

**EAST WINDSOR TOWNSHIP PLANNING BOARD
MINUTES OF July 24, 2017**

The meeting of the East Windsor Township Planning Board was held on Monday, July 24, 2017, in the East Windsor Township Municipal Building, 16 Lanning Boulevard, East Windsor, New Jersey, 08520. Planning Board Chairperson Edward Kelley called the meeting to order at 7:35 p.m.

STATEMENT OF ADEQUATE NOTICE

Pursuant to the Sunshine Law, a notice of this meeting's date, time, place, and agenda was mailed to the news media, posted on the Township bulletin board, and filed with the Municipal Clerk.

ROLL CALL

Members Present: Mr. Brady, Mr. Catana, Mayor Mironov, Ms. Patel (Arrived at 7:49 PM), Mr. Shapiro, Mr. Schmidlin, Mr. Kelley

Members Absent: Mr. Berman, Mr. Clark

Professionals and Staff Present: Allison Quigley, Planning Board Secretary
Jolanta Maziarz, Board Attorney
Richard Preiss, Township Planner
Daniel Dobromilsky, Township Landscape Architect
A. Maxwell Peters, Township Engineer

REPORTS/CORRESPONDENCE/ANNOUNCEMENTS

PUBLIC FORUM

Chairperson Kelley opened the meeting to the public. There being no public comment, the public forum was closed.

MINUTES

PUBLIC HEARING

EWT File #PB15-001 Promenade at East Windsor (Parec Construction)
671 Route 33
Block 14, Lots 977, 979, and 980
Amended Preliminary Site Plan with Variances

Chairperson Kelley asked Jolanta Maziarz, Board Attorney, to swear in the Board's professionals: Richard Preiss, Township Planner, A. Maxwell Peters, Township Engineer, and Daniel Dobromilsky, Township Landscape Architect. Ms. Maziarz swore the professionals in.

Don Driggers, Esq. of Turp, Coates, Driggers, & White, is representing the applicant, Parec Construction. Mr. Driggers stated that the applicant is returning to the Board with an amended

application for preliminary approval for a mixed use commercial development located at 671 Route 33 East, also known as Block 14, Lots 977 and 979 in East Windsor. Mr. Driggers stated that the applicants had previously appeared before the Board as recently as May 15, 2017 and were here to present modifications to the application as discussed at the last public hearing.

Mr. Driggers stated that he has several witness present to testify tonight: Tino Papaleo of Parec Construction, the owner of the subject property will testify regarding the history of the site and the proposed modifications; Sharif Aly of Ameritech Engineering, the project engineer, will testify regarding the modified site plan; John Chadwick of Business Planning Consulting, the project planner, will testify regarding the requested variances; Steve Lane of Construction Design Technologies, project architect, will testify regarding the site's architecture; and John Rea of McDonough & Rea Associates, project traffic engineer, will testify regarding the traffic impact of the site and the site circulation.

Mr. Driggers introduced the project engineer Sharif Aly of Ameritech Engineering as his first witness. Ms. Maziarz swore in Mr. Aly. Mr. Driggers stated that Mr. Aly had appeared before the Board previously in conjunction with this application and had been accepted as a professional witness. Chairperson Kelley stated that was acceptable.

Mr. Driggers asked Mr. Aly if he had prepared the amended plans that had been submitted to the Board for tonight's hearing. Mr. Aly stated that he did. Mr. Aly entered into evidence Exhibit A-19 titled "Drawings 9 and 10 of 17 – Lighting Plan," dated July 24, 2017. Mr. Aly stated that the applicant had originally proposed an average lighting intensity of 1.75 foot candles for the entire site, but they had amended the plan to comply with the Township ordinance requirements, and the average lighting intensity for the site had been reduced to 0.89 foot candles. Mr. Aly stated that there were no other changes made to the lighting plan. Mr. Driggers asked Mr. Aly if he thought that the revised lighting plan was sufficient for the site to function properly. Mr. Aly stated that it was within the ordinance requirements and would still allow the site to function properly. Mr. Driggers asked Mr. Aly if the lighting fixtures would have backlight shields to prevent light spillage onto any adjacent properties. Mr. Aly stated that they have always proposed to provide backlight shields, and that the lighting levels at the property lines were practically zero, so there would be no light spillage.

Mr. Aly entered into evidence Exhibit A-20 titled "Drawings 11 and 12 of 17 – Landscaping Plan," dated July 24, 2017. Mr. Aly stated that they have made changes to the landscaping plan as discussed at the previous public hearing, including increasing the number of shade trees in the parking lot areas and increasing the caliper of trees by the buildings. Mr. Aly stated that he believed they have fully addressed all of the issues with the landscaping plan. Mayor Mironov asked Mr. Aly to go through and specifically review what changes were made to the plan since the applicants were before the Board last.

Mr. Aly reviewed the changes that were made to the landscaping plan. He stated that the applicant has provided a detailed tree removal and replacement plan to the Board prior to tonight's hearing, as requested. The area surrounding the existing 36 inch sycamore tree has been regraded, and the regrading allows the applicant to save several other existing trees in that area as well. Mr. Aly stated that the trees in that area that would remain are detailed on Sheet 12 of 17 of the submitted

engineering plan set. Mr. Aly stated that they added 28 shade trees throughout the parking areas and trees were added to the parking islands as well. Mr. Aly stated that evergreen trees were added to the east side of the bank building to buffer the lights from the ATM area. A six foot high solid fence would also be added to that area to further buffer the bank from view from the adjacent property to the east.

Mr. Aly stated that at the previous public hearing there was a request to increase the caliper of the trees surrounding the buildings. Mr. Aly stated that the caliper of the shade trees in those areas were increased as requested. The sidewalk configuration around Building #2 was reconfigured to allow for more shade trees in that area. The five foot wide parking island behind the bank building has been increased to ten feet wide to accommodate shade trees on the island. Mr. Aly stated the applicant has added foundation plantings around Building #1. A note was also added to the plans indicating that the entire site would be irrigated by a sprinkler system. Mr. Aly added that there had been some recommendations made regarding the species of plantings used on site, and he said those suggestions had been utilized throughout the site and the new species were marked on the landscaping plans.

Mayor Mironov asked Mr. Aly to review the changes that were made to the lighting plan. She asked Mr. Aly to review the average lighting intensity for the site and how the measurements were calculated. Mr. Aly stated that the lighting fixtures would all be LED fixtures. He stated that the Township ordinances allow for a maximum average lighting intensity level of 1.0 foot candles. The applicant had previously proposed an average lighting intensity of 1.75 foot candles, but Mr. Aly stated that they have revised the plans to bring them in conformance with the ordinance requirements and the site's average lighting intensity was now 0.89 foot candles. Mayor Mironov asked Mr. Peters if he could address the lighting intensity and the calculations that were provided. Mr. Peters stated that the change in light fixtures helped bring down the overall lighting intensity and after review the calculations, they seemed accurate. Mr. Peters asked Mr. Aly to go over the two different calculations provided on the plans for the Board. Mr. Aly stated that he provided two different calculations, because some lights will turn off one hour after store closing and some lights will remain on from dusk to dawn for security purposes. The first calculation is the overall lighting intensity for the entire site with all of the lights on. The second calculation was just the lights that would remain on from dusk to dawn. Mr. Peters clarified for the Board that the first calculation includes all of the lighting for the site, except for the ATM area, as that area is required to be brighter and well-lit for safety reasons. The applicant calculated that the average overall lighting intensity for the entire site, including parking areas and the parking landscape islands, was 0.89 foot candles. The second calculation was the average lighting intensity for just the security lights that would remain on from dusk to dawn each night. That calculation showed the nighttime average lighting intensity would be 0.55 foot candles. Mayor Mironov asked Mr. Peters if he was satisfied with the modified lighting plan and if he believed the site had reduced the nighttime lighting as much as possible while still being functional. Mr. Peters stated that he believed they had reduced it as much as possible.

Chairperson Kelley asked Mr. Aly to review the lighting levels on the property lines. Mr. Aly referred to Exhibit A-19 and stated that the lighting levels along the property lines were around 0.00 or 0.01. He added that back shields would be installed on all of the light fixtures to further prevent any light spillage over the property line. Mayor Mironov asked Mr. Peters for his

comments. Mr. Peters stated that Mr. Aly was correct and that the plans showed details regarding back light shields for each light fixture.

Mr. Catana stated that he wanted to get clarification on the two different lighting calculations that were provided on the submitted plans. Mr. Catana stated that his understanding was the first calculation was for the entire site average lighting intensity excluding the bank and ATM areas. The second calculation for the nighttime lighting intensity includes the security lights and the bank and ATM areas. Mr. Aly stated that was correct. Mr. Catana stated that the clarification was helpful, because at first glance the nighttime calculation seems high compared to the overall site calculation, but Mr. Aly's explanation was helpful.

Chairperson Kelley asked Mr. Dobromilsky if he had any additional comments regarding the landscaping plan. Mr. Dobromilsky stated that the applicant had addressed all of his previous comments. He stated that he appreciates the applicant's intention to save the existing trees around the sycamore tree along Route 33 but stated that a field review would have to be conducted during construction to determine the health and actual state of the trees. He stated that should be done as a condition of any approval. Mr. Dobromilsky also stated that for clarity the plans should note the species of the evergreen trees along the east side of the bank building. He stated that the applicant testified that they would be evergreen trees, but the plans do not state the species.

Mr. Driggers introduced the project environmental remediation specialist Richard Lake of Geotechnology Associates as his next witness. Ms. Maziarz swore in Mr. Lake. Mr. Driggers asked Mr. Lake to go over his education, licensure, and credentials for the Board. Mr. Lake stated that he graduated from Pennsylvania State University in 1996 with a bachelor's degree in environmental resource management and that he has been in the field since 1996. Mr. Lake stated in 2012 he received his licensed site remediation professional certification (LSRP) from the New Jersey Department of Environmental Protection (NJDEP) and that he has been involved with the State as an environmental remediation consultant. Mr. Driggers asked Mr. Lake to expand on his LSRP certification for the Board. Mr. Lake stated that in 2012 the NJDEP launched the LSRP program to relieve the NJDEP of some of its responsibility for remediation of contaminated sites and to allow reliance on certified professionals to achieve clean up in a timely fashion. Mr. Driggers asked Mr. Lake if he served on any committees for the NJDEP. Mr. Lake stated that he was on the committee that helped design the standards for site remediation that are utilized by the LSRP program and the NJDEP. Chairperson Kelley accepted Mr. Lake as a professional witness for the application.

Mr. Driggers asked Mr. Lake if he prepared the environmental assessment that was submitted to the Board for this application. Mr. Lake stated that he did. Mr. Lake stated that the applicant was asked to update the Phase I Environmental Assessment, as the last one was done in 2009. Mr. Lake stated that because the site has remained vacant and unused since that time, he did not believe that his assessment differed very much from the initial assessment. Mr. Lake stated that his report indicated that the applicant should identify where any soil fill material would be imported from. Regarding the proposed daycare center, Mr. Lake stated that additional environmental evaluations of the site would need to be conducted as the NJDEP and the Department of Children and Families have regulations regarding childcare centers and environmental remediation. Mr. Lake stated that it would be his recommendation that the childcare facility not open for operation until that process

has been followed. He stated, however, that a lot of those requirements would be met when the applicant updates the Phase I environmental assessment. Regarding the historical agricultural use of the site, Mr. Lake stated that soil samples had been collected and evaluated and that the analytical results show that the site meets the current standards for site remediation in that aspect. Mr. Lake stated that the Board had previously raised questions regarding the site being listed on several databases as having environmental contamination issues. Mr. Lake stated that he thoroughly researched the issue and found two listings for the subject site on the New Jersey Environmental Management System. However, he stated that both listings were related to wetlands permitting and were not pertaining to any site contamination. Mr. Lake stated that he had also evaluated the Speedway Gas Station adjacent to the property for any groundwater contamination. He stated that groundwater contamination was found on the gas station property in the early 1990's and that a groundwater treatment system was installed on the property until 2005. After 2005 the NJDEP approved the system being turned off in favor of natural remediation, which has proved successful over time. Mr. Lake stated that the groundwater contamination levels have been steadily declining since 2005.

Mr. Lake referenced Exhibit A-5 titled "Existing Conditions," dated May 15, 2017. He stated that there are approximately four monitoring wells on the subject property that were installed to monitor the ground water contamination levels on the gas station property. He stated that the natural flow of the groundwater is east, travelling toward the subject site. Mr. Lake stated that the most recent tests of the monitoring wells on the subject site show that the groundwater is within state standards. Mr. Lake stated that they also evaluated if the groundwater contamination from the adjacent gas station would have any impact on the proposed development. He stated that there are three aspects that he considered during his evaluation. The first would be if any drinking water wells would be used on site and Mr. Lake stated that no drinking water wells would be constructed or utilized on site, so that was a non-issue. The second is regarding to vapor intrusion. Mr. Lake explained that is when contaminants from ground water enter the soil and migrate into the buildings through vapor. Mr. Lake stated that they analyze the risk of vapor intrusion by comparing ground water contamination levels to the state regulations and in this case those contamination levels did not exceed the state regulated levels of contamination, so there was no risk of vapor intrusion. The third is direct contact, which would occur during construction. Mr. Lake stated that they measured the ground water contamination is approximately fifteen feet deep and during his review of the proposed construction plans, construction would not go deep enough to cause direct contact with the contaminated water. Mr. Lake stated that after review all three aspects he was confident that the groundwater contamination from the adjacent gas station would not impact the development.

Mr. Driggers asked Mr. Lake if the existing ground water monitoring wells would be removed from the subject site and Mr. Lake stated that they would be. He added that the Speedway gas station had gotten permission from the NJDEP to close those existing monitoring wells and open one monitoring well on their site. Mr. Driggers asked Mr. Lake if during his review he identified any major environmental impacts this development would have on the surrounding area. Mr. Lake stated that he did not identify any major impact due to this development.

Chairperson Kelley asked Mr. Lake if the groundwater contamination would have any impact on the proposed underground storm water management systems. Mr. Lake referred to Exhibit A-6,

titled "Landscaping Plan," dated May 15, 2017. Mr. Lake stated that the underground storm water management system would be over three hundred feet away from any areas of ground water contamination, so he did not think it would have any impact. Mr. Catana asked how deep the management system would be placed underground. Mr. Aly stated that it would be about six to eight feet below the final graded level.

Mr. Driggers introduced the project traffic engineer John Rea of McDonough and Rea Associates as his next witness. Ms. Maziarz swore in Mr. Rea. Mr. Driggers stated that Mr. Rea had appeared before the Board previously in conjunction with this application and had been accepted as a professional witness. Chairperson Kelley stated that was acceptable.

Mr. Driggers asked Mr. Rea to go over his evaluation of the traffic impact of the development at the intersections along Route 33. Mr. Rea stated that he had driven along Route 33 earlier this week and noticed the NJDOT had restriped the north bound approach along Twin Rivers Drive from two lanes to three lanes, and that would help mitigate traffic impact of that site as was discussed at prior meetings regarding this application. Mr. Rea stated that he reevaluated the levels of service and the potential impact at the intersection of Probasco Road and Route 33. He stated that during the peak morning hour of traffic, the intersection currently operates at a D level of service with an average delay of 44.9 seconds per vehicle. He stated that with the proposed development built, the intersection would see an incremental increase in delay per vehicle of 1.5 seconds per vehicle. The intersection would stay within a D level of service. Mr. Rea stated that during the afternoon peak hour the intersection currently operates at a D level of service and that at full build condition it would see an average delay of 1.1 seconds per car and would operate a D level of service. Mr. Rea stated that during the Saturday peak hour the intersection currently operates at a C level of service and at full build the intersection would see a 0.79 second increase per vehicle and would stay within a C level of service.

Mayor Mironov asked Mr. Rea if in the evaluated all intersections along Route 33 that might be impacted by the development. Mr. Rea stated he did. Mayor Mironov asked Mr. Rea if he could explain what a D level of service means and if he had any opinions as to other measures the applicant could take to further mitigate the traffic impact from the site. Mr. Rea stated that he understood the concern that the idea of a D level of service would cause and stated that the rating system that traffic engineers use is not necessarily ideal. He stated that a D level of service covers any intersection that experiences an average delay between 35 seconds to 55 seconds per vehicle. He stated that in terms of traffic planning, any level of service about an F level of service is considered acceptable. Mayor Mironov asked if he had any suggestions to help mitigate the traffic impact. Mr. Rea stated that there is room to restripe Probasco Road on the south bound approach for a second left turn lane which might mitigate the delay there. He stated that if the application received approval from the Planning Board, they would make the restriping part of their NJDOT access permit application.

Mr. Driggers introduced the project planner John Chadwick of Business Planning Consultants as his next witness. Ms. Maziarz swore in Mr. Chadwick. Mr. Driggers asked Mr. Chadwick to go over his licensure and experience for the Board. Mr. Chadwick stated that he has been a licensed professional planner in New Jersey since 1959. He stated that he received this undergraduate degree from Rutgers and has been providing planning services for municipalities and business for

many years. He added that he has testified before several board throughout New Jersey and had testified before the Board previously in conjunction with this application. Chairperson Kelley accepted his credentials.

Mr. Driggers asked Mr. Chadwick to review the variances that were being requested for this application. Mr. Chadwick stated that they are requesting a variance for the two monument signs along the entrance of Route 33. He stated that the monument signs serve as a clear marker for the entrance driveway and create a pleasing view along Route 33 for the site. He stated that existing driveway from Avon Drive and the existing 19 parking stalls in the rear of the site that are to be utilized by residents of Twin Rivers require a variance as they are not 25 feet from the property line as required by the zoning ordinances. Mr. Chadwick stated that as discussed earlier, they are also requesting a variance for the landscaping buffer areas along the perimeter of the site. He stated that the site is in the PUD-7 zoning district and is adjacent to a vacant parcel that was initially intended to be included in this development, but that deal was never made so it has remained vacant instead. He stated that it is unclear if the site is considered commercial or residential, but it was granted commercial use approval in 2008 under the initial Promenade application. He stated that the applicant provided a fence and additional evergreen landscaping to completely buffer any light coming from the bank building near the vacant parcel to mitigate any impact from the bank. Mr. Chadwick stated that he believed none of the variances they are requesting to any damage to the zoning ordinances or to the public and are necessary for a good planning solution.

Mr. Preiss stated that the Board had requested a construction phasing plan from the applicant and while one was provided, no testimony was given yet. Mr. Driggers stated that Tino Papaleo, the owner of the subject site and the applicant, would testify to the phasing plan. Ms. Maziarz swore in Mr. Papaleo.

Mr. Papaleo stated that he would think that the retail building would be built first and the bank would be built at the same time. Mayor Mironov stated that the phasing plan was submitted and stated that it would be appropriate to have formal testimony regarding the submitted plan for clarity. Mr. Preiss stated that Mr. Papaleo's testimony was not consistent with the submitted plan and stated that the plan indicated that all improvements would be built during phase one with the exception of Buildings #2 and #5 and the foundation plantings surrounding those buildings. Mr. Papaleo stated that was correct. Mr. Preiss asked Mr. Papaleo if he would be sequencing the construction of Buildings #1, #3 and #4 or if all three buildings would be built at the same time. Mr. Papaleo stated that he would believe all three buildings would be built at the same time. Mayor Mironov stated that any issues regarding sequencing for construction would determine the bonds and developers agreement that would be put in place pending any approvals. Mr. Preiss agreed with Mayor Mironov. Mr. Catana asked Mr. Papaleo if he thought he would realistically construct buildings # 2 and #5 at the same time. Mr. Papaleo stated that was his intention but when the time comes, if that is not ideal they would reevaluate.

Mr. Driggers indicated that they had finished all of their testimony for this evening and would answer any questions the Board may have. Mr. Catana stated that, as discussed earlier, they would need clarification regarding the species of trees to be planted along the eastern side of the bank building. Chairperson Kelley asked Mr. Driggers if they would be maintain the pedestrian access tunnel that runs under Route 33 and Mr. Driggers stated that they would. Chairperson Kelley

stated that an issue had been raised previously regarding the ownership of the paved piece of land along Avon Drive that the applicant is proposing to turn into landscaping. Mr. Driggers stated that after extensive searching, the title company had determined that the applicant did not own the parcel but they were not able to determine who exactly owned it. Mr. Driggers stated that they would be happy to do whatever the Board wanted regarding that piece of land. Chairperson Kelley stated that issues were raised previously regarding the applicant's right to use the existing storm water management systems. Mr. Driggers stated that he believed the applicant had the right to use the systems, but stated that might be something that they would have to work out with the Twin Rivers Homeowner's Association. Mr. Peters stated that at a previous hearing there was an issue raised regarding a requested design waiver for the parking stalls to be nine feet wide instead of the required ten feet. Mr. Rea stated that he believed the width of the parking stalls was appropriate for the smaller businesses that would occupy the space. Chairperson Kelley asked Mr. Driggers if any bike racks would be installed on site. Mr. Driggers stated that if the Board wanted bike racks they would be happy to provide those. Mr. Dobromilsky noted that the inverted u shape bike racks are preferred by cyclists. Mr. Driggers stated they would add two or three bike racks to the plans. Chairperson Kelley opened the meeting for public comment.

Ronnie Leonard of J-24 Avon Drive asked to speak. She stated that she is concerned with the traffic congestion at the intersection of Route 33 and Probasco Drive and thought it would be a safety issue.

Mark Shane of Shane and White asked to speak. He stated that he is an attorney representing the Twin Rivers Homeowner's Association. He asked Mr. Rea if he had taken into account the new developments that have been approved along Route 33 in Monroe Township and several approved developments along Wyckoff Mills Road in his traffic analysis. Mr. Rea stated that he took into account the Monroe Township development but did not include the Wyckoff Mills Road developments in his analysis. Mr. Shane stated that regarding that small paved piece of land along Avon Drive, he would insist that more research be done into the proper owner of that parcel. He also stated that any sort of access from Avon Drive into the site would warrant a discussion between the applicant and the Twin Rivers Homeowner's Association. Chairperson Kelley clarified that the only access from Avon Drive allowed onto the site would be for emergency vehicles and that in the event of an emergency, ownership of the road would not be considered an issue. Mr. Shane stated that if the applicant is legally entitled to use the existing storm water management systems, although he doesn't believe that is correct, he would think that would warrant a discussion as well as the applicant would be responsible for contributing to maintenance. Chairperson Kelley stated that those things would need to be worked out between the applicant and the HOA, as they are not in the jurisdiction of the Planning Board.

Scott Pohl of 662 Ithaca Place asked to speak. He stated that the vacant parcel to the east of the subject site was referred to as a commercial property by Mr. Chadwick and he wanted clarification. Mr. Chadwick stated that the parcel is zoned PUD-7 and that an interpretation of the zoning ordinances is not up to him.

Sharon O'Brien of 223 Avon Drive asked to speak. She asked what the irrigation system meant. Chairperson Kelley stated that the applicant was asked to provide an irrigation system for the proposed landscaping and that would mean an automatic sprinkler system. Ms. O'Brien stated

that would be using their water and asked if it would be more efficient. Chairperson Kelley stated that it would guarantee the landscaping thrived instead of being maintained manually. She also asked for clarification on the phasing plan and exactly how long would construction take on site. Mr. Driggers stated he would think about two years or so.

Chairperson Kelley asked if anyone else would like to speak. With no one else wishing to speak, Chairperson Kelley closed the public forum.

Mayor Mironov stated she would like to add one condition to any approval given tonight. She stated that she would ask Mr. Rea to reevaluate his traffic impact analysis to include a full and complete review of any and all approved developments in the area.

MOTION TO APPROVE THE APPLICATION MADE BY: Mr. Catana

MOTION SECONDED BY: Mr. Schmidlin

ROLL CALL

AYES: Mr. Brady, Mr. Catana, Mayor Mironov, Ms. Patel, Mr. Shapiro, Mr. Schmidlin, Mr. Kelley

NAYES: None

ABSTAINS: None

ADJOURNMENT OF MEETING

There being no further business, the meeting was adjourned.

CERTIFICATION OF SECRETARY

I, undersigned, do hereby certify;

That I am the Planning Board Secretary of the Township of East Windsor Planning Board and that the foregoing minutes of the Planning Board, held on July 24, 2017, constitute a true and correct copy of the minutes of the said meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my name of said Planning Board this 11th day of September, 2017.

Allison Quigley, Board Administrative Secretary
East Windsor Township