

CALL TO ORDER: AT 7:03 P.M. by Chairman Loury
OPEN PUBLIC MEETING LAW STATEMENT OF COMPLIANCE

ROLL CALL: Chairman Loury, Mayor William J. Chegwiddden (via phone), Peter Rathjens, Marc Harris, Brian Bosworth, Christopher Fleischman, Barbara Chiappa, Roshan Patel, Lawrence Biehler

EXCUSED: Councilwoman Paola Vasquez and Michelle Anne Molde

OTHERS PRESENT: Alan Zakin, Board Attorney; Christopher Borinski, Board Engineer; Alison Kopsco, Board Planner Representative; and Desi Ruffo, Board Secretary

Chairman Loury swore in: Lawrence Biehler: Planning Board Alternate 2: 2-year term to expire 12/31/2026.

Motion by C. Fleischman and seconded by B. Chiappa to approve the meeting minutes as presented from the following:

- January 7, 2025: Re-Organization meeting
 - January 7, 2025: Regularly scheduled meeting
- YEA - 5 NAY - 0 ABSENT - 2 ABSTAIN - 4

Motion by M. Harris and seconded by R. Patel to approve the bills as presented.

YEA - 9 NAY - 0 ABSENT - 2 ABSTAIN - 0

OLD BUSINESS:

1. Amended Resolution of Approval: Preliminary and Final Site Plan Approval and Bulk Relief
47 Kossuth (Block: 1212, Lot: 14)

Board attorney indicated that the applicant representative, who was not present, indicated that they had no changes to the resolution. Discussions took place between the board members and board professionals regarding revisions to the resolution. Revisions were made to pages 1 and 5. Chairman Loury requested that it be noted in the resolution that no members of the public were in attendance during the hearing.

Motion by B. Chiappa and seconded by C. Fleishman to approve the resolution with the conditions as discussed.

YEA - 5 NAY - 0 ABSENT - 2 ABSTAIN - 4

2. Amended Resolution of Approval: Revised Tot Lot Plan - Morris Woods (Block: 1603, Lot: 4)

The board reviewed the draft resolution of approval. The Board attorney indicated that the applicant representative, who was not present, indicated that they had no changes to the resolution. Discussions took place between the board members and board professionals regarding revisions to the resolution. Revisions were made to pages 2 and 3.

Motion by C. Fleishman and seconded by B. Chiappa to approve the resolution with the conditions as discussed.

YEA - 6 NAY - 0 ABSENT - 2 ABSTAIN - 3

3. Extension of Approval Request: 170 No. Main/Ashour Investments (Block: 301, Lot: 1)

Michael J. Lipari, ESQ., Legal Representative (Mandelbaum Barrett, PC: Roseland, New Jersey): Testified: The applicant is seeking a third and final one-year extension due to delays in the ability of the applicant to gain approval from outside agencies, more specifically from New Jersey Department of Environmental Protection (NJDEP). This property is a very challenging site with many constraints, contamination and environmental issues that the applicant has been diligently working through. There are some outstanding issues the project engineer Fred Stewart of Stewart Surveying and Engineering will further explain those issues.

Alan Zakin, ESQ., Board Attorney: This is the applicant's third request for an extension. According to the Municipal Land Use Law (MLUL), the applicant must demonstrate to the board that there was a ministerial setback that caused the delay.

Alfred "Fred" Stewart, Licensed Engineer (Stewart Surveying & Engineering: Kenil, New Jersey): *Was duly sworn.* A flood hazard area verification approval was obtained from by the applicant in November 20, 2024, which sets the flood hazard elevation on the site, about four meetings took place with New Jersey Department of Environmental Protection (NJDEP). The profile sets the flood elevation for the area based on the FEMA mapping and other studies conducted by the state; the profile details how potential flooding of the river affects the flood area and elevation in the area. The applicant is working on flood hazard area individual permit for the site. The site plan needs to be revised in order to comply with the new DEP elevation standards.

P. Rathjens: asked about soil testing.

M. Lipari, ESQ.: All outstanding items with Environmental Protection Agency (EPA) can and will be addressed at the start of construction.

M. Harris: reminded the applicant that the board had requested soil testing results.

Magdi Ashour, Property Owner/ Applicant (170 No. Main, Wharton New Jersey): *Was duly sworn.* Confirmed a report with soil testing results was submitted.

C. Borinski: The Licensed Site Remediation Professional (LSRP) provided the soil and water testing results. Several wells on-site were removed, but will be reinstalled during construction. Additional testing was conducted, and the NJDEP identified areas requiring further remediation, which can and will be addressed during construction. This information was shared with the board during a meeting and will be forwarded to the Board Secretary. The LSRP will determine the appropriate protocols for future testing.

A. Zakin, ESQ.: An LSRP is a professional who is certified to oversee the cleanup of contaminated properties. They manage the entire process of site remediation and work with developers and government agencies to handle the cleanup and make sure the applicant fully complies with state environmental laws.

P. Rathjens: Asked if the site is suitable for residential use.

C. Borinski: The site is currently remediated to meet commercial standards. It will be suitable for residential use once the remediation is completed during construction. There are currently two liens on the property.

M. Ashour: The total lien amount for the entire site, including the property on the other side, is nearly one million dollars.

K. Loury: Asked if testing areas are expanded when a hotspot is found.

C. Borinski: Yes, if anything additional is found during the remediation, it will need to be addressed.

K. Loury: Asked if the applicant believes this is a viable application.

M. Lipari, ESQ.: The application would be more desirable and financially secure if it were fully residential.

A. Zakin, ESQ.: Asked the board professionals what could be recommended or should be addressed by the applicant so the approval can be received within the year.

C. Borinski: Once the individual permit application is deemed complete by the NJDEP, they have 90-days to approve it. The NJDEP now conducts a technical review, which extends the review period.

Discussion between the board members and professionals occurred.

K. Loury: Requested the following condition: Reasonable maintenance of the site, as per the request of the board professionals and additional testing of the site.

M. Lipari, ESQ.: In lieu of additional testing, the applicant has agreed to submit a confirmation from the LSRP to the board regarding whether further testing would be beneficial.

The board agreed to accept confirmation from the LSRP regarding whether further testing would be beneficial in lieu of additional testing of the site.

OPENED TO THE PUBLIC
CLOSED TO THE PUBLIC

P. Rathjens: Asked for clarification on the potential approval.

A. Zakin, ESQ.: The approval of the original resolution for one year, with the same conditions as the original approval, including the maintenance of the site as per the board professionals and a letter from the LSRP advising on the need for additional testing of the site.

Motion by M. Harris and seconded by B. Bosworth to approve the extension of approval with the conditions as discussed.

YEA - 9 NAY - 0 ABSENT - 2 ABSTAIN - 0

4. Extension of Approval Request:

Wharton Developments A- Urban Renewal (Block: 903, Lots: 2 & 2.03)

Amanda Curley, ESQ., **Legal Representative (Day Pitney: Parsippany, New Jersey)**: **Testified**: The applicant is seeking their first one-year extension of the preliminary and final major site plan approval to January 10, 2026. The applicant has been diligently pursuing the required outside agency approvals and has obtained approval from the Morris County Planning Board and the Soil Conservation District (SDC). The Applicant has also obtained the following approvals from the New Jersey Department of Environmental Protection (NJDEP): BWSE permit; Wetlands Letter of Interpretation; Flood Hazard Area Individual Permit; Flood Hazard, Area General Permit; Freshwater Wetland Transition Area Waiver; and Treatment Works Approval. The TWA application was approved by the NJDEP on November 6, 2024 and said approval was forwarded to the Borough. A resolution compliance package dated January 30, 2025 was submitted to the professionals. Now that approvals from all outside agencies with jurisdiction have been obtained, the Applicant intends to submit the final resolution compliance package and anticipates that construction will begin in 2025.

Discussion among the board members occurred regarding the lack of maintenance on the site. It was recommended that the applicant collaborate with the Board Planner to implement the approved landscaping plan to beautify the property.

The applicant agreed to work with the board professionals on the landscaping plan and repair or remove the silt fence as necessary.

OPENED TO THE PUBLIC
CLOSED TO THE PUBLIC

Motion by L. Biehler and seconded by B. Chiappa to approve the extension of approval with the conditions as discussed.

YEA - 9 NAY - 0 ABSENT - 2 ABSTAIN - 0

NEW BUSINESS:

1. Application: *Request to Carry*

C. Palacios - 183-185 South Main Street (Block: 1801, Lot: 16)

The applicant had requested to the board via letter dated February 4, 2025 to be carried to the March 4, 2025 meeting. Discussion between the board members and board professionals occurred, it was confirmed the applicant had re-noticed for the February 4, 2025 meeting.

Motion by B. Bosworth and seconded by C. Fleischman to approve the request to carry the application to March 4, 2025.

YEA - 9 NAY - 0 ABSENT - 2 ABSTAIN - 0

ADJOURNMENT AT 8:34 P.M.

Respectfully submitted,



Desi Ruffo
Planning Board Secretary