

**Planning Board Meeting
Regular Meeting March 17, 2010**

The regular meeting of the Planning Board took place on the above date. Chairman McCabe read the Open Public Meeting Act and requested Mrs. Citterbart called the roll. Board Secretary Mrs. Citterbart stated there was a quorum.

Members Present: Mr. Elvidge, Mr. Le Frois, Mr. Flaherty and Chairwoman McCabe

Excused: Mr. Caffrey, Mr. Ricciardo, Mr. Russo

ALSO PRESENT: Mr. David Soloway, Esq., of Vogel, Chait, Collins and Schneider, David B. Simmons, Jr., P.E., L.S., C.M.E. of Harold E. Pellow & Associates, Inc., Debra Millikin, Deputy Town Manager and Kathy Citterbart Planning Board Secretary.

FLAG SALUTE

CONSIDERATION OF MINUTES

None

HISTORIC RESOLUTIONS

John McChesney/16 Church Street, LLC

Property Location: 14-16 Church Street

Replacement of wooden entry steps with brick face & limestone steps, wooden rail with iron rail, add small entry lamp, asphalt entry cover with simulated or slate entry cover.

Mrs. Citterbart stated: You saw the issues in his in the application. He has the money now. That is basically it. He just wanted to add the small entry lamp.

Neil Flaherty made a motion to approve the resolution. Mr. LeFrois seconded the motion.

AYE: Mr. Elvidge, Mr. LeFrois, Mr. Flaherty, and Chairwoman McCabe

RESOLUTIONS

None

OLD BUSINESS

None

NEW BUSINESS

#PB-03-2010 – Jersey Central Power & Light

Property Location: 76-80 Mt. View Street

Block: 1306, Lot 17, M-1 Zone

Preliminary & Final Site Plan. The applicant is proposing to install a new 230K V circuit breaker with its existing substation.

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Representing the applicant, John Beyel, Esq., of McElroy, Deutsch, Mulvaney & Carpenter, LLP. Mr. Beyel stated: We are looking to install a 230 KV circuit breaker and we are looking for preliminary and final site plan approval. No Variances have been required. This is our first appearance before this Board. In 2002, we appeared before the Board of Adjustments in connection with this substation. At that time we secured approval to install a lightening mast. We needed to be before the Board of Adjustment because of the height of that. As I mentioned no aspect of our project here requires any variance relief. There is a very minimal amount of service less than 350 feet so we do not need any approval from the county soil conservation district. It is not on a county road nor a county drain is impacted and so we have a letter of exemption from the County's planning board. If the Board approves their application then they will be able to move forward with the project and you are going to hear some testimony tonight as to sometime requirements set forth for this project and it is one of those that the company really hopes it can get installed for the onsite any weather and you are going to hear someone talk about that. I have two witnesses with me this evening. One is a transmission planning engineer and other gentleman is a substation engineer. The first witness is Mr. Goldberg is going to talk about the need for the project, how they assessed the situation and what he feels could be done at the substation which would enhance the liability. The other gentleman Mr. Cobaugh will talk a little bit more the piece of equipment at south end and the placement of it within the substation. We did request a number of waivers and your Board Engineer recommended approval of all those waivers and I have seen this report and I trust you have these forms.

Chairwoman McCabe asked Mr. Beyel: That is the March 8, 2010 letter from Mr. Simmons that you are referring to? Mr. Beyel stated: Correct.

SWORN: Jeffrey Goldberg, of First Energy.

Mr. Beyel requested Mr. Goldberg to tell the Board what his education background is.

Mr. Goldberg stated: I have two bachelor's degrees. One in engineering chemistry from Sunny Stony Brook graduated in 1983. I have a bachelor's degree in electrical engineering from Trenton State College. I graduated in 1994.

Mr. Beyel asked: Are you licensed in the state of New Jersey?

Mr. Goldberg stated: Yes.

Mr. Beyel asked: By whom are you employed?

Mr. Goldberg stated: I am employed by First Energy.

Mr. Beyel asked: How long have you been an employee of First Energy?

Mr. Goldberg stated: I have been employed with them for seven years.

Mr. Beyel asked: Please tell us your duties with the company.

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Mr. Goldberg stated: Four years I was in planning and reliability as a regional engineer for JCP&L both north and central regions. After that I spent two years as an asset management engineer working of monitoring equipment trouble. This past year I have been employed as the transmission planning engineer and for planning engineer discovered studies of the transmission grade in the eastern part of First Energy which is (Pennelack) area in western Pennsylvania, (Mehta) eastern Pennsylvania and all of JCP&L.

Mr. Beyel stated: I am calling Mr. Goldberg as a fact witness because of his duties with the company although he is a fact witness certainly with expertise. I offer him up as a witness who has expertise in the field of transmission planning.

The Board accepted Mr. Goldberg's qualifications.

Mr. Beyel stated: Mr. Goldberg you started to describe what the role is as a transmission planning engineer. Would you explain that a bit further for the Board please?

Mr. Goldberg stated: As a planning engineer I looked for any kind of reliability deficiencies in the transmission grid. We model our whole transmission area as systematically we put a volt on the group of components within the grid that we assess what type of reliability impact that would have on our transmission grid model.

Mr. Beyel asked: Did you perform that function in an area the grid as it exists in Newton area?

Mr. Goldberg started: Yes I did.

Mr. Beyel asked: What finding did you make?

Mr. Goldberg stated: We found a deficiency at the Newton substation. Particularly we have a transition line between Newton and Montville and we put a volt on that. It also takes out our Newton Bank in the substation that causes a wide area outage.

Mr. Beyel stated: **Exhibit A1** is presented. Mr. Beyel asked: What would you call this exhibit?

Mr. Goldberg stated: The Newton Area Study.

Mr. Beyel asked: In describing what you did with your modeling, you used a term that I would like you to explain to the Board. You used the term substation. What is a substation?

Mr. Goldberg stated: A substation its purpose is to transform voltage level from a high voltage level to a low voltage level. It is best explained by using an analogy. The highway analogy, where the high voltage transmission line is like an interstate highway perhaps interstate 80 or similar to that. It has power running through it.

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Mr. Beyel asked: What is the voltage level that you would say even using your analogy you would be using on your main highway.

Mr. Goldberg stated: For this analogy the high voltage interstate highway would be 230 K V. The substation is a connector to a lower voltage or maybe an off ramp if you think of it like that. The lower voltage in this case for Newton would be 34.5 K V. That would be similar to a county road maybe Rt. 206 would be a good analogy.

Mr. Beyel asked: Going forward a bit more with your highway analogy how is power going to get distributed to individual customers?

Mr. Goldberg stated: For individual customers we also have substations at a distribution substation. They would take your 34.5 K V and they would transform it down to a lower level. In the Newton area would be 4.8 K V. Again we use the same analogy the high voltage in this case 34.5 K V would be stepped down to 4.8 K V.

Mr. Beyel stated: You used a couple of terms. One being transmission and one distribution. Do those terms also apply to substations or does that characterized certain substations.

Mr. Goldberg stated: Yes. A substation that is a transmission substation which Newton is, takes the highest voltage being transmission and steps it down to sub transmission level so Newton transmission substation does not serve directly to the customers it only serves other substations. It is a transmission substation in contrast to a distribution substation which takes the intermediate level going toward the county road and stepped it out to local streets in our analogy. So Newton is a transmission substation and it does not directly serve the customer.

Mr. Beyel asked: On your Exhibit A1 you have certain names within watts. I can see Newton, East Newton, and West Newton for example. What do those things designate?

Mr. Goldberg: Those are all substations in the area of Newton. Newton itself if I can come up there is a red block around it this is the substation that is where we would want the project to go forward. This is our transmission substation. It feeds some of the local substations that you see in the blocks in black with white letters are substations that would be impacted if we had vault as I modeled they would be outaged completely. All the customers served from those substations would be out of light. We also have blocks in gray with black letters those are substations also but those would be not outaged completely they would have brown out conditions or low voltage. The blocks in white with black letters are substations in the area that would not be impacted by such a fault that I modeled.

Mr. Beyel stated: There is a term that you used to describe the substations that are in a type of black boxes as opposed to the one in gray.

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Mr. Goldberg stated: There are ways for the substations to be connected. Some are connected in a network fashion, which means their supplied power not just from one transmission substation but more than more. For this particular substation in Newton, it has six lines leaving it. Five of the six are network so some of the substations that are connected to it may experience brown out conditions there they are connected to other substations but for the one line leaving it a radio connection that would be north of Newton. If the entire Newton substation was to be outaged and this line were to go down north of Newton this whole substation and its service area would also be outaged.

Mr. Beyel stated: When you say outaged in the modeling that you did how did you attempt for modeling purposes the outage which you speak of?

Mr. Goldberg: In order to create the outage model on the computer we look at the entire grid and we take one or a group of components out of service and that tells us that a fault has happened at that point. We then look to see what are the conditions the rest of the grid that we serve without those components in service.

Mr. Beyel stated: The lower part of the one you have one side is label existing conditions and the other is conditions after the circuit breaker is in service. Can you explain what you are attempting to show?

Mr. Goldberg stated: What this shows is the before and after the project being done. Both of these the existing conditions and the conditions after the breaker in service, represents the conditions after a fault of the transmission line between Newton and Montville were to take place. That might be maybe a tree contact or something like that. For the existing conditions, if our transmission line were to be outaged or faulted the bank too would also because it is connected but also put out of service. The impact of that all the power that was served at Newton at the time of the fault would be forced to go through bank one. When bank one receives all that power such as in warmer conditions as in the summer when peak load is happening it would be overwhelmed and it would trip off because it is running at 138% at the worst part of the summer. So the existing conditions on the left over here represent all these boxes are green open breakers all of these substations would be out of power.

Mr. Beyel asked: When you say out of power how does that impact the residence in and around Newton?

Mr. Goldberg stated: If we look at this map up here we see some of these areas are connected either networked or radio in the area of Newton and we see that the north Newton would be out of power entirely.

Mr. Beyel asked: How customers would be affected? Mr. Goldberg stated: 3,000 meters. So if we have maybe a duplex home with one meter it could be more than one place but it is 3,000 meters. Now we also have east Newton and that is gray. What would happen there is east Newton instead of being supported close to the Newton substation it is being supposed it voltage out from Kittatinny or out from Franklin further

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away it is voltage would sink and you would have brown outs over here. If it were severe enough perhaps they would be out of power too.

Mr. Beyel asked: What happens in a brown out condition. How would a customer experience a brown out?

Mr. Goldberg stated: A brown out condition will be if you iridescent lights they would all be lowered in intensity. If you had motors it would be straining to turn some motors would seize up that would be like your refrigerator, sump pump, well pump maybe even sewage pumps. They would either labor or overheat or they might just stall out.

Mr. Beyel asked: Could you project the approximate period of time in the event of the failure you are describing now that it would be out of service?

Mr. Goldberg stated: It would light take 24 hours or more bring the customers back.

Mr. Beyel asked: Have you come up with a solution to that problem?

Mr. Goldberg stated: The solution to that problem is on the right hand side of the lower page. It would be placing the 230 KV breaker right at the Newton substation. By doing that if we have a fault on this 28 mile line between Newton and Montville, the breakers would open up and the fault would be isolated between the two breakers. The Newton substation itself would be unaffected no impact what so ever. It would be for the customers as if it never happened.

Mr. Beyel asked: An installation of the circuit breaker that you are talking about is that what you are seeking permission to do for this application?

Mr. Goldberg stated: That is correct.

Mr. Beyel asked: Now is there some issue of the time for the installation of this project that is important to you?

Mr. Goldberg stated: Yes. The over dutying of the bank one happens during the worst when we have the most loads going through the substation and that occurs in the hotter months. It is important that we have this in place before the weather gets warmer when the air conditioners come on when people would normally come home and turn on their air conditioners basically in the summer time. But really any warm period.

Mr. Beyer stated: I do not have any further questions for Mr. Goldberg.

Chairwoman McCabe asked the Board if they have any questions.

With no questions coming from the Board, Mrs. McCabe opened this portion of the meeting up to the public.

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Kathleen Lang 83 Mt. View Street

SWORN: Kathleen Lang

Ms. Lang asked: How is this going to affect health, property values, and noise? Where I am now there is a constant loud buzzing noise I am just wondering is it going to get worse?

Mr. Goldberg stated: I can say that this particular piece of equipment makes no noise; it is completely silent.

Ms. Lang asked: Are there any health issues. I am directly across the street from where you are doing this.

Mr. Goldberg stated: No. This imposes no health risk whatsoever. It is a box that would allow electricity to flow and it will open up in case you have a fault condition. It makes no noise.

Ms. Lang: No noise no buzzing?

Mr. Goldberg stated: No noise.

Ms. Lang stated: When I first moved here I was not aware I thought that was a cell phone tower on that road. I guess I did not do enough research and I worried about the fact that I am thinking about selling my house. It is going to be a gigantic tower? Is it going to be a huge project? What is going to be visually across the street from me?

Mr. Goldberg stated: I have my substation engineer and we have a couple of photographs and he'll probably be the better person to answer your questions. Mr. Cobaugh will testify in a minute and I would suggest you put your questions to him. He is the better witness to answer those questions.

Chairman McCabe stated to Kathleen after Mr. Cobaugh testifies you will be able to ask him questions.

Mr. Elvidge asked: When you said there is no noise to Ms. Lang, is the installation of the breaker it will suppress the existing noise or will the noise continue and it is just an addition.

Mr. Goldberg stated: The substation engineer is better able to answer questions about the equipment.

With no more questions from the public I will close this portion of the meeting.

SWORN: Mr. Todd Cobaugh, First Energy 2800 Pottsville Pike, Reading, PA

Mr. Beyel stated: Mr. Cobaugh, please provide the Board with your education background.

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Mr. Cobaugh stated: I graduated from Penn State in 1980 with a BS degree in electrical engineering. I am a licensed engineer in the State of New Jersey. I have been employed by First Energy and their predecessor GPU for 29 years. I am currently a substation engineer in the substation department in Reading, PA.

Mr. Beyel asked: What do your responsibilities include for that position?

Mr. Cobaugh stated: Designing substations new substations or modifications to existing substations.

Mr. Beyel asked: Did you prepare the site plan for this project?

Mr. Cobaugh stated: Yes I did.

Mr. Beyel stated: Explain the nature of the document from which you will be testifying.

Mr. Cobaugh: This is what was included in the application package. 230-34.5 KV Substation yard Site Plan – Block 1306, Lot 17 & Block 1307, Lot 53 Zone M -I Plot.

Mr. Beyel asked: Where within the substation are you proposing to place the circuit breaker?

Mr. Cobaugh stated: Indicate on map where the circuit breaker will be.

Mr. Beyel asked: I would like you to reference a couple of photographs. There photographs were also included in the application packet. We will mark them as **Exhibit A2 and Exhibit A3.**

Mr. Beyel asked: For purposes of the record could you describe what is depicted in the photograph A2.

Mr. Cobaugh stated: Photograph A2 is a view of substation from the street. This was taken as part of the application package for the lighting mass in 2002.

Mr. Beyel asked: Is this generally how the site looks?

Mr. Cobaugh stated: The only difference is this was taken when we were preparing for the application for the lighting mass. The lighting mass is not shown here.

Mr. Beyel asked: On your site plan, there is something that you described as a control building. Can you see the control building in that photograph?

Mr. Cobaugh stated: Yes. It is kind of hard to tell what it is but the group of the two trees the one with the red leaves underneath them and behind them is the control house. It blocks a lot of the view of the equipment and substation.

Mr. Beyel asked: What is depicted in Exhibit A3?

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Mr. Cobaugh stated: Exhibit A3 is a 230 volt circuit breaker. It is a different manufacture but otherwise identical to the one we will be putting in size and appearance.

Mr. Beyel asked: What are those pointy looking things on the pieces of equipment.

Mr. Cobaugh stated: Those are called the bushing. They are insulated part that connects the breakers to the conductors from coming in and going out.

Mr. Beyel asked: At the highest point of those bushings, how high is this piece of equipment? How tall is it?

Mr. Cobaugh stated: To the top of the bushings it is approximately 15 feet.

Mr. Beyel asked: Will this piece of equipment be installed at a location largely to the rear?

Mr. Cobaugh stated: Yes

Mr. Beyel asked: In your opinion, to some extent, will the best view of the substation that passer by's might have be obscured by this building?

Mr. Cobaugh stated: I don't think you will be able to see it by the street. I think it will be hidden by trees and what else is there.

Mr. Beyel asked: Park of the ordinance requires us to address issues such as number of employees, hours of shifts, traffic flow in and out that sort of thing. Just describe from an operational point of view what occurs at a substation.

Mr. Cobaugh stated: This is an unmanned facility. It is operated and monitored remotely. There are alarms and indications that we have on all the equipment. If any problems in equipment or operation we would monitor it from our system operations in Reading. We would send maintenance people out if necessary. But otherwise it is routinely only visited once a month for inspection.

Mr. Beyel asked: Does the circuit breaker generate any noise?

Mr. Cobaugh stated: No it does not.

Mr. Beyel asked: Does it emit any smoke or odor or water pollution anything to that nature?

Mr. Cobaugh stated: No it is pretty much just sits there.

Mr. Beyel asked: Does it function like a circuit breaker on a sump pump?

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Mr. Cobaugh stated: It does perform very similar function to your circuit breaker in your panel in your home. It does operate to disconnect/de-energize a line. There is a 230 volt line coming in here in case it detects a problem. All that operation is internal; you do not see anything.

Mr. Beyel asked: Mr. Goldberg was talking about the period of time when the system is under its greatest stress. What impact does that have on you with the time frame that you would like to install the circuit breaker if the Board allows you to do so?

Mr. Cobaugh stated: In our construction project as we have it planned, we anticipate taking about six weeks from the time we start to we are ready to energize and put in service. It really needs to be scheduled to have it in service before we start getting into the warm weather.

Mr. Beyel asked: How do you install or engage this piece of equipment as part of the substation?

Mr. Cobaugh stated: We will have to temporarily rearrange the energized bus within the substation so that we can de-energize the area around where we are doing the work. All this needs to be completed before we get into warmer weather because that is based on when we can do that.

Mr. Beyel asked: Will any of the customers in the Newton area know when you are having this outage within the substation?

Mr. Cobaugh stated: No. It will all be planned so there will be no effect.

Mr. Beyel asked: So they are not impacted by the outage you are speaking?

Mr. Cobaugh stated: Right.

Mr. Beyel asked: Can you take that type of outage or bypass the system when you have the onsite of warm weather?

Mr. Cobaugh stated: No. It will all be subject to the loading of warm weather.

Mr. Beyel asked: In order to get this project to begin and provide the enhancement of the liability we see it needs to be installed and operational before the onset of warm weather when ever that might be.

Mr. Cobaugh stated: Right.

Mr. Beyel asked: Physically how is the circuit breaker placed on site?

Mr. Cobaugh stated: The circuit breaker will be installed on 9x7 concrete slab.

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Mr. Beyel asked: On your site map you indicate over on the side marsh area or swamp area. What is the elevation in which you encounter?

Mr. Cobaugh stated: The marsh elevation is indicated at 91 feet.

Mr. Beyer asked: Do you know the elevation within the substation where you have proposed to place the circuit breaker?

Mr. Cobaugh stated: The substation is approximately 103 feet in elevation. So there is approximately a 12 foot elevation difference.

Mr. Beyel asked: How far from the flood plain elevation would be the location within the substation that you would place the circuit breaker?

Mr. Cobaugh stated: We are in access of 150 ft. from the closest point.

Chairwomen McCabe asked: Can you show us on the site plan the location of the current breakers and the position of the proposed breaker?

Mr. Cobaugh stated: There is only one 230 volt breaker on the site. He points to the area.

Chairwoman McCabe asked: You marked it as A3 and is that the current breaker?

Mr. Cobaugh stated: That is not at Newton right now. It is at another substation but it is a very similar breaker.

Chairwomen McCabe asked: So this is where the current one is and the proposed one will be?

Mr. Cobaugh stated: It is a clouded area on your drawing.

Mr. Soloway asked: Is it within the existing fence?

Mr. Cobaugh stated: Yes. Everything is within the fenced area.

Mr. Flaherty asked: There are a lot of health concerns with regards to electromagnetic fields, would the installation of the circuit breaker increase, decrease or have absolutely no effect on electromagnetic fields any health concerns?

Mr. Cobaugh stated: There is no reason why it should have any effect on it at all.

Mr. Flaherty asked: It is neutral.

Mr. Cobaugh stated: Yes. You are not changing the current conductors. There is no change at all.

Mrs. McCabe asked: And there is no noise involved?

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Mr. Cobaugh stated: There is no noise. The breaker does not make any noise.

Mr. LeFois asked: When it trips?

Mr. Cobaugh stated: You might hear a momentary click, I am not exactly sure what it sounds like but it will be very rare and it is instantaneously. No duration to it.

Mr. LeFois asked: It does trip, does it require removal and reinstallation?

Mr. Cobaugh stated: No. Only if something has failed. The plant in Reading will know exactly what happen and tell what it current position is open or closed. They are like your breakers at home. But they are more reliable.

Mr. LeFois asked: Would it increase any maintenance activities or anything like that.

Mr. Cobaugh stated: No.

Mr. Elvidge asked: When this is installed it is a replacement of other unit.

Mr. Cobaugh stated: It is an addition to. Is there any down time in terms of service to the area?

Mr. Cobaugh stated: No. It will all be done without affect anybody's service. That is why we need to do it before we get into warm weather because one we get into warm weather the loading is such that we can't the outage we need to do. When I say outage I mean taking de-energizing a piece of our equipment but we are not de-energizing any other substations or customers. It is just taking out a section of the buss and energizing it but in the middle of summer we cannot do that.

Mr. Simmons asked: I have a question about the installation activities. Is it brought in as one piece?

Mr. Cobaugh stated: It is already sitting there. It was brought in as one piece. Transportation is fairly very simple.

Mr. Simmons asked: And activities to install it would be typically carried out during the day.

Mr. Cobaugh stated: Yes.

Mr. Beyel stated: Your engineer's report under category 4 of the site plan your subpart B called attention to the area labeled by the swamp and asked that the applicant provide testimony as to where the proposed incisions would lie with respect to fresh water wetlands transition area and if there are any DEP permits. That is why I had him indicate that it is more than 150 ft away from the wetlands so it is not in the transition area. And consequently there are no DEP permits required.

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Mr. Simmons stated: If the Board were to consider approval of this since they are applying for both preliminary and final and as built plan be prepared so the Board has it for their files.

Chairwomen McCabe asked: Mr. Beyel in reference to Mr. Simmons's March 8, 2010 report, do you have any issues with the recommendations or requirements that Mr. Simmons has laid out?

Mr. Beyel stated: No. Your engineer called attention to this request for an As-built plan be prepared by a surveyor and we have agreed to do that. The only other point I would like to make whether it is now or later in the presentation. My witnesses have both presented in their report their timing concerns with this project. What we have been able to do in the past is ask the Board to authorize a construction official to issue permits to the Board tonight to approve the application even though the resolution would not be memorialized until a subsequent meeting. The reason being as Mr. Cobough says it could take six weeks from issuance of permits to get the part fully operational. I would like to do that sometime in mid May because sometimes in May it is warmer. I would like to get in and if we don't there is a concern that we might not be able to energize it this summer and we will miss the opportunity to enhance are liability cost that we would like to achieve.

Mrs. McCabe asked: You would like them to waive the writing of the resolution?

Mr. Beyel stated: Yes.

Mr. Soloway stated: I am confused on something in Mr. Simmons' report Item 5 b As-built plan and Item 5 c a signed and sealed copy of the property survey. I assume those are slightly different requirements and are also agreeable to the applicant?

Mr. Beyel stated: We operated this substation here since the early part of 1998 and we couldn't find a signed and sealed survey to the project and we knew it would take quite a while. What we did with Mr. Simmons was the as built survey would be prepared by surveyor.

Mr. Simmons stated: My recommendation to the Board is since the proposed installation of the circuit breaker is physically within fenced area anyway I am not concerned with application being too close to the property line and the off sites.

Mrs. McCabe stated: There is quite a list of waivers which I would like to read for the record. Contours to determine the natural drainage of the land, Constraint provision calculations, Gross density of FAR adjustments, Location of existing railroads, bridges, culverts, drain pipes, water sewer mains, plan and profile of proposed utility layouts, design calculations showing proposed drainage facilities, location, name, and widths of all existing and proposed streets on the property and within 500 feet of the tract, location and description of monuments, copy of any protective covenants or deed restrictions applying to the land, landscaping plan, letter of interpretation from NJDEP

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regarding freshwater wetlands and Mr. Simmons you have no problems with any of these waivers?

Mr. Simmons stated: Based on the additional information and additional information that was furnished to our office subsequent to the preparation of this report, I don't have any problems.

Chairwoman McCabe opened this portion up to the public.

Kathleen Lange asked: Anybody who has been on Mount View Street it is a dead end. There is nowhere to turn around unless you pull into someone's driveway. I have a question about traffic. How much equipment will block the road off. Is there going to be a lot of equipment coming in and out? How long do you expect this project take?

Mr. Cobaugh stated: We do not anticipate it taking more than six weeks for the construction that is from start from finish. As far as traffic, I don't think there will be any substantial traffic. We will have a few medium size trucks going in and out during the day. I don't there are any large vehicles that would close off a street.

Ms. McCabe asked: All of your equipment will be on site as you are doing the work, correct?

Mr. Cobaugh stated: Yes.

Mr. Beyel asked: Would you describe the driveway and how many vehicles you can park on that driveway.

Mr. Cobaugh stated: When we are working there during the day we will have all the vehicles parked inside the fence area. We will have a few contractors coming there and maybe a boom truck that can lift equipment around. I really don't any substantial effect on traffic and we have plenty room to turn around so I don't see why we would have to use anybody's driveway.

Mr. Flaherty made a motion to approve the preliminary and final site plan. Mr. Elvidge seconded the motion subject to all necessary documents being provided to Mr. Simmons and you are waiving the resolution.

AYE: Mr. Elvidge, Mr. LeFrois, Mr. Flaherty and Chairwoman McCabe

#MNSPV-227 – 206 and North Park Drive LLC/Walgreen's/Dunkin' Donuts

Block: 303, Lots: 26.02, 26.03, 26.04 & 26.06

Property Location: Route 206 & North Park Drive LLC

Final Site Plan.

The applicant is requesting final site plan approval for the Walgreen's with a drive-through window on the property and re-approval of the minor subdivision between the Wachovia and Walgreen's /Dunkin' donuts property.

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Mr. Fox, Esq. stated: I would like to clarify something for the record with I did discuss with council and Mrs. Citterbart. It is just a minor detail. The application has been carried under North Park Urban Renewal LLC. That was the previous name. The current name is 206 and North Park Drive LLC. Our records should be corrected to reflect that. The final resolution should reflect that as well. The application for the final approval does not have this on this on there. I can represent to the Board that the ownership is exactly the same.

Mr. Fox continued: To bring you up to date for that portion of the lot which now has the Walgreen's building on it. You may recall there was something unusual about it because there are two buildings on one lot. We do currently have final site plan approval for Dunkin' Donuts' portion of the lot. You may recall that was granted sometime ago. So basically tonight we are asking to finalize the entire site plan approval. We are also the Board to revisit the minor subdivision which was previously granted. There were some technical difficulties which the description of the property to be conveyed. Just to refresh your recollection, the property where the Wachovia Bank is currently located had a long fish hook like appendage that ran into the property we are currently reviewing this evening same ownership; common ownership of both properties. We need to move the access behind the Walgreen's building west and it would of placed it into that fish hook so it was deemed appropriate to take the fish hook off the Wachovia lot and square off the lot the Board is currently considering the Board previously granted that application unanimously. There were some technical difficulties with the actual meets and bounds descriptions and getting the approvals of the various engineers and so on. In any events under the statute we ran out of time to prefect that subdivision. So nothing has changed but we cannot ask for any more time because technically there is a statutory bar. So I have discussed it with council and he was kind enough to talk about a number of solutions and we all agree the best solutions is have the Board revisit that application because nothing has changed.

Mr. Soloway stated: You may recall Madam Chair, I think this was discussed what I will call the final the first phase of this for Dunkin' Donuts. Mr. Fox is absolutely correct; the Board did grant the minor subdivision approval as part of the preliminary site plan approval for this entire project. It has lapsed and we have gone beyond the extension period so I think the obvious solution was just concurrent with this – reapply for it.

Chairwoman McCabe asked: Do we need to deal with that separately is sort of a bifurcated way? Or can we deal with it all at once?

Mr. Soloway stated: I do not think so. It wasn't bifurcated on the first application. It was brought by way of the laws of relief granted. It wasn't in anyway controversial. It was squared off at the corners and made sense to everyone.

Chairwoman McCabe stated: Okay.

Mr. Fox stated: I did take a look at the minutes and there was some discussion about a discussion we had concerning a drawing of cup of coffee on the side of Dunkin' Donuts

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building. I do have it rendered for the Board to look at. It was our position originally that is not a sign that is more by way of a work of art, decoration on the side of the building. There was some confusion whether that was approved or not. I don't know the answer to that having reviewed the minutes. We would just like to present that again to the Board for a determination one way or another whether we can proceed with that. I do have a color rendering of that drawing.

Mr. Soloway stated: I have looked at my notes Madam Chair, I have looked at the resolution and I have discussed it with Mr. Simmons I don't have anything that indicates that the Board did approve what they are talking about.

Mr. Fox stated: I don't think you are going to see anything that shows the Board denied it.

Chairwoman McCabe stated: It is up.

Mr. Fox stated: No. There are signs that may have a cup built into it. We are talking about a drawing on the side of a wall.

Mr. Fox continued: I do have representatives here from Walgreen's and from Dunkin' Donuts. Mr. Shortino will bring up the site plan that did final and as built. We do have comments from Mr. Simmons and we are prepared to proceed with addressing those comments and also answer any questions you may have.

SWORN: Brian Shortino of Berton Engineering Associates.

Mr. Fox asked: Mr. Shortino would you tell the Board your education background.

Mr. Shortino stated: I have employed by Berton Engineering Associates, 66 Glen Avenue, Glen Rock, New Jersey. I have an undergraduate degree in Landscape Architecture from Rutgers University and a Master's of Science Degree in Civil Engineering from the New Jersey Institute of Technology. I am a licensed professional engineer, licensed professional planner and certified landscape architect in the State of New Jersey. I have been practicing all of those professions approximately for 20 years. I have appeared before Boards numerous times such as this regarding applications similar to these.

Mr. Fox asked: Have you been qualified as an expert for public board?

Mr. Shortino stated: Yes I have.

Mr. Fox asked: And that is for the purpose of providing testimony on the engineering data regarding site plans, commercial buildings.

Mr. Shortino stated: That is correct.

Mr. Soloway asked: What are you seeking to qualify him as this evening?

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Mr. Fox stated: Essentially has the participating engineering in drawing the site plan.

Mr. Soloway asked: So as an engineer for tonight's purpose?

Mr. Fox stated: Yes.

Chairwoman McCabe asked: Mr. Shortino, do you know if your licenses are current?

Mr. Shortino stated: Yes.

Chairwoman McCabe stated: Thank you.

Board approves Mr. Shortino as an expert.

Mr. Fox asked: Mr. Shortino could you briefly describe what is currently on that site as we speak?

Mr. Shortino stated: When the plan was presented to the Board it was a preliminary site plan. No construction had taken place. The final as built survey shows all the construction that has taken place and noted it is considered final. The majority of all the improvements shown on the site plan have been installed. This drawing has an initial date of February 11, 2010.

Mr. Fox asked: Could you please mark this as Exhibit A1?

Mrs. McCabe asked: Is this something that submitted to the Board?

Mr. Fox stated: I am about to ask him that.

Mrs. McCabe stated: Mr. Fox that will not need to be marked.

Mr. Fox asked: The document that you referring to, have copies of that document been submitted to the Board?

Mr. Shortino stated: Yes to my understanding it is referenced in the review letter by Mr. Simmons.

Mr. Soloway asked: Is this the final As-built Survey?

Mr. Shortino stated: Yes, that is what it is.

Mr. Soloway asked: Dated February 11, 2009, signed by Miloslav Rehak?

Mr. Fox stated: Correct.

Mr. Fox asked Mr. Shortino: Is Miloslav Rehak a member of your firm?

Mr. Shortino stated: Yes he is our land surveyor in our firm.

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Mr. Fox asked: Are you familiar with his signature?

Mr. Shortino stated: Yes I am.

Mr. Fox asked: And is that his signature as far as your knowledge?

Mr. Shortino stated: Yes that is it.

Mrs. McCabe asked: Is that drawing AB-4?

Mr. Fox stated: Yes, it is on the lower right hand corner.

Mr. Fox asked: Have you had the opportunity to review the letter that was issued by Mr. Simmons with regards to his review on the final site plan?

Mr. Shortino stated: Yes I have?

Mr. Fox asked: Are you prepared to respond to his concerns this evening?

Mr. Shortino stated: I am available to address any of the concerns of his March 11, 2010 letter.

Mr. Fox stated: Before we go there, could you briefly describe to the Board and it would be in your records from our initial application describing the site plan. Can you describe where that fish hook like piece of property is located and why it was being appropriate to convey it from the Wachovia lot over to the Walgreen's lot?

Mr. Shortino stated: Actually it is not shown on this plan because this plan reflects the as build conditions. The elimination of the lot was essentially deleted.

Mr. Soloway stated: Mr. Fox, is our packet of materials there is a minor sub division plan maybe that would be a better thing.

Mrs. McCabe stated: The 2008 one?

Mr. Shortino stated: I do have a copy.

Mr. Fox asked: This drawing is entitle Minor Subdivision Plan. It is drawing number SV 2. It is dated April 15, 2008. We are up to revision number four which is dated December 9, 2009. This is the latest revision for this minor subdivision plan.

Chairwoman McCabe asked: Mr. Shortino does this one show the fish hook?

Mr. Shortino stated: It shows it. It is a little difficult to read but it does have all the information in there. Graphically it is hard for the Board to see. I can follow it.

Chairwoman McCabe stated: Why don't you trace it?

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Mr. Shortino stated: There is an extension line along North Park Drive. That was an existing front property line. The beginning point is approximately in the center of that frontage. You would go in a westerly direction than you would go in a south western direction more like parallel to 206 then it went in the south easterly direction and I believe it came across the south westerly direction to the point that met the larger the site my understanding is the Wachovia Bank.

Mrs. McCabe stated: Thank you.

Mr. Fox stated: By permitting the requested subdivision, does that serve as squared off the property that is in question and by so doing incorporate the approved access that is behind the Walgreen's property?

Mr. Shortino stated: Yes, essentially it was extended at the lot line and the east west direction and transferred that to the property in the easterly quarter more or less along the intersection of North Park Drive and around Rte. 206.

Mr. Fox: I can represent to the Board that the properties in question are all owned by the same people and that is the applicant.

Mr. Soloway asked: Different entities controlled by the applicant.

Mr. Fox stated: Same people.

Mr. Fox stated: So there is no question from getting permission from the abutting land owners. This is merely a transfer of their own properties a different, but existing lot.

Chairwoman McCabe stated: It made sense a year ago.

Mr. Fox stated: Nothing has changed.

Mr. Fox stated: We really don't have much on the fish hook. I think that is most self evident. I think we could go to Mr. Simmons report and we are prepared to respond to some of those concerns. His letter is dated March 11, 2010.

Chairwoman McCabe stated: Mr. Fox probably the quickest way is perhaps to review anything that is an issue or that you intend to not be in compliance with.

Mr. Fox stated: I think it is fair to say that the only questions that we have to do with the some of the bonding requirements. We would like a period of three weeks to complete the bonding requirement simply because and I did speak with Mr. Simmons very briefly this evening before the meeting. You may recall that some of the same bonding requirements were passed with the Dunkin' Donuts application so there is some redundancy. For example on Page 5, Item No. 1 As-built Plan Revisions and there is an estimated price for that work. Item No. 5 preparation of All Title & Easement Documents including: etc. There is an estimated price for that but there is also an estimated price in the Dunkin' Donuts application. And it really is a redundancy because that work will

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all be done at once and only one time. So what we would like to do is just have a period of three weeks to work out some of those numbers to the satisfaction of the municipal engineer and we will certainly go by whatever he says ultimately is required.

Chairwoman McCabe asked: Is that agreeable Mr. Simmons?

Mr. Simmons stated: I am agreeable with that.

Mr. Soloway stated: There is a certain sense Mrs. McCabe, I don't have any problems with the point that was made either. This is the final site plan for the entire site including the Dunkin' Donuts so there probably is some redundancy and overlap but this ultimately will be the one that controls and I would anticipate if the Board grants it that one of the conditions will reference that final site plan and continue obligation to comply with all the conditions of it. It is the same property.

Chairwoman McCabe asked: Is the Board agreeable to allow Mr. Simmons work out the bonding issue?

The Board stated: Yes, that is fine.

Mr. Fox stated: If Mr. Simmons is acceptable to the applicant we will be working on those descriptions and so on and soon as we finish up. He will have final opportunity to review them of course. You will note under the developer's agreement all work should be completed by November 30, 2010 so are well within the time frame of actually completing everything but the plan is to get it as quickly as possible because there is no need for us to wait any longer and the weather now has broken and they are really ready to get going.

Mr. Fox continued: We would like to address the issue which appears on page 10 under Signage. I think the easiest way to do this is for me to present a drawing. This will be Exhibit A1. This particular drawing was previously discussed in the initial application by the architect. It is an architect rendering was prepared by the Dietz Partnership and I will let Mr. Shortino read the dates and so one into the record.

Mr. Shortino stated: On this Exhibit A1, dated March 17, 2010, the title is Proposed Pad Building for Dunkin' Donuts prepared by the Dietz Partnership sheet number A-6 has a date of June 20, 2007 will a final revision of November 16, 2007.

Mr. Fox stated: Could you point out the drawing that appears on the side wall of the building on the upper photograph. That is the drawing we would like to discuss and I am going to ask Mr. Roy Lukasik, Construction Manager, to come forward. He is the Dunkin' Donuts' representative. He can give us some of the background for that cup's roll.

SWORN: Roy Lukasik, Asbury, NJ.

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Mr. Fox asked: Mr. Lukasik, can you tell the Board who employs you? Are you employed by Dunkin' Donuts?

Mr. Lukasik stated: Yes, I work for Dunkin' Donuts.

Mr. Fox asked: What is your function there?

Mr. Lukasik stated: I am the construction Manager for Northern New Jersey.

Mr. Fox asked: Were you the construction manager for this project?

Mr. Lukasik stated: Yes I was.

Mr. Fox asked: Are you familiar with the building that is shown in A1?

Mr. Lukasik stated: Yes I am.

Mr. Fox asked: Basically you are the guy that made it happen.

Mr. Lukasik stated: The original rendering we sent went back to cooperate. This was something in the interim they were developing. We brought it back to you and the Board approved this design. The original point just went up one way. It was too modern for what they wanted and the model on both sides had an angled corner as well. We flattened them out and changed the roof sloop.

Mr. Fox asked: Now when you say two pointed and not they wanted. You are referring to the Board.

Mr. Fox asked: Now at that time, this building design was something of a prototype correct?

Mr. Lukasik stated: Correct.

Mr. Fox asked: So this way one of the first ones built?

Mr. Lukasik stated: There are only three in existence right now.

Mr. Fox asked: Do they have that drawing that we are discussing on the side wall of the building.

Mr. Lukasik stated: I am not sure. Most of our stores do have this. We call it a graphic. You are considering it signage. But this is considered a graphic. Even the manufacture calls it a graphic.

Mr. Fox asked: Is it true that one of the things Dunkin' Donuts has with all franchises tries to do is have the same appearance in their stores so people feel that they are getting the same product.

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Mr. Lukasik stated: They try to keep is as similar as possible.

Mr. Fox asked: Is that way you are requesting permission from the Board to have this graphic on the side of the building? It is not there as we speak?

Mr. Lukasik stated: Correct, it is not on the building as we speak. It was purchased at the time of all signage. Because originally we believed that everything was approved from the original application.

Mr. Flaherty asked: Which graphic are you talking about?

Mr. Lukasik stated: Pointed to the graphic with the cup on it.

Mr. Lukasik stated: So basically we are asking for permission to put it on the building.

Mr. Fox stated: It is about ½ inch thick and it is a graphic.

Chairwoman McCabe asked: What is it made of?

Mr. Lukasik stated: It is a composite material.

A Board member asked: How far does it stick out from the wall?

Mr. Lukasik stated: About a ½ inch. And the color goes through it.

Mr. Soloway stated: A couple of comments that I would like to share. I have the resolution granting preliminary in front of me. The resolution granting preliminary when referring the plans that were before the Board does reference architectural plans for Dunkin' Donuts prepared by the Dietz Partnership with the latest revision date of November 16, 2007 consisting of three sheets. That is deemed to be part of the approved plans which the applicant may want to hear. What the applicant may not want to hear those is that Mr. Simmons indicates in his report that assuming the Board deems this to be a sign it would exceed the allowable limit on the total amount of signs and there is nothing in the preliminary resolution that I can find that the Board granted that kind of variance.

Chairwoman McCabe stated: I was the one that was against the cup.

Mr. Soloway continues: So it seems to me if the applicant wants this to be included as part of the plans, first of all the Board has to decide if it is a sign and if the Board decides if it is a sign then I have to ask Mr. Fox whether he has a notice for a sign variance tonight.

Mr. Fox stated: I do not believe it is a sign so we have not noticed for a sign variance. Our position is this is merely a decoration of graphic. Is a red roof on a Red Roof motel a sign? We do not think so.

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Chairwoman McCabe asked: Is that a registered trademark?

Mr. Fox stated: That I do not know.

Mr. Lukasik stated: I can't tell you that myself. The signage is but I don't know if the graphic is.

Chairwoman McCabe asked: Otherwise is Dunkin' Donuts' in the cup.

Mr. Lukasik stated: No. The double D is.

Chairwoman McCabe asked: Is that a registered trademark?

Mr. Lukasik stated: The DD is with the Dunkin' Donuts Corporation.

Mr. Soloway stated: Mrs. McCabe, a sign is defined a term in the ordinance it says it shall include the announcement, declaration, demonstration display illustration or insignia used to advertise or promote the interest of any person or product when the same is placed out of doors and view of the general public. So I suggest when determining whether this is a sign that's what you have to access.

Mr. Fox stated: That is an overly broad definition. I think we can all agree with that. So for example if Ford decides to build a building and make it blue and white and everyone knows that those are the corporate colors, is that considered signs the blue and white or is that the color they build their buildings with.

Chairwoman McCabe stated: Mr. Fox, there is a DD which is the corporate insignia.

Mr. Fox stated: Mrs. McCabe that might be your opinion. We believe this is a graphic. We think that business people should be able to use whatever they think is appropriate to decorate their buildings. We did concede to your demands to change the entire design of this building.

Chairwoman McCabe stated: In which we are very grateful. And isn't lovely? What a much better building.

Mr. Fox stated: I think you could show your gratitude by allowing them to put this relatively inoffensive logo up so as to help their business. That is all we are asking.

Chairwoman McCabe stated: I believe it is a sign.

Mr. Elvidge stated: He just called it a logo. It might have been a slip of the tongue but a logo would imply a sign to me.

Mr. Fox stated: Well the employee has referred to it as a graphic.

Chairwoman McCabe asked: Mr. Elvidge what do you think?

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Mr. Elvidge stated: I consider it a sign.

Board is in agreement that it is a sign.

Mr. Soloway stated: It seems to me unless someone wants to make an arguments that you are exceeding the total number of sign, if the Board decides that it is a sign. Then you need a variance.

Mr. Fox stated: I think we have determined that we have the requisite number of signs approvals already.

Mr. Soloway stated: The Board cannot grant the variance tonight.

Mr. Fox stated: Well that is their opinion. Other than that, we do not have anything else to offer. We are open to any questions you may have.

Chairwoman McCabe stated: While we are on the issue of signs, your Walgreens sign is crooked. Just to let you know the one on the building.

Mr. Simmons stated: In light of the fact that the applicant's consultants agree the March 11, 2010 items will be taken care of, I have no problem in working with the applicant and their professionals to finalize the project. Just as one additional note just so the Board knows, I did receive a phone call from William Hayden of the NJ DOT. There paperwork from DOT is coming if you will, but he told me verbally that everything is fine as far as he was concerned with the work along Rte. 206.

Mr. Fox stated: I am sorry Mrs. McCabe but we do need to talk about the signing and striping of North Park Drive for the new entrance and exit. As you know, there is a proposed plan to repave North Park Drive.

Mr. Soloway asked: Where are we in reference with the report Mr. Fox?

Mr. Fox stated: We are on page 3 paragraph 2G. Revising and complete the restriping on North Park Drive for the new entrance and exit. We understand that project was put off last year and it is going to happen as soon as the weather breaks. So we need to guidance as to that.

Mrs. Millikin stated: We did receive grant funding from the State of New Jersey for doing North Park Drive so it is a project under our projects for the summer. We have \$190,000.

Mr. Fox stated: With that project eventually they will restriping the whole road. It seems rather foolish to do it now then ripe it up and do it again.

Chairwoman McCabe stated: You will be bonded for the striping so I am sure it will be taken care of.

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With no more questions from the Board, Mrs. McCabe opened this portion up to the public.

With no questions from the public, this portion of the meeting is closed.

Chairwoman McCabe stated: I am glad to see it's progressed as it has. I am not crazy about the circulation but I had those comments at the prior meeting when it comes to Dunkin' Donuts anyway. Hopefully with Walgreens finished it will beef things up a little bit. I know it was tight with all the barriers that were up causing some issues.

Mr. Elvidge stated: I am very happy with Dunkin' Donuts. I think maybe the circulation will straighten out a little bit. Immediately after the voice box was installed, that left hand turn is so tight for a vehicle as they approach the drive through window pickup. I don't know if we missed something, but I would ask that that be reviewed once again. After an order is placed, the left hand turn is really tight for a larger vehicle.

Mr. Soloway stated: The hair pin going to the drive through window?

Mr. Elvidge stated: Before you straighten out. It is that radius right there.

Chairwoman McCabe stated: Yes that is true. Maybe that radius could be checked.

Mr. Elvidge stated: Just check it. Everyone I have spoken to is extremely happy about Dunkin' Donuts. It is a gold mine. But we missed something in that radius because I have an extended cab truck and the first time through I jumped the curb.

Mr. Fox stated: Well that has been approved and built. We are talking about an As-built asset now.

Chairwoman McCabe stated: We need to make sure that it was built according to spec.

Mr. Fox stated: So if it was built according to the approved plans, I understand the Board's function in terms of planning but remember business people want their customers to be happy. If they start having problems with people breaking axles and so on they will obviously do the appropriate thing to keep their customers happy. They also have insurance concerns if people start having problems with having problems with that turn. What I am suggesting is the Board's power is to make sure it was built to spec but beyond that I don't think we can be changing.

Chairwoman McCabe stated: That is all we are asking Mr. Fox.

Mr. Elvidge stated: I am not asking that. My comments are public and for the Board for future reference.

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Chairwoman McCabe stated: The motion tonight will be for final site plan approval. It will be re-approval for minor subdivision to include that property into the Walgreens property. It will not include the signs the additional sign on Dunkin' Donuts.

Mr. Soloway stated: The conditions would be compliance with Mr. Simmons' report subject to probably only bonding rather than doing the stripping at least for the year to see how that goes on North Park Drive. It would include compliance with all outstanding conditions from preliminary as well as from the Dunkin' Donuts. We would have the same conditions relating to the minor subdivision approval as was contained in the original resolution that granted it with the preliminary site plan.

Mr. Elvidge stated: And a determination that the graphic was a sign.

Mr. Soloway stated: I will elude to that in the resolution but based upon the Board's finding that it is a sign the Board doesn't need to have jurisdiction to consider allowing it this evening because it will be subject to a separate application.

Mr. Fox stated: We would have to apply for a variance.

Mr. Elvidge stated: Correct.

Greg LeFrois made a motion for the re-approval of the minor subdivision subject to Mr. Soloway's conditions and Mr. Flaherty seconded the motion.

AYE: Mr. Elvidge, Mr. LeFrois, Mr. Flaherty, Chairwoman McCabe

#PB-09-2009 – EJB Real Estate Assoc. limited

Property Location: 1 Brooks Plaza

Block 1308, Lot 4, M-1 Zone

Amended Preliminary and Final Site Plan. The applicant is requesting the construction of two additions to the existing EJ Brooks facilities totaling 35,875 sq. ft. on the existing warehouse/manufacturing building.

Representing the applicant for EJB Real Estate Associates, Limited is J. Clark Geddis. Mr. Geddis stated: This as you have noted is an application to amend the previously approved preliminary and final site plans.

SWORN: Michael O'Krepky

Mr. Geddis qualified Mr. O'Krepky.

Mr. Geddis stated: Mr. O'Krepky could you please tell the Board your qualifications in your area of expertise.

Mr. O'Krepky stated: I have graduated from the Old Dominion University with a Bachelor of Science in engineering in 1995. I have received my engineering in training certificate in 1995, professional engineering license in New Jersey in 2003 and I appeared before

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this Board on this and other applications as well as many other boards in the county in the state. And my licenses are current.

The Board accepted his qualification as a licensed professional engineer.

Mr. Geddis stated: I would also note that we are in receipt of Mr. Simmons' report of March 12, 2010. Mr. O'Kepky will address this.

Mr. Geddis stated: Perhaps you could explain to the Board precisely what is changing here with respect to this application.

Mr. O'Kepky stated: Just to recap. A portion of this application was originally approved around 2004. Then later an additional building was approved in 2005 in the rear of the property. The applicant originally wanted to construct an underground detention system, which would have avoided the necessity the need to go to the state of NJ for what is called a Transitory Waiver Area Plan. Since then things have changed, the time constraints were lifted and my client directed me to design an above ground water detention system which is much less expensive but requires a buffer area plan because there are wetlands on the property and transitory that affect the area that is proposed for development. So what has changed from the last approval? I just want to point out the main things that have change and why we are here tonight for approval. The first thing is we moved the location of sewage pump tanks.

Mr. Soloway stated: Just for the record could you identify what you are pointing to.

Mr. O'Kepky stated: For the record these were the plans that we submitted with the application, the original date 12/10/05, revision number 4 12/1/09. On the cover sheet I have boxed off the areas where the main changes are.

The first change that has been made is we moved the location of the sewer pumps tanks adjacent to the larger rear building where the 50,000 sq. foot rear building in addition we lowered this rear building by four feet and we also moved the storm water detention basin system above ground in the area adjacent to the parking area in the rear. Those major changes and associated minor changes related to the ones that I just described what were made to these plans and that was what was applied for. That is what was submitted in the plans. Mr. Simmons commented to that in his letter that he provided to the Board.

Mr. Soloway stated: Just for the record and for those Board members that we not hear back then and me as well that was not here back then. There was originally a memorializing resolution adopting by this Board January 19, 2005 that granted preliminary site plan approval for what I will call the building additions. Then there was another resolution which granted both preliminary and final site plan approval on May 17, 2006 granting preliminary and final site plan approval for an additional 50,600 sq. ft building subsequent to that there was a resolution that was adopted on September 19, 2007 which granted an extension of the January 19, 2005 Preliminary Site Plan approval. So what was included in that first resolution never got final meeting the building extensions? The entire building which was the second resolution got preliminary and

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final. As I understand it this application is intended to in effect amend both of those prior resolutions, is it not?

Mr. O'Krepky stated: On the original building we had two additions approved over the years. One was the silo and one was an extension off another portion of that building which came to a total about 35,000 sq. feet. Those approvals remain in effect. Then we came in with what you are seeing before you tonight which is an entirely new building that would be added to the site. That received preliminary and final site plan approval. That is what we are dealing with tonight. The other ones still remain in existence.

Mr. Soloway stated: Mr. Simmons, if they are going to amend the drainage plan on site does that impact only the new building or everything?

Mr. Simmons stated: I would have to look at the drainage area involved and what have you but that drainage basin is basically on a global site basis as I recall so I would have to check in the drainage calculations. Normally what we do if the Board should grant approval that it would just be for preliminary and the applicant would come back in with the final as-built like we just went through with the previous application unload any bonding issues or any situations that need to be address upon the final. In this particular case it would be the buildings shown with all the utilities and verifications from all the other agencies fire sub code official what have you as per calculations and cross sections of the volume of the detention basin. Make sure everything was constructed in accordance with the approved preliminary plan. That is the way a larger project like this works.

Mr. O'Krepky stated: At this point, I had a discussion with Mr. Pellows' office regarding the review letter and in terms of the technical issued outlined in the letter, we do have an issue in complying with any of the technical issues. Modify some details and show some additional items in the plans. But there are some issues that I know Mr. Geddis would like to address.

Mr. Geddis stated: As Mr. O'Krepky has said the engineering aspect is in the process of being worked out.

Mr. Simmons stated: That I did have a voice mail message from one of our staff this evening before I came to the meeting who had a conversation with Mr. O'Krepky and based on my conversation with my staff member I feel confident that minor adjustments from the storm drainage basin can be worked out to be satisfactorily.

Chairwoman McCabe asked: Are there any major changes on the site.

Mr. O'Krepky stated he would go over the changes. This plan is sheet 3/13. Proposed Site plan. The underground tanks have been moved to accommodate some drainage structures. These are underground sewage tanks. The entire building has been lowered four feet, that has changed the grading around the building somewhat. In the rear it used the detention basin that is now above ground. Before all the detention was underneath the rear parking lot and that eliminated the need to go for a

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transitory waiver. If you notice the shaded area occupies half the basin. We have applied for a transitory waiver with the DEP. I did not bring a copy with me tonight. But essentially what the transitory waiver says is the area that is now is the transitory buffer area lets says it is approximately 10,000 sq. feet we are going to give that area back in an uplands area with is adjacent to the wetlands in equal trade back to the DEP essentially. That is essentially what a transitory area waiver is. We made that application to the DEP. There has been a review letter or review email from the DEP that has been sent to use requiring us to give them some additional information. We did not want to make and any changes to the plan and submit it to them before we received the comments and review from the Town. Those are the changes you would see. This proposed addition is the one addition that has been previously approved, this addition was also previously approved, this adjacent parking lot was also previously approved, and this is part of the new or the secondary approval. The secondary approval is the large building in the back and all the associated parking. That is basically it. Other than that, the things that will be the same will be the lighting, the impervious area has not changed, the traffic circulation, the amount of square footage, the traffic counts, all those issues are identical.

Mr. O'Krepky stated: The way the uses are there would be separate uses although they would be related in some processing.

Chairwoman McCabe continued: Will you probably renting out to some other companies?

Mr. O'Krepky stated: I will refer that to the client. This is the way my client wanted it so that there would some separation in usage and uses. Although some processing will go on that is way they want to have this connection.

Chairwoman McCabe stated: I walked the site yesterday and it is absolutely magnificent, by the way and I noticed the entry way goes around a knoll and there is a pretty big rock; I wasn't sure if you were trying to avert going around that. If there are going to be other tenants, I can see why you would want a separate entry way.

Mr. O'Krepky stated: I can also tell you that would be for trucks and fire. The tractor trailers would access in the rear of the building or larger than any fire apparatus that the town has. That is the design that governed the access.

Mr. Geddis stated: With respect to your reference to your utilization of the interior space in that building, the time of the original application, the applicant at that time indicated they anticipated bringing in some of their vendors and incorporating some of them into the structure. As we all know we have all gone through a severe and dramatic economic turnaround so nothing has been done in that regard. I do have with me one of the principal of the applicant that can answer any questions that you may in that regard. That is essentially where our position is now.

Chairwoman McCabe stated: Mr. Simmons, there is a question about a retaining wall that perhaps should be addressed on page 2 number 4a.

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Mr. O'Krepky stated: The retaining wall that Mr. Simmons is referring to is along the northwest of the proposed parking lot. You will notice it is adjacent to the dotted line which goes along this access that dotted line is easement to the utility. This easement is an electric utility easement as well as I believe there is gas in there. Our concern, and I responded to Mr. Simmons letter, Mr. Simmons essentially said we would like to see some effort made here to do some grading and eliminate this wall and to that extinct I fully agree with Mr. Simmons I think it would be a great idea to that it would save my client money. However, the realities of dealing with the utility just contacting them is burdensome and also the reality that would be graded not filling but cutting in a utility area that there are gas lines and maybe support related to structures and the utilities are very difficult to deal with. That was one item that we wanted to modify or at least address in this letter that is there is any approval that we could address is a different way.

Mr. Soloway stated: Mrs. McCabe, just for the record the May 17, 2006 resolution, the one that granted preliminary and final for the new building, condition number 4 stated that this approval is subject to the applicant making good faith effort to obtain easements from the utility companies to allow for the grading off of the areas on the subject property where the proposed retaining walls are to be construct so as to avoid the need for the construction of set walls if the easements cannot be obtained the applicant still has the right to construct the proposed retaining walls approved by this resolution.

Chairwoman McCabe stated: JCP&L was here tonight. Did you talk to them? You missed your opportunity.

Mr. O'Krepky stated: I guess so.

Mr. Simmons stated: I think the main concern I had with that issue came up during the last meeting and now again is that the applicant has shown that it is feasible to do the proposed grading by the construction of the retaining walls and be right along and outside of the easement line of the utility company. So that any approval that the Board might consider granting or amending doesn't in fact hinge on getting the approval from the utility company because they can do their work outside of the limits. One of the other reasons I brought it up was as Mr. O'Krepky said the wall are expensive, and my concern was give the applicant some flexibility so they were able to get the approvals and agreements with the utility company. They could alter the plan and do the grading in the field without having to come back for amendment to the Board. So they had Plan A and Plan B if you would.

Chairwoman McCabe stated: I do not think this application will live or die on a retaining wall.

Mr. Simmons stated: But rather than have an issue as far as what was or wasn't approved, I tried to be as universal as we could.

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Chairwoman McCabe asked: The issue with Custom Craft Homes, would you explain for the record what is going on with that?

Mr. Geddis stated: Custom Craft Homes has made contact several time through my office. I haven't heard from them in a long, long time. The EJB Brooks, who received the original approval, had indicated they wanted to talk to them and come up with a reasonable agreement but nothing has ever been followed through to my knowledge.

Chairwoman McCabe asked: What was their proposal?

Mr. Geddis stated: I have not made one.

Chairwoman McCabe asked: Where is Custom Craft Homes' property in respect to your site?

Mr. Geddis stated: It is Lot 6 Block 1508.

Chairwoman McCabe stated: When I was on the property yesterday, on the southern end of the property there is a pipe that comes out of your parking area and though the wetlands but it is elevated I was curious to what it is?

Mr. O'Krepky stated: On sheet 3/13 if you notice our proposed sewage line terminates here at a sewage connection. This line is underground at this point. If you go back to the cover, the bottom of the parking lot is the sewage line in this wetland is a depression that sewage line maintains because it is a gravity line not a pressure line so it has to maintain a constant slope. That sewer line had recently been complete reconstructed. There were all sorts of problems, EJB real estate had a company come in and reconstruct that sewer line. One of the issues they wanted to discuss before the Board tonight, there was some discussion they heard that this pumping station was going to be deactivated by the town or turned over and they just wanted to make sure that if at any time it is going to be shut down, they are notified in advance.

Chairwoman McCabe asked: Kathy would you make a note for Debbie to check into that and follow up with the applicant?

Chairwoman McCabe asked: Other than those things, you will be in compliance with all of Mr. Simmons issues?

Mr. Geddis stated: He would like to discuss item 4c. The practical problem with the proposal that is stated is that we cannot guarantee the utility company will respond. We are willing to notify them and ask them for a response in line with the language you are utilizing. But we can't force them to respond to us.

Mr. Simmons stated: The background to that comment just to reiterate it to the Board goes back way of example to the Shop Rite application from many years ago. If you recall, if you are going north south on Rte. 206 and you basically get to the Newton Hampton line proximately along the Newton Hampton line perpendicular to Rte. 206

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there is the electric transmission main more or less town wide. The story goes as I understood it from years ago, was that there was a certain "core easement width" shown for that particular easement. Shop Rite built the northerly addition on to their existing supermarket part where they hang the inflatable lobster off of theoretically built it right up to the edge of the right of way, the easement line for the utility line. After everything was completed, the folks from JCP&L came out and said yes you built up that line but in addition to that core easement we also have tree trimming easements that are ancillary to that easement and go further and your building is in that part of the easement. Shop Rite had two choices, take that part of the building down or you can relocate that transmission main in that area. Three quarters of a million dollars later, you will notice that there is a jog in that transmission line where the Shop Rite folks bought acre of ground on the Hampton side from the Martins to put a jog around there to correct that so that is the reason I always bring that up just to make sure there is no little hidden easement.

Chairwoman McCabe stated: They were probably noticed and you can't ever say that they weren't probably noticed.

Mr. Geddis stated: We'll notice them and obviously we will be looking at the actual easements of record.

Mr. Soloway stated: I am still a little confused on 4a Mr. Simmons' report. I know what Mr. Simmons ask for I know what the prior resolution states, I am now sure what the applicant is proposing.

Mr. O'Krepky stated: Basically we are proposing similar to item 4c that we would like to notify them in an attempt.

Mr. Soloway stated: That is fine. I would like to comply with the prior resolution. It didn't say you had to get their permission it just said you had to ask.

Mr. O'Krepky stated: To leave it open to what Mr. Simmons said if by some chance the stars align and our applicant is able to contact them and they are agreeable to allow us to grade within the easement and everything works out that we don't have to come back before the town to do that it could just be worked out with the construction official that is essentially what I hear from Dave.

Chairwoman McCabe stated: Bottom line is, is if you can contact them and you can get the approval to do the modification without the wall, financially it is better for you, if you can't contact them and you have to do the wall, you have to do wall. Like I said, this application is not going to live or die on your retaining wall.

Mr. Soloway stated: So your proposal would be have the right to do the modifications without coming back to the Board but subject to the Town's engineer's approval?

Mr. Geddis stated: Of that one way.

Mr. Soloway stated: Well whatever modification you do.

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Mr. Soloway stated: I can see that this is an amendment to everything that came before. I do not know if the applicant is pushing for final tonight, I think Mr. Simmon's recommendation is that it be preliminary only but it seems to encompass the whole site and obviously it would not change any of the other approvals except to the extent of any inconsistency with changes that are proposed tonight.

Chairwoman McCabe stated: Any prior applications for a silo, those are no longer in existence, correct? This supersedes all of that?

Mr. Soloway stated: This is an amendment. The prior approvals remain what they were but with these changes. I think the whole thing would revert back to preliminary but they certainly do have the preliminary on both, the same way it was approved as modified by what is proposed tonight.

Mr. O'Krepky stated: We are following the process that you have been following.
Chairwoman McCabe stated: Okay.

With no more questions or comments from the Board, Chairwoman McCabe opened this portion up to the public.

With no questions for comments from the public this portion of the meeting is closed.

Mr. Soloway stated: a motion will be grant the application for an amendment 2006 preliminary site plan approval and the 2007 preliminary and final site plan approval. They would all revert to preliminary now and the amendment would be to approve the changes to the subject specific to this application. The conditions to any approval would be continuing compliance with all conditions in the prior resolutions except for the extent with any inconsistencies with this latest plan. Also to compliance with all of the recommendations set for in Mr. Simmons' report of March 12, 2010. On 4a with the grading and the recommendation that they go to the utilities to investigate grading underneath the utility easements, the applicant will make that effort. If the applicant actually succeeds in getting consent to that they could modify the plan accordingly without it coming back to the Board and would be subject to Mr. Simmons' approval. 4b is really not a concern, it was a question, and on 4c instead of the applicant obtaining written confirmation, it is in essence that the applicant attempt to obtain written confirmation and notify the utilities what it is doing.

Mr. O'Krepky stated: The only other thing would be if there is anything in the prior conditions which is insistent with current law.

Mr. Soloway stated: Current law, meaning what?

Mr. O'Krepky stated: I don't know what the status COAH is?

Mr. Soloway stated: My understanding on COAH is that on a going forward basis from that statute it suspended the right of the Board require contribution from commercial developers as to anything in existence then and I don't know if we can suspend it.

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There was a right to apply for a refund if you had paid it so we have to be a little more specific on that.

Mr. Greddis stated: Perhaps what we should do is deal with that in the developer's agreement.

Mr. Greddis stated: Because nobody has tested what the governor's done so far and given us an interpretation of it.

Mr. Soloway stated: I don't have a problem with that and we can note that in the resolution, COAH obligation. It would be subject to the developer's agreement?

Mr. LeFrois made a motion to approve the application with the conditions that Mr. Soloway had described. Mr. Flaherty seconded the motion.

AYE: Mr. Elvidge, Mr. LeFrois, Mr. Flaherty and Chairwoman McCabe

ADJOURNMENT

Mr. Flaherty made a motion to adjourn the meeting. Mr. LeFrois seconded the motion. The meeting was adjourned with a unanimous "aye" vote. The meeting adjourned at 9:23 pm. The next regular schedule meeting will be held on April 21, 2010 at 7:00 pm in the Council Chambers of the Municipal Building.

Respectfully submitted,



Katherine Citterbart
Planning Board Secretary

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Exhibits

Exhibit A1. It is an architect rendering which was prepared by the Dietz Partnership.

A2 – Is a photograph of a view of the substation from the street. This was taken as part of the application package for the lighting mass in 2002.

A3- Is a photograph of a 230 volt circuit breaker.