were retail establishments nearby. Dr. Chase also added that with two (2) hotels nearby, he thought that hotel guests might also be more likely to go out for walks in the area than employees. Mr. Stires testified that they were constructing sidewalks to connect to the hotels themselves, and it was just a matter of not going all the way out in front of the basins and along Atrium Drive. The Vice Chair stated that with the truck traffic that would be coming to and from the site, it would expose walkers to a dangerous environment and the sidewalk would fully protect against that. Vice Chair Brown then suggested that they connect the roadway all the way through to Napoleon Court. Mr. Stires then testified that the Township staff did not want the roadway to go all the way through because people would be coming up Worlds Fair Drive and cutting through to get to Davidson Avenue. Vice Chair Brown indicated that he disagreed with that.

Mr. Healey then told the Board that the rationale for that decision was because you could not make a left from Worlds Fair Drive back onto Route 287 and the trucks would be going around and more into the rest of the Township as opposed to out Atrium Drive to Davidson Avenue to Route 287 and that there was sufficient access with that design and was part of the rationale. Vice Chair Brown then understood the decision and agreed with it.



Mr. Phillip Ruggieri, Project Architect & Principal of Ruggieri & Partners, West Deptford Township, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Ruggieri then walked the Board through the design of the site. Mr. Ruggieri stated that he prepared the plans in connection with the Application before the Board that evening. He then described the process of designing warehouse buildings and noted that they had two (2) plans. He explained that what they do in these warehouse buildings as required by the Uniform Fire Code in the State of New Jersey was provide access to the building at 125 ft. for the fire company to get into the building and that the proposed buildings comply with that. He noted that the exterior of the buildings were made from concrete, sometimes pre-cast and sometimes tilt-up, with the roof of the building made from steel frame. He added that the building would be prepped to be solar ready. Mr. Ruggieri stated that there were options for small offices, and they would be located in the corners of the building, with maybe 5% of the total area of the warehouse, and there might be a small shipping/receiving office at the back of the building. He then testified that all the drainage from the buildings were tied into underground stormwater systems. He then showed the building elevations and showed that they had a building height for both buildings that did not exceed 47 ft. high from the average grade at the front of the building and were compliant in that regard. He then showed the renderings of what the buildings would look like, showing one of the stormwater ponds. Mr. Ruggieri then stated that they did the painting of the building on horizontal panels of paint where the height of the building was reduced to human scale. He next showed a rendering showing the stormwater pond with both buildings. The building renderings were entered into the record as A-3 and A-4, respectively.

Mr. Ruggieri then addressed a comment in one of the staff reports related to whether the mechanicals for the building would be adequately screened. He then testified that those were generally placed on the roof, but that they were set back far enough on the roofline so that someone would have to be miles away to view them.

Mr. Clarkin, Board Attorney, wanted to make sure that the parking calculation was based upon the square footage of office space in the floor plan. Mr. Ruggieri answered in the affirmative. Mr. Clarkin suggested that the Applicant may want to request a little bit more office space because they don't yet have a tenant, but he thought it might not be a problem since they had more parking than needed on the plan.

Mr. Karl Penke, Traffic Engineer, employed with Langan Engineering & Environmental Services, University Plaza, West Windsor, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. Penke then walked the Board through his Traffic Analysis for the site. He indicated that he prepared a Traffic Comparative Analysis, dated March 12, 2022 and a supplemental analysis of truck turning movements in April of 2023. He reiterated Mr. Thomas' comments that the subject property was previously occupied by a 350,000 sq. ft. office building supported by over 1,500 parking spaces. He noted that the property was well positioned in terms of its location for commercial development, including the industrial development, with great connectivity through Atrium Drive out to Davidson Avenue and ultimately connecting to the I-287 regional roadway system which made the site attractive both to the prior use and the proposed

use. From a traffic perspective, the site had been very active in the past and the roads leading to the site were designed to handle much higher levels of traffic associated with office and employment. Mr. Penke gave some projections for the proposed use of the site by the types of tenants that would be interested in occupying these spaces, he testified that they would expect that somewhere in the order of 400 less vehicles per hour would be generated during the morning and evening commuter hours, a rather substantial reduction than just reoccupying the existing office building where over the course of the day, they would probably see approximately 2,800 vehicles to the adjacent roadway system. Mr. Penke indicated that the proposed use would be of less intensive use in terms of traffic impacts and that the surrounding roadway system access Atrium Drive was designed to accommodate much higher traffic volumes. Based on those comparisons, he believed that the Application created a positive actual impact to the adjacent roadway system. With regard to the circulation pattern, Mr. Penke stated that it was fairly typical to the type of warehouse that had been proposed and was typically occupied. He then discussed the design waiver for the truck court was appropriate and was appropriate and it met general industry standards and would accommodate the type of activity in that location associated with the operation ability. He noted that the site was not attractive to anyone other than the people that work there and that there would not be any general public travel behind the buildings or in this area because it was the business area of the tenants. Mr. Penke then testified that he felt that the granting of the waiver was appropriate. With regard to the parking supply, he felt that the parking requirements were a little bit on the lower side and then he quoted from the Institute of Traffic Engineers Manual (ITE) where they had various data points suggest that the appropriate amount of parking would be 400 spaces, but he noted that the average peak parking demand seen in that database, which varied by type, was a little less than 200 spaces so they were coming in somewhere in between that and felt it was an appropriate number and created a proper balance to market the site to the industry and the tenants and created flexibility for shift work and making sure there was adequate circulation and safe movement of vehicles in and out with shift work.

Mr. Penke indicated that they concur with the comments from CME Engineering in regard to some adjustments at the access drives on Atrium Drive to ensure that they were accommodating the design vehicle and that would be incorporated into the final plans.

Chairman Orsini reiterated the Board's suggestion to bank parking spaces because they did not have a tenant as yet and did not know what type of warehouse it might be that would occupy that space.

Mr. John McDonough, Planner & Principal of John McDonough & Associates, 101 Gibraltar Drive, Parsippany, NJ, came forward and was sworn in. The Board accepted his qualifications. Mr. McDonough then walked the Board through the Planning analysis he did in connection with the subject property. Mr. McDonough presented an exhibit of three (3) slides of aerial photographs taken on May 17, 2023 regarding the subject property condition and the surrounding land use context and were entered into the record as Exhibits A-5, A-6, and A-7, respectively. Mr. McDonough stated that Exhibit

A-5 was an aerial drone view of the site looking to the north, with Route 287 to the right-hand side to emphasize the proximity to site. He noted that Lot 21.14 was an undeveloped lot with some wetlands and a wooded buffer closest to Route 287 and would remain intact. He then discussed the developed portion of the property, Lot 21.06, that included the vacant office building and expansive parking lot. He then drew the Board's attention to Exhibit A-6, an aerial drone view of the subject site showing the open site for a distribution center as the Applicant was proposing and was surrounded by other commercial sites and away from any residential areas that make it suitable for the property. He spoke of the parking variance that had been requested as being a better zoning alternative with the small pockets of parking that were located closer to the building entrances to attract higher quality tenants. He then showed Exhibit A-7, which was an aerial view of the triangular shaped building presently on-site and the expansive parking lot associated with it.

Mr. McDonough then discussed the use being permitted in the Business & Industry (B-I) Zone related to the time of application. He then listed other types of uses that could be allowed in the zone. He then testified that the project was going to substantially conform to all of the bulk controls to include the building height, the overall floor area, the mass and scale of the buildings, the lot coverage, the setbacks on all of the sides would comply from a building standpoint and a fully compliant parking area. He then discussed the Township's two (2)-pronged approach utilizing a minimum requirement that the Applicant met and a maximum requirement with respect to coverage, that the Applicant also abided by. He then discussed the parking relief in the front setback and only pertained to two (2) "bump-outs" that have a 50 ft. minimum requirement – Building B – and 33 ft. proposed (Atrium Drive Extension). Mr. McDonough then described the load berth length variance that was the industry standard and worked towards efficient land use for adequate turning movements.

Mr. McDonough then discussed the flexible "C" balancing test as a better zoning alternative in terms of the parking setback relief, and certainly the benefits of the Application as a whole would substantially outweigh any detriments. He added that in terms of the parking justification, the location was a better alternative because it kept the parking spaces closer to the entryways and the setback was an improvement over the existing condition, and having a double-loaded parking aisle was more efficient than a single-loaded parking aisle. Mr. McDonough felt that where they could achieve that, meant it was good Planning and felt that they have done so with the inclusion of the landscaping to soften the edges and screen the parking in that area. He noted that it pertained to the Atrium Drive Extension, which was effectively a driveway. Mr. McDonough testified that he believed that relief for the parking setback could be granted without substantial detriment to the public good or impairment to the zone plan. As it pertained to the loading dock length, they've achieved efficient use land use and good evidence to demonstrate that those loading berths could accommodate vehicles safely and efficiently without any negative impacts on the site itself. As it pertained to the short list of design exceptions, Mr. McDonough testified that the waivers would not create any unsafe conditions on the property. He indicated that he felt it was a good application from the standpoint of revitalizing a vacant property.

Chairman Orsini then made a motion to open to the public. Ms. Rafiq seconded the motion, and all were in favor.

Mr. Alex Strauss, 285 Hazlitt Way, Somerset, NJ, came forward. He opened a discussion regarding the view that would be seen from the rooms in the newly constructed Hampton Inn. He was concerned that they would have a view of the warehouses and wondered how much the trees would be able to screen the 5-story hotel. He also mentioned the noise from the trucks and the effect it would have on the hotel guests. Mr. Strauss also opened a discussion regarding trucks being able to navigate a right hand turn out of the site with other traffic on the roadway. Mr. Penke stated that the Board looked at the issue with the 50 Atrium Drive application and their approval included a right-of-way and correction of that corner where the radius would be increased so that the trucks could make that turn without going into the opposing lane to do so and was cross-referenced in CME's report. Mr. Penke also testified that with the subject Application, they had agreed to make some adjustments to the curb returns on Atrium Drive. Mr. Strauss then asked Mr. Stires if there would be a repaving of Atrium Drive considering that there would now be a lot of truck traffic. Mr. Stires indicated that they did some test borings that showed the roadway would be acceptable for truck traffic. Mr. Stires stated that they were repaving that roadway almost up to the front of the hotel itself. A discussion ensued, and Ms. Porter stated that Atrium Drive was a private road and was maintained by multiple easement holders of the owners of property all along Atrium Drive which have shared maintenance responsibilities and was a private agreement of all of those parties. A discussion ensued.

Mr. Healey then indicated that there were other Applications along Atrium Drive and that there should probably be some type of cost sharing responsibilities among the different applications.

Mr. Clarkin stated that the necessary obligation between the subject Application and the request as a condition that the road be improved, the necessary obligation was present and for the entirety of Atrium Drive. He then suggested that a certain amount of money be placed into escrow and discuss the situation with the other stakeholders involved in the easement. He added that there also needed a timeframe within which the work would be performed.

Mr. Strauss then asked about the situation regarding noise at night for those staying at the hotels.

Ms. Jan Brant, 22 Bryant Court, Somerset, NJ, came forward and was sworn in. Ms. Brant opened a discussion regarding their environmental impact statement, and she was concerned that the hotel traffic and the warehouse truck traffic were going to intersect at any point. Mr. Stires stated that both the Doubletree and the Hampton Inn would also use Atrium Drive. Mr. Penke indicated that it was typical that all vehicles would use the roadways in the area and the roadways were designed to handle that. She then inquired about the number of truck bays, with Mr. McDonough testifying that

there would be 60 for one building and 32 for the other building. Mr. Stires stated that there were going to be 17 tractor trailer parking spots as well on the northerly side of the larger building but would only be used for trailer storage.

Ms. Brant then opened a discussion regarding air quality and asked if they would put an air quality monitor to test the air. Ms. Porter indicated that their facility would be replacing something that had accommodation for 1,500 parking spaces on the site and the use for the warehouse would be 1/5<sup>th</sup> the usage for the number of cars and trucks that would be accommodated on the site. She also indicated that the Township did not have specific standards in place to enforce it, which she felt was unreasonable and outside the scope of the purview of the Board.

Ms. Brant then asked about whether the property was prone to flooding, and Mr. Stires answered in the negative. She then asked whether they included anything about noise in the Environmental Impact Statement, and Mr. Stires stated that they had to comply with the State regulations, which was 65 decibels at the property line and 50 decibels in the evening.

Seeing no more public coming forward, Chairman Orsini made a motion to close the meeting to the public. Ms. Rafiq seconded the motion, and all were in favor.

Chairman Orsini allowed the Applicant a 10-minute recess to discuss some of the items that came up in the meeting.

During that recess time, the Board talked about the discussion item on the agenda.

Chairman Orsini then called the meeting back to order after the 10-minutes recess.

Ms. Porter then indicated that they spoke with her client regarding three (3) specific items, land banking, the paving and the sidewalks that were raised by the Board comments and the public discussion.

Mr. Stires discussed the banking of parking spots, pointing out the specific bay of parking as well as another area that he pointed out on the exhibit to total approximately 32 parking spaces. Mr. Clarkin interjected by stating that the Board was looking for them to bank 105 spaces, which was what the Applicant planned and what the ordinance required. Chairman Orsini then explained why they feel that way, particularly because they could not give testimony that evening that stated a particular tenant who required that specific amount of parking. He added that the ordinance required 154 parking spaces and the Applicant was proposing 259. The Chairman stated that if the Application were to be approved that evening, they would be approved for 259 parking spaces, but would only construct 154 at that time. Mr. Clarkin also opined that between the time a tenant signed a lease and the time they wanted to occupy that there was a substantial amount of time within which the parking could be constructed. Ms. Porter indicated that that was acceptable.

Mr. Stires then brought up paving and offered that the Applicant would pave everything with overlay and everything within their property and pointed that out on the exhibit. He believed that that would equal their fair share of maintaining the roadway. He indicated that 50 Atrium Drive would do their fair share and that there was another Application to the south that would be coming in in October and most likely the Board would put the same condition on them. He added that Puleo would be coming in August.

Vice Chair Brown then asked how they were computing "fair share", utilizing what mathematical formula. Mr. Stires explained that it was a private road in an association agreement as far as maintenance is concerned. Mr. Clarkin stated that the easement document didn't show how "fair share" was determined. He added that he thought the Board would rather see a global solution for the entirety of Atrium Drive. Dr. Chase pointed out that there were a few buildings along the roadway that were not just coming in with a new proposal, and the roadway in front of their buildings would not be paved by the Applicants just paving their part. Mr. Stires made a point by stating that other than one person coming forward from the public that the roadway was not in good condition, the professionals did not say that. Mr. Clarkin reminded Mr. Stires about the Board's knowledge of local conditions, which was always given substantial weight.

Mr. Thomas pointed out that the important thing was that what was going to be done gets done when it needs to be done. He added that the Board did not have an assessment that evening that that roadway needed to be paved. He added that Atrium Drive ran past the subject property to Pierce Street, and they were talking about requiring this Applicant repaving the entire roadway. Mr. Thomas mentioned that he drove on that road occasionally and didn't notice that it was any worse than a dozen other streets. He felt it was more important to determine what was going to happen and when it needed to happen. A discussion ensued.

Chairman Orsini asked the Applicant if it would be acceptable if they made a condition that the Township Engineer evaluated the roadway and if they determine that it needed to be repaved to accommodate the Applicant's use, then they would repave the entire roadway. Mr. Healey wanted to make a slight adjustment to that because tonight's hearing was not the last application that the Board was going to see. He thought that a condition where this Applicant had to confer with the other applicants coming to the Board with proposals on that site with Township staff and to come up with some plan for the equitable distribution of costs to make whatever improvements that happen to be necessary as determined by the Township Engineer. Mr. Healey then stated that he would make the Board aware, as those meetings occur, if there were agreements that come to fruition. He added that as the other hearings occur, the Board would get another "bite of the apple" and be consistent with having those applicants contribute as well since they would be having truck traffic driving on the roadway as well.

The Chairman then stated that the Board would be asking the Applicant, for now, to pave Applicant would pave everything with overlay and everything within their property, as shown on the exhibit during the hearing that evening.

Mr. Stires opened a discussion regarding what obligation 50 Atrium had to improve the roadway, and Mr. Healey stated that he believed that their obligation was that they did some improvement to their frontage and also improved the radius at the intersection of Atrium Drive and Davidson Avenue. Mr. Clarkin stated that it would be part of the analysis for an equitable distribution for costs and end up in a developer's agreement.

Ms. Porter then added that that part of the discussion would be the existing joint maintenance agreement and other agreements which control in terms of that cost sharing as it related to specific portions of the roadway that were owned by those individual property owners. She explained that that would be the only thing that they would add to the condition and be reflective of what was set forth in those agreements as well, but they absolutely agree in terms of all the portions that were previously agreed to in connection with their site that were discussed that evening as well as the cooperation and meeting with staff and based upon the determination of the Township Engineer.

Mr. Clarkin indicated that the condition would be the execution of a developer's agreement mutually satisfactory to the Applicant and the professional staff. He pointed out that the other parties were not parties to these proceedings, so he was going to leave that interaction to the Applicant to deal with the other stakeholders that were party to that easement agreement. He added that they were all going to have to step up in some way.

Vice Chair Brown stated that he felt it was appalling that they were having a conversation about increasing comfort and overall safety as well as the aesthetics of a roadway that was essentially the gateway into the Applicant's property. He pointed out how consistently important it was to the Applicant to have certain design standards so that the Applicant would get a tenant that was congruent with the Applicant's expectations, yet the most important part (the spine leading into their roadway) was getting that amount of pushback. A discussion ensued between the Applicant and the Board. Mr. Brown would like to ask the Township Engineer for justification for the determination of the condition of the roadway because moving forward, he would like to have that on record.

Mr. Stires then addressed the sidewalks and indicated that if they put sidewalks out in front of the basins, they would be adding almost a quarter acre of impervious coverage. The Vice Chair stated that he cared more about the people and was willing to ensure the safety of the people to be able to walk and be healthy in that area. Mr. Stires stated that they were .32 under the maximum impervious coverage right now with the approval of the parking. He also didn't think that most of the employees would be out there walking and that if they were they would be walking around the basin. He added that they didn't plan on fencing the basin as it was not fenced now, plus there was now the encouragement for people off-site to walk on your sidewalk, which was a liability and the reasons the Applicant would prefer not to include them there. He did add that the impervious coverage was the biggest objection. Mr. Stires addressed Mr. Brown's citing of the fact that they were adjacent to two (2) hotels and Rutgers School of Public

Health, so people walk in the area. Mr. Stires indicated that the other five (5) applications, based on Mr. Healey's review letter, were also granted waivers to provide sidewalks. Mr. Stires also added that they would have to remove two (2) trees along the frontage in order to put sidewalks in.

Chairman Orsini asked about the interior connections, and Ms. Porter stated that there was an interior connection between the two (2) buildings as well as a connection to the sidewalk by the hotel. The Chairman also agreed that the site did not offer a lot of opportunity to connect sidewalks to outside retail uses. A discussion ensued.

Mr. Stires indicated that the building was 800 ft. long, a 600 ft. long interconnect with the other building and a natural walking path in and among the basins and asked if that would be an acceptable compromise. He stated that that would be safer than walking among the wet basins. Vice Chair Brown testified that it would not be enough because he felt that they should be doing both to increase the vibrancy and allow people to walk to the shopping center at the corner of Pierce and Worlds Fair Drive to support local businesses. A discussion ensued.

Mr. Healey indicated that he didn't see the issue with the subject Applicant, but on some applications that were coming to the Board, he had identified the issue of sidewalks because there were a number of developments in close proximity to each other in that area and basically map out the other developments for them and say that the Board should discuss whether they would want to include sidewalks on the developments or not. He stated that a good portion of Atrium Drive was going to be redeveloped and the Board should look at whether they want sidewalks along Atrium Drive or not. A discussion ensued.

Mr. Clarkin then asked Mr. Stires if they made their compromise, would they need a variance. Mr. Stires stated that that would allow for walking along the berm. He added that they currently have sidewalks placed along the frontages of both buildings and would transition on the right-hand side of the photo into a natural walking path that you could walk along the top of the basin, which was 10 ft. wide, and a natural walking path as opposed to a paved walking path. He answered Mr. Clarkin's question by stating that they would not need a variance for impervious coverage in that scenario.

Vice Chair Brown indicated that he was concerned for setting and/or continuing a precedence that they couldn't go back and change. Mr. Clarkin then stated that each Application should be based on its own merits and not based on what was or wasn't done in the past.

Ms. Rafiq asked about the access drives, and Mr. Stires showed the secondary access for the truck traffic.

Ms. Rangnow indicated that what Mr. Stires proposed was a fair compromise. Councilman Anbarasan agreed with Ms. Rangnow's assessment. Dr. Chase as well as Chairman Orsini agreed with the compromise suggested by Mr. Stires. Vice Chair



Brown indicated that he did not agree with the compromise because he thought they should be providing a high-quality site development. Mr. Thomas agreed with the compromise as he thought that it accomplished the Board's purposes now and could eventually go on Atrium Drive towards Pierce Street as the street developed. Ms. Rafiq also agreed to the compromise.

Chairman Orsini made a motion to approve the Application for Preliminary and Final Site Plan approval, with Variances and subject to the voluntary condition that the Applicant bank 105 parking spaces, the voluntary condition that the Applicant would use best efforts to save the four (4) trees by the southerly basin, the condition for the compromise sidewalk that was laid out in Mr. Stires' testimony and the roadway was the subject of a condition for the execution of a developer's agreement mutually satisfactory to the Applicant and to the Board's professionals that would involve the Township Engineer's examination of the condition of the road with recommendations and also for the Applicant to bear some equitable distribution of costs for the other portions of Atrium Drive. Also, to be included was the paving of their portion of the drive that was along their site together with all of their usual conditions such as compliance of all staff reports. Ms. Rangnow seconded the motion, and the roll was called as follows:

FOR: Councilman Anbarasan, Dr. Chase, Ms. Rangnow, Mr. Thomas, Ms. Rafiq, and Chairman Orsini

AGAINST: Vice Chair Brown

### **COMMITTEE REPORTS:**

There were no Committee Reports discussed.

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

- **Zoning: Supra Court and Redevelopment Area General Business (GB) Zone**

Mr. Healey stated that Ms. Woodbury had e-mailed everyone a brief description of what he considered to be almost editorial changes to the zoning map. He noted that the first one was Supra Court (within Princeton Highlands). Mr. Healey stated that in the late 1990's, that area was zoned R-10A and he believed it had some cluster provisions within it. He continued by stating that subsequent to that approval, Supra Court was built as kind of a cul-de-sac road extending from that neighborhood and was approved by a Use Variance to the Zoning Board and the plans were that it was built per the R-10A Zone and that was how it was built. He included the lot sizes and the home sizes; the setbacks and the coverages were following the R-10A zoning. He then told the

Board that because it was done with a Use Variance, the Zoning Map was never changed, so it was still technical an RR3 Zone. He noted that it still caused some problems for staff. He told the Board that the proposal was to put that into the R-10A Zone, consistent with the neighborhood it was attached to and consistent with how those 20 or so homes were built. A discussion ensued among the Board. Mr. Healey added that because that street was already developed and built, it did not create any additional development potential whatsoever because that was how that street was subdivided and developed.

Mr. Healey stated that the other area was similar in that there were three (3) areas of residentially developed that were just outside of the Redevelopment Area that went along Somerset Street (Route 27), and they were in the General Business Zone, so those homes there were actually non-conforming. He explained that what he thought happened was that he thought there was a long area of General Business zoning going down Route 27, and then when the Township, in the 90's applied the Redevelopment Zoning, they basically left these islands of General Business off of Route 27. He added that from a zoning perspective, they made no sense and couldn't imagine that the neighbors or the Township would want these certain properties developed commercially and would be less than ideal commercial uses because they were in less than ideal locations from a commercial perspective and there were a few dozen homes. He said that it was addressed in two (2) separate Master Plan documents that it be changed to R-7 because that was the zoning of the neighborhood that these areas connect to and how that area was already developed with residential uses. Because it was a relatively low priority issue, he felt that it just never got done. The three areas were as follows, with the first one on Matilda Avenue and currently developed with a church, and effectively nothing would change in that area, and five (5) homes on Henry Street consecutively next to each other, and a few hundred feet off of Route 27. Mr. Healey then indicated that there was a third area where additional development potential could be realized was Block 165 in the neighborhood that was bound by Juliet Avenue, Marshall Street, Myrtle Avenue and Henry Street. He said that he wanted to make it clear that this one (1) block could be an additional seven (7) homes because there were three (3) homes on that block and a few properties that were undeveloped.

He told the Board that he was asked by Council to prepare an ordinance and Council was going to introduce the ordinance and would come back to the Planning Board for your formal review for consistency with the Master Plan.

Chairman Orsini stated that it was straightforward, and the Board agreed to have Mr. Healey referred this to Council.

#### **EXECUTIVE SESSION:**

The Board did not enter into Executive Session.

**ADJOURNMENT:**

Chairman Orsini made a motion to adjourn the meeting at 10:11 p.m., and Ms. Rangnow seconded the motion, all were in favor.

Respectfully submitted,

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Kathleen Murphy, Recording Secretary  
September 19, 2023