

**BOROUGH OF RARITAN**  
**Planning Board Regular Meeting**  
**MINUTES**  
March 8, 2017

**CALL TO ORDER**

Chairman Miller called the meeting to order at 7:01 p.m. in the Raritan Municipal Building. He read the Open Public Meetings statement as follows: This meeting is called pursuant to the provisions of the Open Public Meetings Act. Notice of this meeting was sent to the Courier News and Star Ledger on January 6, 2017. In addition, copies of the notices were posted on the bulletin board in the Municipal Building, on the Raritan Borough website and filed in the Office of the Borough Clerk. They were also sent to those people who have requested and paid the cost for mailing same. Notices on the bulletin board have remained continuously posted. Proper Notice having been given, the Board Secretary was directed to include this statement in the Minutes of this meeting.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

<b>Present:</b>	Chairman R. Miller	<b>Also Present:</b>	Susan Rubright, Esq.
	Vice Chairman Brown		Stan Schrek, P.E.
	Mayor McMullin		Angela Knowles, P.P., A.I.C.P.
	Mr. J. Gausz		Lou Gara, Construction/Zoning Official
	Ms. D. Thomas		
	Mr. B. Cunningham		
	Mr. E. Wilde	<b>Absent:</b>	Councilman Z. Bray
	Mr. R. Zack		Mr. Krajewski
	Mr. D. Fortkus		
	Mr. M. DeCicco		
	Ms. A. Goetsch		

**APPROVAL OF MEETING MINUTES**

**Motion** by Mr. Gausz, **seconded** by Mr. Fortkus and unanimously carried to approve the Minutes of the February 8, 2017 Meeting, as written.

**ROLL CALL**

**Aye:** *Chairman Miller, Vice Chairman Brown, Mayor McMullin, Ms. Thomas, Mr. Cunningham, Mr. Gausz, Mr. Wilde, Ms. Goetsch, Mr. Fortkus*

**Nay:**

**Abstain:** *Mr. Zack, Mr. DeCicco*

**Motion** by Mr. Cunningham, **seconded** by Mayor McMullin and unanimously carried to approve the Minutes of the February 22, 2017 Meeting, as written.

**ROLL CALL**

**Aye:** *Chairman Miller, Vice Chairman Brown, Mayor McMullin, Ms. Thomas, Mr. Cunningham, Mr. Gausz, Ms. Goetsch, Mr. Fortkus, Mr. DeCicco*

**Nay:**

**Abstain:** *Mr. Wilde, Mr. Zack*

## ENGINEERING REPORT

Mr. Schrek advised that he had nothing new to report.

## CONSTRUCTION/ZONING OFFICIAL REPORT

Mr. Gara advised that he was hoping to issue permits for the new Larking building in the next 1-2 weeks and that the Borough hired a new Property Maintenance Officer, Michael Mulcahy.

Mr. Cunningham asked Mr. Schrek whether he ever gained access to 13 Somerset Street. Mr. Schrek related that the structure was "sound for the most part." Mr. Gara advised that they installed a small fence given an issue in the front of the property and that they were waiting for an analysis from a structural engineer. Mayor McMullin spoke to the pendency of a habitability hearing.

## PLANNER'S REPORT

Ms. Knowles advised that she submitted a cost estimate to the Chairman for the Master Plan Reexamination. Chairman Miller related that it would be distributed for discussion at the next meeting and that formation of a subcommittee would be discussed tonight. Ms. Knowles acknowledged the need for a budget to be presented with respect to LaGrange Street.

## TRC MEETING UPDATE

Vice Chairman Brown advised that the TRC met on Friday [03/03/17] with the principals of JMF properties regarding the redevelopment of Block 81 and that the minutes from the meeting are in process. There was a brief discussion about a follow up meeting. A tentative date of Wednesday, 3/15 at 8:30 a.m. was set.

## MISCELLANEOUS

- Chairman Miller advised that the newly installed television is available to encourage applicants to make electronic presentations but that the exhibit issue still needed to be ironed out.
- The Board Attorney advised that the changes to the proposed ordinance amendment to the Land Use Application checklist had been completed and that it was ready to recommend to the governing body for adoption. Chairman Miller asked that it be forwarded accordingly.

**Motion** by Mr. Zack, **seconded** by Vice Chairman Brown and unanimously carried to recommend the revisions to the ordinance amending Chapter 207 entitled "Land Use and Development" of the Code of the Borough of Raritan regarding the Land Use Application Checklists.

## ROLL CALL

**Aye:** *Chairman Miller, Vice Chairman Brown, Mayor McMullin, Mr. Zack, Ms. Thomas, Mr. Cunningham, Mr. Gausz, Mr. Wilde, Ms. Goetsch, Mr. Fortkus, Mr. DeCicco*

**Nay:**

**Abstain:**

- Chairman Miller advised that there had been a meeting with the Police and Fire Departments which included Mr. Gara, Mr. Mulcahy and Mayor McMullin in order to discuss the importance of getting comments on applications. Chairman Miller related that everyone agreed that they will be looking at this seriously given the nature of the impending changes.

## RESOLUTIONS

- PB 2017-06

Labcorp

*Block 62, Lot 4.01 (20 Johnson Drive)*

*Preliminary & Final Site Plan & Use Variance*

Ms. Rubright advised that a comment from Mr. Lehrer regarding stormwater management was not incorporated into the second condition of all of the resolutions. She indicated that the applicant's engineer agreed to work with Mr. Schrek in order to establish quality control measures and that another provision regarding implementation of water quality measures had been added. She added that the findings of fact in all resolutions were incorporated by reference.

**Motion** by Mr. Gausz, **seconded** by Ms. Thomas to adopt Resolution# 2017-06 granting Preliminary & Final Site Plan approval together with a Use Variance for the construction of a stand along parking lot on Block 62, Lot 4.01.

### ROLL CALL

**Aye:** *Chairman Miller, Vice Chairman Brown, Ms. Thomas, Mr. Gausz, Mr. Wilde, Ms. Goetsch, Mr. Fortkus*

**Nay:**

**Abstain:** *Mayor McMullin, Mr. Cunningham, Mr. DeCicco, Mr. Zack*

- PB 2017-07

Labcorp

*Block 62, Lot 3 (10 Johnson Drive)*

*Preliminary & Final Site Plan*

**Motion** by Mr. Fortkus, **seconded** by Mr. Gausz to adopt Resolution# 2017-07 granting Preliminary & Final Site Plan approval to modify an existing building and parking area for warehouse use on Block 62 Lot 3.

### ROLL CALL

**Aye:** *Chairman Miller, Vice Chairman Brown, Mayor McMullin, Ms. Thomas, Mr. Gausz, Mr. Wilde, Ms. Goetsch, Mr. Fortkus*

**Nay:**

**Abstain:** *Mr. Cunningham, Mr. DeCicco, Mr. Zack*

- PB 2017-08

Labcorp

*Block 78, Lot 1 (69 First Avenue)*

*Preliminary & Final Site Plan*

**Motion** by Vice Chairman Brown, **seconded** by Mr. Fortkus to adopt Resolution# 2017-08 granting Preliminary & Final Site Plan approval to construct an addition to the existing building on Block 78, Lot 1.

### ROLL CALL

**Aye:** *Chairman Miller, Vice Chairman Brown, Mayor McMullin, Ms. Thomas, Mr. Gausz, Mr. Wilde, Ms. Goetsch, Mr. Fortkus*

**Nay:**

**Abstain:** *Mr. Cunningham, Mr. DeCicco, Mr. Zack*

**NEW BUSINESS**

Raritan Developers Urban Renewal LLC (Block 81 Redevelopment Area) *Bl 81, Lots 1-3, 3.01, 4, 5, 6.01-6.03, 7-9, 9.01 and 10; Bl 61, L 2.*

Chairman Miller announced that the matter would be carried to March 22 without further Notice.

A Professional Services Agreement with Michaels & Waldron Associates for analysis of the Block 81 project was discussed. The Board Attorney and Engineer explained the rationale behind hiring an architect as it relates to the concepts of Transit Village design and redevelopment. Mr. DeCicco questioned the need for a separate consultant in this regard. Ms. Rubright explained that it was necessary in order to ensure that the project meets the spirit, intent and requirements of the plan. Mr. DeCicco asked about code compliance. Mr. Schrek related that this would be under Mr. Gara's purview. Ms. Rubright added that the architect's fees are billable to escrow.

**Motion** by Mr. Zack, **seconded** by Vice Chairman Brown to engage the services of the architect, as recommended.

**ROLL CALL**

**Aye:** *Chairman Miller, Vice Chairman Brown, Mayor McMullin, Mr. Zack, Ms. Thomas, Mr. Gausz, Mr. Cunningham, Mr. Wilde, Ms. Goetsch, Mr. Fortkus*

**Nay:**

**Abstain:** *Mr. DeCicco*

Ms. Rubright provided a resolution memorializing the action and presented the contract to the Chairman and Board Secretary for signature.

**DISCUSSION**

- Master Plan Reexamination

Chairman Miller asked for volunteers to staff a Reexamination Subcommittee. Ms. Knowles spoke to the scope of the work. Ms. Thomas, Mr. Cunningham and Mr. Zack volunteered. Mr. Gara also offered to participate.

**APPLICATION/HEARING CON'T.**

East Ridge Development, LLC

Block 29, Lot 1 (119 Route 202) *Site Plan, D Variances, Bulk Variances, Waivers*

Mayor McMullin recused at 7:39.

Attorney Henry Kent-Smith appeared on behalf of the applicant. He advised that plan revisions were submitted in response to comments provided at initial hearing on January 25 and recapped who the witnesses were at that hearing.

Planner Dan McSweeney was sworn in and qualified himself before the Board. He explained that he was retained in order to provide a planning and zoning analysis of the D1 and D3, sign and bulk variances sought

in conjunction with Preliminary and Final Site Plan. He oriented everyone to the property. Mr. McSweeney spoke at length to the existing non conformities on the site and explained that the proposal would include a service station with convenience store and eight fueling stations as well as a separate retail building.

Mr. Mc Sweeney explained that a D3 variance was needed for the service station as the B-3 zone does not expressly permit a food store attached to a service station and that a D-1 variance was needed with respect to the separate freestanding retail building.

With respect to the D-1 variance, Mr. McSweeney clarified that relief was being requested for two principal uses on one lot where only one is permitted; not for a prohibited use. He added that the four existing structures would be razed. With respect to the proofs for the D-3 variance, Mr. McSweeney offered that this would be governed by Coventry Square rather than Medici and as such, spoke to the irregularity of the lot. He spoke to each of the standards for Conditional Uses which could not be met and then spoke to the mitigation techniques that would be employed to address them.

Mr. McSweeney provided planning testimony with respect to the Bulk variances including setback, refuse enclosure location, loading zone for retail, front yard parking in a non residential zone and signage. Referring to Exhibit A-20, Mr. Kent Smith asked Mr. McSweeney if the sign size was appropriate for the façade. Mr. McSweeney testified that it was compatible with the building and other exterior signage in the business and commercial zones.

Mr. McSweeney provided planning testimony with respect to the individual sign variances. Referencing Exhibit A-12 and A-14, Mr. Kent-Smith spoke to the Route 202 sign specifically and asked whether Mr. McSweeney was aware of the grade differential. McSweeney related he would speak to overall visibility.

Mr. McSweeney provided planning testimony with respect to the D1 variance. With respect to the positive and negative criteria under Medici, he offered that the site is particularly suited for the use, that the proposed use would further the purposes of the MLUL, would not impair zone plan and that there would be substantial detriment to the public good.

Mr. McSweeney provided planning testimony with respect to the conditional use standards. He provided an extensive analysis of the positive criteria offering that the purposes of letters C, G, H and I of the act [which he expounded on] would be satisfied.

With respect to site suitability, Mr. McSweeney offered that integration of convenience stores and service stations has become the industry standard. He spoke again to the bulk variance relief given the constraints of the lot. He offered that the irregular shape, size and location with multiple street frontages would be challenging not matter the use and that the shape and configuration hinder compliance with all requirements/standards.

Mr. McSweeney spoke to the c2 variance standards. He clarified that relief was for two principal uses on a 3.6 acre lot with a conditional permitted use being one of them. He spoke to a reduction in the number of structures as well as impervious and building coverage. Calling the proposal "a more orderly and comprehensive use of the site than what exists," Mr. McSweeney offered that the proposed buffer/barrier prohibiting vehicle access would protect the residential properties in the adjoining residential zone. In response to a question from Mr. Kent-Smith as to whether the unique shape of the lot and strict adherence

to the setback standards in the zone would prevent redevelopment of the site for any "reasonable use," Mr. McSweeney indicated that it would. He affirmed that for purposes of redevelopment, some form of dimensional variance relief would be necessary in order to see property developed at all. Mr. McSweeney spoke again to the separation of the residential and commercial zones, acknowledging the prohibition of vehicle access onto Frelinghuysen as a public benefit.

There was an extensive discussin about the number of principal uses being proposed in response to a question for clarification from Mr. Schrek. Mr. McSweeney confirmed that there were two; the first being the convenience store with service station and the second being the retail building. A discussion ensued about whether the convenience store and service station uses were actually separate uses. In response to a question from the Board Attorney as to whether a conditional use was being sought for fueling, Mr. McSweeney explained that they were seeking a D3 variance for fueling and D1 variances for the convenience store and retail building. There was a discussion about the zoning ordinance not catching up with the evolution of uses over time in response to a statement from Mr. Kent-Smith about the service station/convenience store combination being the current "norm."

Chairman Miller expressed concern over Lot 1.01 in the southeast corner. Mr. Kent-Smith advised that the property is not available for purchase as it is under contract. Ownership of the Quick Check property was discussed. Mr. Kent-Smith explained that Quick Check will lease the space from East Ridge. Mr. Kent-Smith offered that the project was not feasible without both the Quick Check and retail components. An extensive discussion ensued with respect to the rationale for not subdividing the property. Mr. Wilde asked about the justification for the second principal use specifically. Mr. Kent-Smith cited economic viability together with functionality, operation and maintenance of property as a basis for not subdividing the property. Mr. McSweeney offered that ingress and egress controls the viability of subdivision as well.

In response to questions from Chairman Miller and Vice Chairman Brown as to prospective tenants for the retail building, Mr. Kent-Smith advised only that they would be "general retail." A discussion ensued about inherently beneficial uses for the B3 Zone as the initial concept mentioned a daycare center. Mr. Kent-Smith indicated that the applicant is permitted to use in that meets the standards for the zone or would otherwise have to return to the Board. The Board Attorney cautioned that if the Board were to grant a use variance that they would need assurance that the circulation still worked based upon the tenant. Mr. McSweeney offered that they would need to return as any future application would be an amendment to the D Variance.

Mr. Kent-Smith discussed the phasing plan. He indicated that they were seeking preliminary approval for the 12,000 s.f. building and associated D1 for the second building (third use) on the same lot. He explained that there would be a stipulation that upon identification, that the tenants for the retail building would be subject to Board approval as an amendment to the D1; then final Site Plan approval. Mr. Schrek indicated that drainage and curbing would still need to be engineered. Mr. Kent-Smith confirmed that the applicant would accept responsibility for the installation of any improvements.

The approval terms were discussed.

Chairman Miller expressed concern about the lack of a plan for the vacant lot. Ms. Rubright offered that it was not part of the application at hand. He expressed concern about the testimony regarding no additional traffic coming off the ramp feeding into the circle and offered that this contradicted the intent of the

proposed signage. Speaking to the peak hour trips specifically Mr. Kent-Smith referred to Figure 4 of the traffic report. Ms. Rubright offered that the new facility would redirect motorists from the flyover that would now go into the circle creating more traffic which contradicts the intent of the flyover. Mr. Kent-Smith held that it would have the opposite effect. A discussion ensued as to the purpose of the sign, if not to draw people off of the flyover. Mr. Kent-Smith held that the purpose was to alert people of the decision point. Chairman Miller opined that it would not be an insignificant amount of traffic. Mr. Kent-Smith recapped the traffic testimony. Ms. Rubright offered that the analysis provides for about one vehicle per minute diverted from the flyover.

Security/surveillance cameras were discussed in response to a question from Mr. Fortkus. Mr. Kent-Smith indicated that they would be in use on the site.

In response to a question from Ms. Thomas as to previously discussed issues with the downtown Quick Check location, Mr. Vallario related that the landlord was contacted and that the Chief of security for Quick Check spoke to the Raritan Police Chief who assured him that there were no "real issues/problems there." Ms. Thomas cited a recent publication regarding incidents on the lot involving drug activity. Mr. Vallario offered that issues on the lot were outside of their purview. Ms. Thomas offered that Quick Check needed to take responsibility regardless since it was their name on the property, and as such, their reputation. Mr. Vallario assured her that they would take whatever steps they are "allowed to" including working with Raritan Police. Surveillance signage was discussed in response to a comment from Vice Chairman Brown.

Vice Chairman Brown expressed concerns about fuel truck circulation, with respect to the turnaround at First Avenue in particular. Mr. Vallario offered that drivers and store employees are aware and that they would work with suppliers. Mr. Gausz offered that there is a weight limit sign at First Avenue. Mitigation at other troublesome intersections in towns such as East Hanover and Colts Neck were discussed.

The Chairman opened the floor to questions of the witness. There were none. He opened the floor to public comment/questions. There were none.

Mr. Kent-Smith reviewed the request for relief. He confirmed that the application was for two D1 variances for two buildings for two retail uses being the proposed convenience store and retail store, a D3 for deviating from the conditional use standards for the fuel use and related bulk variances. He confirmed that Preliminary and Final Site Plan approval would be subject to review and approval of Mr. Schrek with respect to the phasing plan and any associated improvements related to Quick Check. He confirmed that Preliminary Site Plan approval only was being sought with respect to the retail building at this time. He offered that all relief would be subject to comments from Borough Officials and the Board professionals and confirmed that the applicant would comply with the reports and recommendations contained therein.

The Board Attorney advised that the Board was reserving jurisdiction over the second building. She recapped the planning testimony that was presented and offered that the Board needed to make a determination as to site suitability in addition to whether the proofs had been met for the D1 and the D3. Citing *Price v. Himeji*, she explained that the bulk variances would be subsumed into the use. Speaking to the negative criteria, she explained how the applicant proposed to mitigate any impairment to the zone plan or detriment to public good given the reconciliation provided by the Planner under *Medici*.

There was a brief discussion on the structure of the vote.

**Motion** by Vice Chairman Brown, **seconded** by Mr. Zack to grant the D variances, Preliminary and Final Site Plan approval for the Quick Check property and Preliminary Site Plan only on the retail site, subject to conditions as previously enumerated, including a return to the Board for an amended D Variance and Final Site Plan approval on the retail building.

**ROLL CALL**

**Aye:** Vice Chairman Brown, Mr. Zack, Ms. Thomas, Mr. Gausz, Mr. Cunningham, Mr. Wilde  
**Nay:** Chairman Miller  
**Abstain:** Mayor McMullin, Mr. DeCicco, Ms. Goetsch, Mr. Fortkus

**PUBLIC COMMENT**

The Chairman opened the floor of public comment.

**ADJOURNMENT**

**Motion** by Vice Chairman Brown, **seconded** by Mr. DeCicco to adjourn the meeting at 9:17p.m.

Respectfully submitted,

  
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Nancy Probst, Planning Board Secretary

**APPROVED 04/12/17**