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Florence, New Jersey 08518-2323  
June 20, 2005

The regular meeting of the Florence Township Planning Board was held on the above date at the Municipal Complex, 711 Broad Street, Florence, NJ. Chairperson Hamilton-Wood called the meeting to order at 7:30 P.M. followed by a salute to the flag.

Chairperson Hamilton-Wood then read the following statement: "I would like to announce that this meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice has been provided to the official newspapers and posted in the main hall of the Municipal Complex."

Upon roll call the following members were found to be present:

Councilman John Fratinardo  
Mayor Michael J. Muchowski (LATE)  
Thomas Napolitan  
John T. Smith

Phillip F. Stockhaus, III  
Mildred J. Hamilton-Wood  
Gene DeAngelis

ABSENT: Robert R. Semptimphelter

ALSO PRESENT: Nancy T. Abbott, Board Solicitor  
Frank Morris, Board Engineer  
Carl Hintz, Board Planner

RESOLUTIONS

**PB#2005-20**

**Continuing the application of Wawa, Inc. for Preliminary and Final Major Site Plan approval to permit expansion of the parking area and construction of an addition to the existing food mart on Block 111, Lot 13, located in an HC Highway Commercial District.**

Motion of Smith, seconded by Fratinardo to approve Resolution PB#2005-20.

Upon roll call the Board voted as follows:

YEAS: Fratinardo, Napolitan, Smith, Stockhaus, DeAngelis  
NOES: None  
ABSENT: Muchowski, Semptimphelter

**PB#2005-21**

**Granting Preliminary and Final Site Plan approval with variances and waivers to Whitesell Construction Company, Inc. for Block 158, Lots 2 & 3, located in a GM General Manufacturing District.**

Solicitor Abbott stated that this resolution had been corrected. On page 8 the reference to paragraph 6.6 on the Board Planners report was deleted. This paragraph was found to not be applicable.

Mayor Muchowski arrived at 7:35 P.M.

Motion by Fratinardo, seconded by Napolitan to approve Resolution PB#2005-21.

Solicitor Abbott apprised Mayor Muchowski of the amendment to the resolution and advised him that he could vote on it.

Upon roll call the Board voted as follows:

YEAS: Fratinardo, Muchowski, Napolitan, Smith, Stockhaus, DeAngelis  
NOES: None  
ABSENT: Semptimphelter

**Resolution PB#2005-22**

**Approving amendments to Chapter 91 of the Code of Florence Township to define and to prohibit truck stops within any zoning district of the Township Florence.**

Motion of Fratinardo, seconded by Stockhaus to approve Resolution PB#2005-22.

Upon roll call the Board voted as follows:

YEAS: Fratinardo, Muchowski, Smith, Stockhaus, DeAngelis  
NOES: None  
ABSENT: Semptimphelter

**MINUTES**

Motion of Napolitan, seconded by Smith to approve the minutes of the May 16, 2005 meeting as submitted. Motion unanimously approved by all members present.

**CORRESPONDENCE**

Motion of Muchowski, seconded by Smith to receive and file correspondence A through J. Motion unanimously approved by all members present.

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## INFORMAL PRESENTATION

Chairperson Hamilton-Wood called for Informal Presentation A for Bustleton Estates. This is a presentation for a major subdivision on Block 170, Lot 1.01 on Bustleton Road.

Edward Penberthy, attorney for Orleans Homes who is the applicant. Chairperson Hamilton-Wood advised Attorney Penberthy that there was a time limit on informal presentations.

Attorney Penberthy introduced Mark Shourds from Everland Shourds & Associates, Mike Karmatz and Rod Ritchie both from Orleans.

Solicitor Abbott stated that since this was an informal presentation there was no need to swear in the witnesses.

Attorney Penberthy stated that this was an application for an 18 lot subdivision. The lots will be 3 acres each. The plan was revised after preliminary meeting with the Board's Professional Staff. There are two cul-de-sacs shown on the plan. A variance is required for lot frontage for one of the basin lots. A waiver will also be required from the provisions in the ordinance for perpendicular lot lines and lot radii. The reason for this variance is to accommodate the suggestion by the Professionals to shorten the length of the cul-de-sacs. The waiver for the lot line is to allow for better interior design.

Planner Hintz stated that the first plan that was presented had the cul-de-sacs coming in opposite the approved first subdivision. The Board's professional staff suggested that the applicant shorten the cul-de-sacs to create less impact on the wetlands and buffers on the parcel.

Mayor Muchowski asked if the well and septic would be held to the more stringent standards that the state had established. Engineer Morris stated that they would have to adhere to the new standards.

Councilman Fratinardo stated that the DEP would have to approve the filling of any wetlands on the site. He also mentioned the COAH requirement and stated that he would like to see the affordable housing obligation met on site. Attorney Penberthy said that they would look into this, but he did not think it was feasible due to the fact that these are three-acre lots. He stated that they had proposed to pay the developers fees called for in the ordinance. Councilman Fratinardo stated that his preference would be to meet the obligation on site, even if the Board had to grant a variance to permit the affordable housing to be met on site. Mayor Muchowski stated that COAH would have to be a consideration due to the obligation the Township has under the new state rules.

Mike Karmatz from Orleans stated that they were willing to work with the Township Planner and Engineer to find a solution that is feasible. This would only pertain to the south side of the subdivision. The north side has previous preliminary approval.

Planner Hintz stated that he thought the revised plan was better than the original concept. There is a slight change in the curve of the streets and the cul-de-sacs are shorter. This plan allows some wetlands to be set aside also. Mark Shourds said that the original plans had the basins located across multiple lots. The revised plan puts the storm water management basins on individual lots. Engineer Morris pointed out that this plan would have to conform to the new stormwater management regulations.

Attorney Penberthy stated that this was only a concept plan and they are looking for the Board to make suggestions. Mayor Muchowski asked if there could be one looped road to eliminate the cul-de-sacs? Mark Shourds stated that in order to do this they would have to fill in a lot of wetlands and they didn't think the DEP would approve of this. The looping would counter the saving of green areas. The proposed cul-de-sacs are wide enough to accommodate the turning radius of school buses and emergency vehicles.

Member Smith asked what the proposed cartway was. Mr. Shourds stated that it was 28 feet. Member Fratinardo stated that he knew that was standard, but the Board did not think this was wide enough.

Mike Karmatz asked for the Board's preference on sidewalks. There was a discussion on sidewalks. Mike Karmatz stated that they would work with the Board's planner and engineer to determine if and where there should be sidewalks.

Mayor Muchowski expressed concern about the maintenance of the basins. Even though a homeowners association is proposed, he is concerned that several years from now the Township may end up responsible for the maintenance.

## OLD BUSINESS

Chairperson Hamilton-Wood called for application PB#2005-01 for TSMC, LLC. Applicant is requesting Preliminary and Final Major Site Plan approval for construction of a 34,715 square foot shopping center located at Route 130 North and Fairbrook Drive, Block 166.12, Lot 2, located in a HC Highway Commercial District.

Mayor Muchowski brought up the point of the Board granting Preliminary and Final at one time versus granting preliminary at one time and then granting final at a later date. Solicitor Abbott gave an explanation of the difference. She also gave an outline of the process for hearing applications for the benefit of the applicant and the members of the public that were in attendance.

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Chairperson Hamilton-Wood thanked Solicitor Abbott for the explanation and stated that the Board would hear the application for completeness.

Gary Backinoff, attorney for the applicant, addressed the Board. He stated that the applicant had met with the Board's Professionals on more than one occasion and it was their opinion that the application was complete. The one outstanding issue had to do with environmental issues. He stated that there was an environmental report by Mellon Biological Services dated February 5, 2000 and updated by Nova Consultants, LTD in 2005. They have also submitted detailed hydrological reports and drainage information through their engineer. Studies have been done on the trees on site and the landscape plan has been updated. He stated that although they have not submitted a formal Environmental Impact Statement, there has been a lot of environmental information submitted.

Chairperson Hamilton-Wood requested that Engineer Morris review his report. Engineer Morris recommended waivers on the following items:

preliminary delineation of stream encroachment based on NJDEP criteria,  
cross section of water courses at an appropriate scale,  
test borings to the water table for the existing basin,  
half cross sections of every fifty feet and at critical points along the roadway  
proposed use and operations

The applicant will provide testimony for the free standing sign detail and location, and the Environmental Impact Statement.

Planner Hintz stated that he did not recommend approval of final site plan until floor elevation and floor plans are submitted. The application can move forward for preliminary approval. In response to this Attorney Backinoff stated that in the re-design they had re-oriented some of the buildings including the pad site. The user for the pad site may be a business that builds its own building. Elevations and floor plans for the pad site would be pending on finding out who the tenant is. He asked that the Board review the application subject to future review for the architectural of the pad site after the tenant is identified.

Member Smith asked for a clarification on the architectural details for the pad site. Solicitor Abbott explained that if preliminary site plan approval were granted for this development one of the conditions attached would be that the applicant would have to come back for Board review of the architectural design of the proposed building that would be built on the pad site.

Member Smith also asked about this site tying in to an existing basin. Engineer Morris stated that the detention basin had been designed for the whole development including

this area. Attorney Backinoff stated that the cost of this basin had been calculated into the purchase price of the property.

Motion by Stockhaus, seconded by DeAngelis to deem application PB#2005-01 complete.

Upon roll call the Board voted as follows:

YEAS: Fratinaro, Muchowski, Napolitan, Smith, Stockhaus, DeAngelis,  
Hamilton-Wood  
NOES: None  
ABSENT: O'Hara

Application complete.

Attorney Backinoff introduced the following witnesses, who would offer testimony. Frederick Schmitt, RA, Schmitt Anderson architects , Francis Goeke, PE, Lanning Engineering, Elizabeth Dolan, PE, Elizabeth Dolan Consulting and Greg Scozzari, principle with TSMC, LLC. The witnesses were sworn in by Solicitor Abbott.

Attorney Backinoff summarized the changes to the plan for the Board. He showed the initial designs and listed some of the concerns from the residents regarding buffering, parking and size of the development.

Mayor Muchowski stated that he saw from the plan that they had reduced the size and re-located the building. The main concern of the residents is the buffering.

Attorney Backinoff stated that he understood that the buffering requirement is to keep the development 100 feet from the residential district line or any residential use. The only thing within 100 feet of the residential line is the existing pump station road. There is some parking that buffers to the retention basin and there is some loading in the back that is within 90 some feet from the residential line.

Chairperson Hamilton-Wood asked if the applicant had had any subsequent meetings with the residents after the initial meeting following the earlier Planning Board meeting. Attorney Backinoff stated that he had called the residents attorney, but did not schedule a second meeting.

Attorney Backinoff stated that the revised plans call for three separate buildings. The building closest to Rt. 130 is proposed to be built first. The final phase will be the smaller building in the back. This will result in a loss of 4,000 square feet or 12% of the original proposal. This eliminates the need for the variance for number of parking

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spaces. Variance for the size of the parking lot and the employee parking in the buffer area will still be required.

Frederick Schmitt stated that he had a bachelors and masters degree in architecture from Cornell University. He opened his own practice in 1988. Mr. Schmitt has prepared approximately 400 different projects in 50 different municipalities. He stated that he is licensed in New Jersey, Pennsylvania, and New York and has a Professional Planners license in New Jersey. Solicitor Abbott accepted Mr. Schmitts's qualification as an expert.

Mr. Schmitt presented renderings that had been proposed of the project. The photographic rendering was marked as exhibit A1, the colored architectural elevations were marked as A2, and three schematic architectural drawings were marked as A3.

Mr. Schmitt stated that the exterior of the building would be similar to the previously proposed plans. Mayor Muchowski asked if the Board was able to put restriction on the pad site to make sure that it doesn't clash with the rest of the building. Planner Hintz stated that he thought that the applicant would maybe want to have the roofline and the windows of the pad site consistent with the balance of the site.

Mr. Schmitt described a brick front building with a gabled or mansard shingled roof. Mechanical equipment will be located behind the roof so that from Rt. 130 there will be no evidence of the equipment. The windows are 20 year aluminum storefront windows.

Each individual tenancy would have an appropriated area above their business to put their sign. The signs will be 18" high by 16" long. The signs will be internally illuminated. There would be no signs allowed on the doors or on the roof. There will be one main highway sign.

Mayor Muchowski expressed concern about the location of the banked parking area back by the buffer area. He asked if the triangular shaped area between the buildings could be used for the banked parking. Attorney Backinoff said that he did not believe that 15 spaces would fit in that area and also Elizabeth Dolan the traffic engineer will testify that the proposed parking is sufficient for the site and additional banked parking may not be required.

Mr. Schmitt continued describing the building. There will be a peaked roof. When you get above the peak there will be a flat rubber roof in the back of the building. The air conditioning units will be on this section of the roof. Mayor Muchowski suggested camouflaging the back of the roof, so the residents don't have to see an unattractive back of the building. Mr. Schmitt stated that you should not see the back of the roof. The backside of the mansard roof will be vinyl sided. The residential treatment comes around the sides of the buildings. Mayor Muchowski stated that the it is more important to have the back roof camouflaged on Phase 2 of the project because this is the view that the

residents would see from their back yards. The backside of the buildings will be soft colors. Engineer Morris stated that the pad building would need to be decorative on all four sides.

Mr. Schmitt stated that the freestanding sign would be on Rt. 130. It will be about dead center on the property and perpendicular to the property. It will be landscaped at the base. There will be one large identity sign. This is a typical sign – 18’ 10” to the bottom of the pediment. The entire sign is 100 square feet. There are brick pillars that support the sign. The sign will be double sided. The base would be open. The sign will be internally illuminated. The font and colors have not been finalized yet. In addition to the main identity sign there will be slots for 8 of the major tenants. These slots will be 4 feet long and 1 foot high. The existing sign will be taken down.

Mr. Backinoff called Francis Goeke, project engineer, to testify. Mr. Goeke is a principle with Lanning Engineering. He is a licensed engineer and has appeared before many Boards in Mercer County.

The site is 5.051 acres on the southeast corner of Route 130 and Fairbrook Drive in Florence Township. The site is presently wooded except for the roadway to the pump station. There is an existing detention basin to the east of the site. Approximately 73 trees will be removed from the site. They are proposing to build 3 buildings. Customer parking will be located in the center of the site. There is a small parking lot to the east of the site. The employee parking will be around the edges of the site to the rear and the easterly side.

The buffering from the proposed building to the residential area is approximately 127 feet. The zone line is through the basin and crosses Fairbrook Drive to separate the residential zone from the commercial zone on either side of Fairbrook Drive. There is 100 feet to the other side of the driveway. There is 72 feet to the property line where the basin exists. There is 70 feet from the zone line to the proposed rear parking area. This would require a variance. The parking has been pulled back away from the residential zone and the driveway will be relocated. The nearest residence, Lot 48, is 150 feet from the proposed parking lot. Additional landscaping has been proposed to give better screening from the residential area. The basin will also provide buffering.

Mr. Goeke stated that this design did meet the intents and purposes of the Zoning Ordinance. He doesn't think that the granting of this variance will create a negative impact on the residences. They have also added a 6-foot high fence to augment the buffering. Approximately 50-60 feet of building was removed on the end towards Fairbrook in order to mitigate any impact by this request for a variance. Mr. Goeke stated that in his opinion once the greenery grows up the rear of the building would not be very visible from Fairbrook Drive. A solid wood fence similar to the fence at Roma Bank will be installed.

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Councilman Fratinardo asked for the distance from the property line to the start of the roadway. Mr. Goeke stated that it is approximately 80 feet from the property line to the east side of the roadway. Councilman Fratinardo asked if a variance would be required. Solicitor Abbott stated that a variance would be required.

Mr. Goeke said that the plan is to capture all the stormwater and pipe it into the storm sewer that comes off of Fairbrook Drive. Councilman Fratinardo said that the basin was constructed for the whole area, residential and commercial.

Mayor Muchowski asked that the utility road for the employees and deliveries be signed accordingly. Mr. Goeke said that they would sign the road for employees and deliveries only.

The maximum impervious surface on the plan is 56%, 75% is allowed by the ordinance. The FAR is 13.7% proposed and 30% is allowed by ordinance. The setbacks all meet the ordinance. Mr. Goeke stated that the proposed use is low intensity for a site of this size. The site is adequate for the proposed development.

On the landscape plan there is a hedge surrounding one of the parking lots to absorb headlight glare. Landscaped islands have been proposed in some of the parking area.

Mayor Muchowski asked about moving the fence closer to the roadway or parking area, so the residents could see the landscaping rather than a fence. Chairperson Hamilton-Wood stated that this would be okay as long as it didn't cause a security issue.

Attorney Backinoff stated that the applicant was flexible to whatever the Board ultimately decides is appropriate subject to the limitation that a fence could not cross the existing easement areas.

Chairperson Hamilton-Wood asked if there would be a berm. Mr. Goeke stated that there is a one foot high existing berm, but no additional berming is proposed. Mayor Muchowski stated that he had toured the site recently. He pointed out areas where the landscaping had been supplemented and areas that would need greater landscaping details to shield the residential area from the commercial area.

Mayor Muchowski stated that he would like to relocate the 15 extra parking spaces. Chairperson Hamilton-Wood asked why there was the extra parking? Mayor Muchowski answered that there should be banked parking on site because if the center is successful, we don't want overflow parking in the residential area.

The plan calls for 158 spaces (including 6 banked spaces) where 151 are required. Mr. Goeke and Planner Hintz had a discussion regarding the relocation of the banked parking spots.

Member Smith questioned the variance requested for the size of the spaces – 9' x 18' where 10' x 20' is required.

Mr. Backinoff called Traffic Engineer, Elizabeth Dolan to offer testimony. Ms. Dolan is the principle in Elizabeth Dolan Consulting. Ms. Dolan stated her credentials and was accepted by Solicitor Abbott as a qualified expert witness.

Ms. Dolan stated that she had prepared a Traffic Impact Analysis report for the site and had met with the NJDOT in looking at the access design for the site. She reviewed the site access, circulation and parking, and looked at the possible noise impact caused by vehicular activity on site.

The traffic Impact Study that was submitted was based on the originally submitted plan which was for 35,000 square feet. The current plan has reduced the building area to 30,000 square feet.

Ms. Dolan stated that the retail site would generate maximum traffic activity coincident with the street activity on weekday evenings and on midday Saturday peak hours. The study examines the site's driveway and the intersection of Route 130 and Fairbrook Drive.

The traffic study was conducted in October while school was in session. Counts were conducted on a Thursday and a Saturday afternoon. The volumes are a little higher on the weekday evening. Traffic on Route 130 during this period was 2400 cars. The traffic on Fairbrook Drive was 200 cars in an hour. On Saturday there were 1500 cars on Rt. 130 and 100 cars on Fairbrook Drive.

Ms. Dolan stated that when they looked at the proposed shopping center the expected traffic activity during the peak period would be about 150 cars during the weekday evening. On Saturday about 220 cars would be expected. Not all this traffic is newly generated.

Ms. Dolan stated that with or without the development the intersection operates at a favorable level of service "B" or better. The analysis indicates that there is no negative traffic impact associated with this development. This is based on higher numbers than would be expected since the size of the building is slightly less. NJDOT will not allow highway access. All access must come through Fairbrook Drive. Ms. Dolan stated that she also spoke with Police Chief Gordon Dawson and he indicated that the best access in his mind is from Fairbrook Drive.

The level of service for the site driveway indicates favorable levels of service and limited queuing. The driveway is located as far from Route 130 as possible. She stated that the site was laid out conventionally for a commercial use – 25' circulation aisles, 9' x 18'

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parking stalls and circulation around the rear of the building to accommodate delivery and refuse trucks.

Ms. Dolan stated that the 9' x 18' parking stall is recognized by many ordinances. Florence's ordinance requires the 10' x 20' stalls. The industry standard according to the Institute of Transportation Engineers is 9' x 18'. The ITE does not recommend widths exceeding 9' because it provides more impervious coverage from excess paving. They recognized that there is a high percent 45 – 46 % of the vehicles being made up of vans, SUV's etc. The recognition of the high percentage of larger vehicles still yields the recommendation of the 9' x 18'. Ms. Dolan stated that the 10' x 20' stalls are better suited for Home Depot type stores and large supermarkets where you would need to maneuver carts around the vehicles. The 9' x 18' with the 25' aisle does allow for the vehicles to enter, exit, park, back up, allows for the pedestrian flow and is a recommended standard that is being used in many large retail centers that she is familiar with.

The ordinance requires 5 parking spaces for 1,000 square feet. This is a recognized standard. Ms. Dolan stated that the recently issued third edition of Parking Generation would indicate a ratio of 4 spaces per 1,000 square feet as being appropriate for this type of setting. This appears to be the industry standard for this type of a site. This also includes restaurants as part of a shopping center.

Member Napolitan asked if the pad site would be a fast food restaurant. Mr. Backinoff stated that there was no known tenant for the pad site as of yet. Solicitor Abbott stated that restaurants would be a permitted use.

Planner Hintz asked for a discussion of loading requirements. Ms. Dolan stated that there is a requirement for 5 loading areas and the plan shows 4. She stated that it is her experience that these smaller retail buildings that the type of deliveries are limited to FED EX, UPS or smaller vehicles. She said that not knowing the tenants it is hard to determine whether there will be tractor trailers making deliveries. She believes there is flexibility in designating the loading areas as the space is scheduled to be occupied by different tenants.

Mr. Goeke stated that they aren't able to designate the loading area for the pad building because they do not know how the building will be orientated on the site. Mayor Muchowski discussed restricting the hours of deliveries so as not to impact negatively on the residential area. A 55 foot tractor trailer can circulate through the back of the building.

Ms. Dolan said that she had reviewed the standard sign guidelines, visibility and sight distance. With the 50 mph speed limit the criteria would indicate that 1,150 feet of sight distance should be provided. This gets broken down into an inch of letter height for

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every 50 feet of desired visibility. The letters would need to be between 18” and 23” high. This should allow the driver to identify the site, change lanes and decelerate safely.

Mayor Muchowski asked for the definition of a sign. Solicitor Abbott read the definition from the ordinance. The pediment is not included in the size of the sign. The size of the proposed sign will meet the ordinance.

Councilman Fratinardo asked about the 50’ side yard setback line that is listed on the plan. The access road and the employee parking are within the setback. Mr. Goeke stated that this is an incorrect notation on the plan. The side yard set back requirement is only 25’. Councilman Fratinardo asked about the buffer on the south side of the lot that was not addressed. Mr. Goeke stated that the adjacent lot was zoned residential. The setback for the parking area is 60 feet, but there are wetlands adjacent to this. The building is 100 feet from the property line.

Mayor Muchowski asked if the easement road would be repaved. Mr. Goeke stated that the road would be repaved.

Planner Hintz referred to his report dated June 13, 2005. The number and location of the street trees provided on the plan for both Fairbrook Drive and Route 130 does not meet the ordinance. Mr. Goeke asked Planner Hintz to let him know where the deficiencies were and they would go back and revise the plan. Attorney Backinoff stated that in regards to the tree replacement, they would try to meet the ordinance requirement and work with the planner and engineer as to the appropriate place to locate the trees. He said he didn’t know if all of the number of trees could be appropriately located on the site, but they would use their best efforts with the guidance of the planner and the engineer to put them where they belong. He stated that he assumed the bulk of the trees would go along the buffers along the back towards the housing and next to the ravine.

Planner Hintz stated that the ordinance requires 2 shade trees in the parking lot for every 10 parking spaces and this requirement has not been satisfied. He mentioned the additional planting along Rt. 130. He recommended that in some areas there be an offset double hedging row. The lighting on the site is the same as the Roma Bank lighting.

Engineer Morris referred to his letter dated June 16, 2005. A variance is required for providing 4 off street loading areas where 5 are required per ordinance.

A design waiver is needed for using (HDPE) high density polyethylene pipe where (RCP) reinforced concrete pipe is required. Mr. Goeke responded that the pipe is small diameter pipe under the paved area. Engineer Morris stated that they could use ductile iron pipe because RCP pipe does not come that small. Mr. Goeke stated that they would comply with this.

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There has to be some tweaking in the stormwater calculation to show that there is no impact from the impervious area. Once these are submitted Engineer Morris will review.

Handicap ramps with detectable warnings must be constructed per the latest recommendations of the ADA requirements.

The setback lines should be re-labeled to correct the discrepancies. The 100' side yard setback to the residential property on the plan. The rear yard tie distance should be shown on the plan. There should be no accelerants in the concrete. Trash enclosure should be masonry walls. Details on the dumpster pad should be corrected. There must be handicap access to the rear of the building. Storm sewer cleanout inserts should be on the drainage and utility plan. Cleanout detail for the roof drain header pipes including adaptors and 45 degree wyes should be provided and added to the stormwater management plan. Site triangles must be added to the plan. The as-builts must be provided in autocad format.

Solicitor Abbott stated that there were seven variances requested with this application. The buffer width, number of business ID signs, tree preservation, the number, spacing and location of street trees, number of loading and parking spaces, number of parking area trees, number of loading areas.

Mayor Muchowski stated that the applicant had agreed to meet the spacing location of street trees and the tree preservation.

Chairperson Hamilton-Wood asked if the façade signs were permitted.

Solicitor Abbott requested testimony from the applicant relating to the justification for the variances.

The Board took a five minute break. The Board returned to the regular order of business.

Chairperson Hamilton-Wood stated that the Board had not gotten to review the reports from the Florence Township Fire Official or Chief of Police, however due to the lateness of the hour the application would most likely be continued until the July meeting. Seeing that there were several members of the public in attendance motion was made by Smith, seconded by Stockhaus to open the hearing to public comment. Motion unanimously approved by all members present.

David Nash, 207 Yorkshire Court, Old Bridge, NJ was sworn in by Solicitor Abbott. Mr. Nash stated that he was an attorney representing some of the residents of Mallard Creek and he had brought a written summary of concerns. Chairperson Hamilton-Wood asked if the residents of Mallard Creek had been incorporated. Attorney Nash stated that this was a coalition of concerned citizens they have not been incorporated. Solicitor Abbott

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reviewed the summary. She stated that it was a document entitled Concerned Residents of Mallard Creek and marked it as exhibit O1.

Attorney Nash stated that the residents of Mallard Creek do not oppose the concept of commercial development in this area. They realize that this is commercially zoned area. The residents support safe, well planned, appropriately sized commercial development.

Mr. Nash stated that there was one discussion back in March between the residents and the developer. There was no other attempt to reach out to the residents until the previous Thursday (4 days prior to the meeting) to have any further discussion on the issue.

Mr. Nash listed four major concerns:

Health and safety of children and the residents. The 17 proposed shops would cause a massive increase in the traffic on Fairbrook Drive. There is no justification for the 8 small signs. This has the potential to cause dangerous situations on Route 130. The traffic study was only based on two days. This is not sufficient to give a true picture of the traffic situation. A more extensive traffic study should be provided. There has been a fatality in this area. There is concern that there will be more fatalities.

Enforcing the current buffer requirements to maintain a decent quality of life. There is a reason that the 100' buffer requirement was put into the ordinance. The spirit of the ordinance is to also protect natural woodlands in the area. This proposal calls for a massive loss of trees. There doesn't seem to be a plan for tree preservation in the area.

The proposed site fails to meet the statutorily required standards for granting of variances. There is nothing on the record to show that there would be undue hardship if there were a failure to grant all the variances that are proposed. The case law states that the Board does not have any duty to grant variances so that a developer can gain the highest conceivable profit. The requirement is specific that as long as there is an effective use of the land without a variance in the ordinance then the developer is not able to show the hardship. There is nothing on the record to show that the benefits of this proposal substantially outweigh the detriments of the proposal.

Economic viability. What economic analysis has been done to show that this will be a successful project, and not end up an eyesore with empty stores.

Attorney Nash called for testimony from the residents.

Chris Vlahovic, 110 Fairbrook Drive was sworn in by Solicitor Abbott.

Attorney Backinoff asked for a list of the residents that Attorney Nash represented. Chairperson Hamilton-Wood asked that the Board also receive a copy of this list. She

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also asked that any correspondence that the residents wished to submit should be sent to the Board Clerk to be distributed to the Board members prior to the meetings.

Mr. Vlahovic stated that he had lived on Fairbrook Drive for 6 ½ years. He stated that he had testified before the Zoning Board opposing a storage center that had been proposed for the same site and was ultimately denied. He said that Roma Bank is a great neighbor. They met with the residents before hand and followed through with the suggestions that the residents made. Mr. Vlahovic pointed out that the applicant did not approach the residents for a follow up meeting until 4 days before the hearing date.

Mr. Vlahovic's home is the very first house on Fairbrook Drive. The house has a walk out basement. He doesn't think that a six-foot fence will provide any screening.

In reference to the accident that occurred at Rt.130 and Fairbrook Drive, Mr. Vlahovic stated that the accident occurred 1 ½ years ago on the Saturday after Thanksgiving. Mr. Vlahovic was the first person on the scene and there was one fatality. He stated that they hear tires screeching at that intersection frequently.

Mr. Vlahovic stated that he was not opposed to having a shopping center on the site. It could be a benefit to the community, but in his opinion it is too large for the area. He stated that he owns a few Cingular Wireless store in strip malls and said that stores close up every week. He said that every strip mall that he has stores in receives deliveries by tractor-trailer.

Mr. Vlahovic stated that he is concerned for the safety of the children. He stated that he has seen children as young as 4 or 5 years playing in the streets. He is also concerned that this development may bring an increase in crime to the neighborhood.

Attorney Backinoff asked Mr. Vlahovic if the applicant had met with the residents in February for about 1 ½ hours. Mr. Vlahovic answered yes and said that he believed that he had at that time said that he was not opposed to a retail shopping center on the site.

Attorney Backinoff asked if Mr. Vlahovic remembered discussing additional buffering for his home. Mr. Vlahovic asked if the applicant had added the additional buffering. Attorney Backinoff asked if Mr. Vlahovic had looked at the plans to see where the additional buffering had been added. Mr. Vlahovic answered that he had look at the plans but did not notice the additional buffering.

Attorney Backinoff asked if Mr. Vlahovic had looked at the police report for the accident that had been mentioned. Mr. Vlahovic stated that "an accident is an accident, a fatality is a fatality". Attorney Backinoff asked if Mr. Vlahovic knew that the police report stated that this was a reckless driver going at an excessive rate of speed, approximately 80 to 90 mph. Mr. Vlahovic stated that he did not know of any other fatal accidents at this intersection, but often witnessed people speeding along Rt. 130.

Attorney Backinoff asked Mr. Vlahovic if they had exchanged business cards and phone numbers at the February meeting and wanted to know if there had been any effort on the part of the residents to contact Mr. Backinoff or the applicant. Attorney Nash objected and said that he would address the question as the representative of the residents.

Attorney Nash stated that they had requested the opportunity to have more substantive discussions with the applicant. He stated that they had asked TSMC to contact them so that they could move forward. He said that it was the applicant's responsibility to contact the residents. There was no contact made.

Attorney Nash called Brian Baker, 112 Fairbrook Drive to testify. Mr. Baker was sworn in by Solicitor Abbott. Mr. Baker stated that he had lived on Fairbrook Drive for 6 ½ years. He said that he has seen children playing on Fairbrook Drive. He has seen children from 7 years to 15 years playing.

Responding to a question from Attorney Nash, Mr. Baker stated that he doesn't know if the traffic study was accurate, but he thinks there needs to be more than two counts to give an accurate view of the situation.

In regards to the buffer, Mr. Baker does not think that the six-foot fence will be a sufficient buffer. He is concerned with the appearance of the rear of the building.

Mr. Baker is concerned with the loss of the woodlands. He mentioned the ordinance that allows the extension of the buffer to preserve the natural environment. In Mr. Baker's opinion this proposal would not further the goal of preserving natural woodland and enhancing the quality of the environment.

Mr. Baker stated his concern regarding the zone line running through the detention basin. Mayor Muchowski stated that he thought that when the development was first planned the site was set up to have two commercial districts in the front along Route 130 and the residential area in the back. The basin was built to handle the residential component and the two commercial districts. He said that he assumes that because there is no jogging in and out of the zoning line that they took a point at Fairbrook Drive and ran it straight across the back to incorporate what was that zoning district and what was the residential zoning district.

Mr. Baker said that this did not make any sense to him, to have an area that is a detention basin that is behind a residential area zoned for commercial use. Chairperson Hamilton-Wood stated that unfortunately that is the way the area is zoned and nothing can be done about that at this point. Mr. Baker stated that he feels that this is a loophole that can be used by a commercial interest that wants to reduce the size of a buffer zone. His personal opinion is that the Planning Board has the right according to the ordinance to expand that buffer zone. His opinion is that should be expanded to include the natural woodland that is already there.

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Mayor Muchowski stated that the natural buffer had been extended to try to save existing trees within the buffer. In the 100-foot stretch, he doesn't believe that any trees are being removed in the buffer. The woodland doesn't start until after the easement road that is beyond the 100 feet. Mr. Baker stated that the Board has the ability to extend the buffer.

Mr. Baker stated that he lives at the intersection of Creekwood Drive and Fairbrook Drive and he has seen tractor-trailers turning around on Fairbrook Drive. He doesn't feel that a hedge or fence will help to shield the development from tractor-trailer noise.

David Walls, 10 Creekwood Drive, was sworn in by Solicitor Abbott. Mr. Walls stated that the applicant did meet with the residents for one meeting, but he thought that the Board had initiated this meeting, not the applicant. It is his opinion that the applicant is not concerned with the residents.

He stated that if you allow the variances for the employee/loading parking area there may be panel trucks parked there permanently for storage. He is concerned with tractor-trailers entering the site and with garbage pickup early in the morning.

Renee Wright, 121 Fairbrook Drive was sworn in by Solicitor Abbott. Mrs. Wright has concerns about safety and about how things were represented by the developer. She went to look at another shopping center that the applicant had planned. This shopping center is located near Lawrence, NJ. She said that the employee parking was in a one way direction. The property was in decent shape and the buildings matched the character of the community. The center was built in a U shape so parking was perpendicular to the curb. The tenants were mostly small stores, a pizza shop, Chinese food, dry cleaner, and a tanning salon. She stated that in terms of access to the site, Franklin Corner Road is much wider than Fairbrook Drive. There is no median and it is at a corner intersection so there are 2 or 3 accesses into the development, where this proposal only has one access.

Mrs. Wright stated her concern with the number of cars turning into Fairbrook Drive from Route 130 North. It is difficult to maneuver this turn safely now due to the slope of the road. She is even more concerned with the people exiting north and crossing 2 lanes of traffic to make a U-turn or a left to Hornberger Avenue. She said that it is even more dangerous to make a left onto Fairbrook Drive from the southbound lane. The turn lane only holds approximately 5 cars and then cars back up into the left (fast) lane. Also in the winter Roma Bank pushes snow toward the median, this causes an additional hazard.

Motion of Stockhaus, seconded by Napolitan to close public portion. Motion unanimously approved by all members present.

Attorney Backinoff requested a continuance until the July 18, 2005 meeting and to waive the time limit for Board action.

Solicitor Abbott stated that no additional public notice would be necessary.

Motion of Stockhaus, seconded by DeAngelis to continue application PB#2005-01 until July 18, 2005. Motion unanimously approved by all members present.

#### OTHER BUSINESS

Member Napolitan expressed concern about the driveway location for the Eckerd Pharmacy. Chairperson Hamilton-Wood stated that the driveway is located where the approved plan indicated that it would be. Member Napolitan asked if the store would be an Eckerd as he had heard a possibility that it would not be. He asked if there could be multiple stores on the site. Mayor Muchowski stated that as of right now it is an Eckerd going in. Solicitor Abbott stated that the applicant has to comply with the ordinance.

Mayor Muchowski said he was concerned with the placement of the trees in regards to the overhead wire. Planner Hintz stated that the trees were okay. They would not interfere with the wires. Also there is no curb on Wallace Avenue and no waiver was given.

Motion of DeAngelis, seconded by Stockhaus to adjourn at 11:25 P.M. Motion unanimously approved by all members present.

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John T. Smith, Secretary

JTS/ne