OCEANPORT PLANNING BOARD
MINUTES
October 28, 2014

Chairman Widdis called the meeting to order at 7:30 p.m. and gave the Statement of Compliance with the Open Public Meetings Act: "Adequate notice of this meeting has been provided by notice to the Asbury Park Press and The Link News on January 23, 2014, and by the posting of same on the municipal bulletin board and Borough Web Site."

Chairman Widdis led the flag salute.

MEMBERS PRESENT: Mr. Kahle, Mr. Johnson, Councilman Gallo, Mr. Sullivan, Mr. Whitson, Mr. Widdis

MEMBERS ABSENT: Mr. Kleiberg, Mr. Gruskos, Ms. DeSousa, Mr. Savarese

OFFICIALS PRESENT: Jeanne Smith, Board Secretary, Rick DeNoia, Esq., Board Attorney, and William White, Board Engineer/Planner

BOARD BUSINESS:
1. Master Plan Amendment – Public Hearing

Elizabeth McManus of Clark Caton Hintz, Borough Planners, appeared before the Board and presented the completed Strategic Recovery Planning Report and her memo and recommendations of October 3, 2014. Ms. McManus explained that the report was authorized by the Governing Body about a year ago and was made possible through a NJ Department of Community Affairs grant awarded to the Borough after Super Storm Sandy. The purpose of the report was to provide an overview of damage from Superstorm Sandy, the Borough's efforts towards recovery and then recommendations on what the Borough should implement including studies to improve infrastructure, improving planning ordinances and Master Plan documents, the action steps to further the Borough's recovery and the report would make the Borough eligible for additional grant funding to implement those actions.

Chairman Widdis asked Ms. McManus to describe some of the actions being recommended.

Ms. McManus outlined some of the actions being recommended including enhancements to stormwater and flood infrastructure, action plan for capacity of ditches and creeks that have trouble moving water adequately, problems with storm drain systems and installation of generators for public facilities; adopt enhanced elements of the Borough's Master Plan; adopt ordinances which enhance mitigation and resilience in the Borough; updating flood protection ordinance to enable residents' to be prepared for the next storm; building designs, improve the Borough's permit and application process specifically to be prepared for response after a disaster; and install a GIS based system to track permits, approvals and determinations of substantial damage after flood events to increase efficiency and prepare a capital facilities plan such as gates at closed bridges, acquire property to relocate municipal facilities out of flood prone areas.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public. As there was no one from the public that wished to be heard, that portion of the hearing was closed.

Chairman Widdis directed the Board's attention to a resolution provided in advance of the meeting and asked for a motion.

Mr. Whitson made a motion to adopt the resolution amending the Master Plan to include the Strategic Recovery Planning Report as an Appendix which was seconded by Mr. Johnson and received the following roll call:

AYES:	Mr. Kahle, Mr. Johnson, Councilman Gallo, Mr. Whitson, Mr. Widdis
NAYES:	None
ABSTAIN:	Mr. Sullivan
ABSENT:	Mr. Kleiberg, Mr. Gruskos, Ms. DeSousa, Mr. Savarese

Ms. Smith stated the motion carried.

OLD BUSINESS: None

NEW BUSINESS:

1. PB2014-13 Aiello, Benjamin
   Block 74, Lot 17
   Request for Bulk Variances, Side Yard Setback and Height for Accessory Structure

A-1 Photographs 1-14, taken by Benjamin Aiello between October 25-27, 2014

Benjamin Aiello, Applicant and Owner, Matthew T. Cronin, Architect having previously been qualified by the Board, and William White, Board Engineer/Planner were sworn in.

Mr. Aiello presented the application with the submittal of 14 photographs, gave a description of each photograph and testified that they had been taken over the last few days which were marked as **Exhibit A-1**. Mr. Aiello further testified to the existing conditions of the property including the subject accessory structure, the need for the additional space to store outside furniture and the damage and flooding of the shed from Sandy. Mr. Aiello testified to the size and location of a tree that he wants to keep which would prevent him from expanding towards the water, the close proximity of the neighbor's garage to the property line as well as other properties in the neighborhood having an accessory structure close to the property line.

Mr. Cronin then provided testimony concerning the existing structure, the surrounding characteristics that influenced their decision to the expand the structure towards the street, the other options considered and their negative impacts to the root system of the large tree that the Applicant desired to leave undisturbed, the increase in height in order to raise the mechanicals out of the flood plain and provide for dry storage as the basement was a "wet" basement that had flooded during Sandy and there was no attic space in the house, the need for the elevated foundation and required flood venting.

Mr. Johnson asked Mr. Cronin if the siding would match the existing house and was told yes. Mr. Johnson asked if there would be any plumbing or gas and was told no, that it would have electric. Mr. Johnson asked if they would be tearing down the existing structure and using the same footprint and was told yes, but expanded. Mr. Johnson asked if it the expansion would be any closer to the property line and was told yes.

Mr. Gallo asked why they chose to expand to the south instead of the north. Mr. Cronin responded that issues with NJDEP CAFRA rules, the drop of elevation and the intent to minimize disturbance to the site and no changes to the grading. Mr. Gallo asked if the existing floor would stay the same and was told yes.

Mr. Kahle asked about the 2 doors upstairs were going to open up and be passed through? Mr. Aiello said yes, for the umbrellas but the other items were small enough to go up.

Mr. Sullivan asked where the sycamore tree was. Mr. Cronin corrected himself and said it was an oak tree. Mr. Sullivan asked if the new height would affect the neighbor's view and was told that the structure adjacent was a garage and was one of the reasons they had chosen the same location.

Mr. Whitson asked if there were any plans to convert to an apartment and was told no. Mr. Whitson asked if the plans had been discussed with the neighbor and was told yes.

Mr. White referring to the photographs asked about the health of the tree which appeared scarred and several branches removed. Mr. Aiello responded that he had the tree inspected by Brummer's Tree Service and the tree was healthy and survived the storm because he had pruned the tree.

Chairman Widdis asked why the structure couldn't be located further off the property line and was told no, because they were trying not to affect the root line of the tree.

Chairman Widdis asked questions about the height including whether excessive, how the height was measured and was told from the base. Chairman Widdis stated that had changed to the crown of the road. Mr. Cronin asked if it applied to accessory structures and then after looking at plan said the base actually was lower than the crown of the road.

There was some discussion on the height issue and the % increase in the height and the type of variance because of the different voting requirements for "c" and "d" variances but after discussion with the Board Engineer it was determined that it did not apply to accessory structures.

Chairman Widdis asked the Board if anyone had any issues with the measurement not being made from the crown of the road to which there were no objections.

PUBLIC:

Chairman Widdis opened the meeting to questions and then comments from the public. As there was no one from the public that wished to be heard, that portion of the hearing was closed.

Chairman Widdis asked for the Board's action.

Mr. Sullivan made a motion to approve the application which was seconded by Mr. Kahle and received the following roll call:

AYES:	Mr. Kahle, Mr. Johnson, Councilman Gallo, Mr. Sullivan, Mr. Whitson, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	Mr. Kleiberg, Mr. Gruskos, Ms. DeSousa, Mr. Savarese

Ms. Smith stated the motion carried.

2. PB2012-14.2 Oceanport Center LLC
   Block 88, Lot 26.01 – East Main Street
   Request for Site Plan Amendments and Variance for Signage

A-1 Layout & Dimensional Control Plan prepared by Hammer Land Engineering dated August 11, 2014
A-2 Truck Turning Sheet prepared by Hammer Land Engineering, not dated.
A-3 Trash Enclosure Detail
A-4 Layout & Dimensional Control Plan Amended Preliminary and Final Major Site Plan prepared by Hammer Land Engineering dated May 2, 2011, last revised May 5, 2014
A-5 Proposed Monument Sign Proportions – Option 03 prepared by Design Ideas Group Architect & Planning, LLC dated October 21, 2014.

Chairman Widdis stated the next application was for Oceanport Center LLC.

Mr. Johnson asked the Chairman that the plans provided were very similar to the ones made for the last application. Chairman Widdis responded that Mr. Falvo would be given opportunity to present and then the Board would decide and asked Mr. Falvo to proceed.

Mr. Falvo asked if the Board had jurisdiction to hear the application. Mr. DeNoia answered that the Board has jurisdiction that the notice was done properly but the Board had yet to determine res judicata and would be decided upon Mr. Falvo's presentation.

Mr. Falvo commented on the results of the last application and the opinion that there was not a complete understanding of the signs' purposes, the lack of signage to the street for the end units which did not have frontage on either streets, thus the lack of visibility for those units' tenants, their new sign proposals which reduced the size and height of the signs and other factors and requested that the Board hear the forthcoming testimony relative to the signage before making a ruling on res judicata. Or they could do the testimony for the dumpster first for which there were no objections.

Mr. Falvo first spoke as to the lighting which they were leaving alone but wanted to make it understood for the benefit of the public, the lighting in the Borough's ordinance was what was referred to as "daylight" lighting which was what existing along E. Main Street.

Mr. Falvo advised that they had been negotiating with a bank for the end unit and one of the issues presented was the location of the dumpster thus they were before the Board requesting to relocate it. Mr. Falvo submitted and described documents which were marked as **Exhibits A-1, A-2, A-3 and A-4.**

Joseph Hanrahan, Professional Engineer for Applicant, was sworn in, testified that the potential tenant for the bank site had requested that the dumpster enclosure be located away from their site, testified as to the landscaping for buffer, the proposal for 2 stalls in the vacated area and 1 stall in the trash enclosure. Mr. Hanrahan also testified as to the garbage vehicle's access and turning detail and that the relocation would not impact the groundwater recharge area, however, they would address the stormwater management pipe mentioned in Mr. White's letter.

Mr. Kahle stated the doors would be kept closed so as not to impact drivers travelling, expressed concern for visibility if the doors weren't kept closed. Mr. Kahle asked how high the enclosure was and if it would be impact the site triangle for those who "cut" corners.

Mr. Johnson asked about recycling and trash service if large enough to serve both residents and the businesses and was told yes.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public. As no one from the public wished to be heard that portion of the meeting was closed.

Mr. Johnson made a motion to approve the Site Plan Amendment for relocation of the trash enclosure which was seconded by Mr. Kahle and received the following roll call:

AYES:	Mr. Kahle, Mr. Johnson, Councilman Gallo, Mr. Sullivan, Mr. Whitson, Mr. Widdis
NAYES:	None
ABSTAIN:	None
ABSENT:	Mr. Kleiberg, Mr. Gruskos, Ms. DeSousa, Mr. Savarese

Ms. Smith stated the motion carried.

Mr. Falvo then presented the details concerning the signage, how they differed from the previous application and the basis for their position. Mr. Denoia provided the Board with guidance on the decision that the Board needed to make in order to proceed. There was a lengthy discussion on what happened at the last application and whether the current application differed. Mr. Falvo further presented 2 additional designs for the Board's consideration as to substantially different.

At the request of the Board for clarification, Richard Alderiso, Architect for the Applicant was sworn in and accepted as an expert and then described the differences between the 4 sign options.

Mr. Kahle asked the purpose for the signs were for the end units and was told yes and then asked if it were only for the end unit why couldn't the sign height be reduced. Mr. Alderiso explained that there were 2 units on each end that would be shown on the signs but if one tenant took up all the end space then there would only be one tenant advertised but if it both ends were taken by 2 different tenants thus the reason for the 2 spaces.

Mr. Alderiso continued describing the other 3 options characteristics and comparing with the existing Jockey Club sign.

Mr. DeNoia cautioned that the comparison needed to be with the past application and not with Jockey Club sign.

Mr. Sullivan asked if the signs would be lighted. Mr. Falvo answered yes, internally. Mr. Sullivan asked how the Jockey Club sign was lit and was told by spotlight.

Mr. Whitson commented that options 3 and 4 were different enough to proceed.

Chairman Widdis asked the Board for their determination as to whether or not to proceed with the application.

Councilman Gallo commented that he thought they were different.

Mr. Johnson commented that he thought they were essentially the same in area and wasn't substantially different.

Mr. Falvo also pointed out that the last application sought the 3rd pylon directory sign on the corner and only proposing 2 signs at each end with the reduced height and that they could go with or without the cap as an architectural feature. Public comment was that they preferred the option with the cap.

Mr. Whitson made a motion that the application using option 3 design was substantially different and that res judicata was not applicable which was seconded by Councilman Gallo and received the following roll call:

AYES:	Mr. Kahle, Councilman Gallo, Mr. Sullivan, Mr. Whitson, Mr. Widdis
NAYES:	Mr. Johnson
ABSTAIN:	None
ABSENT:	Mr. Kleiberg, Mr. Gruskos, Ms. DeSousa, Mr. Savarese

Ms. Smith stated the motion carried.

For the benefit of the public Chairman Widdis asked Mr. DeNoia to explain practically what had occurred and the reason they now could move to the substance of the application.

Mr. Falvo then submitted Proposed Monument Sign Proportions – Option 03 prepared by Design Ideas Group Architect & Planning, LLC dated October 21, 2014 which was marked as Exhibit A-5 and then asked Mr. Alderiso to describe the signage referring to A-5.

Mr. Alderiso testified that the proposed sign design had an overall height of 7’11” from grade, 12’ in width and sign proper was 5’1” x 12’ and was comprised of two (2) panels which were 2’ high x 12’ wide with the frame around them, the proportions of the sign were made in direct relationship to the sign across the street at Jockey Club.

Chairman Widdis asked how large the letters would be. Mr. Falvo answered that the sign expert would testify to that.

Mr. Johnson asked what the setback of the Jockey Club was – how far setback from the curb and was told about 12’ from the curb. Mr. Johnson asked how far setback would the proposed sign be from the curb and was told 15-20’.

Mr. Kahle asked why none of the signs promoted the development as the “Village Center” and was it considered and was told that had been on the large pylon sign in the last application. Mr .Falvo added that they could put that on the building if the Board so desired.

Mr. Whitson asked if the sign on Port Au Peck Avenue would be visible by Jockey Club and was told no.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public.

Henry Schulz, 40 Iselin Lane, was sworn in and asked questions of the architect about the visibility of the signage on the building and the angle of the façade and that the code provides one sign for each store on the façade and asked if the architect agreed that the façade for the end units were visible from E. Main Street. Mr. Alderiso responded that the portion of the building referred to was for the management office. Mr. Alderiso added that the bank end unit was visible when walking but not when driving.

Flori Cook, 38 Iselin Lane, was sworn in and asked questions about the number of end units, one or two on each end and was told it would depend on the tenant but was spaced for 2 units but was possible for one tenant to take up both spaces.

Christina Hewitt, 19 Iselin Lane, asked about the illumination of the signs. Chairman Widdis interjected that question would be for another expert.

As there was no one else from the public that wished to be heard, that portion of the hearing was closed.

Mr. Howard Mark, Owner of Mark O Lite Sign Company, Howell, New Jersey was sworn in and testified as to the type of lighting, internally, the amount of illumination produced by the signs, the extent of the illumination, design to be compatible with the buildings, the use of translucent graphics and when sign is lit only the characters are visible.

Chairman Widdis asked for questions from the Board.

Councilman Gallo asked what hours would the signs be lit. Mr. Falvo answered not all night.

Chairman Widdis asked questions about the color of the lighting, color of the letters.

Mr. Falvo answered they would use cream for the background of the sign panel and burgundy lights.

Chairman Widdis asked how tall would the letters be, what was the maximum. Mr. White answered 18" which Mr. Falvo stated the Applicant would comply with the ordinance.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public.

Christina Hewitt, 19 Iselin Lane, asked the signs are about 6' wide and when would they be illuminated and was told lights would go off at 11 p.m. Ms. Hewitt asked what was the need for the signs as there was no one there.

Robert Dennis, 3 Haskell Way, asked if the industry was moving to LEDs and many buildings that have lights shining on the sign and if keeping to the Jockey Club format of lights shining on the sign and said there's many ways to lock down a sign and if they used regular lights couldn't they find a way to lock it down so it wasn't such a risk to be stolen.

Mr. Mark answered if the illumination was the problem they could go with only the letters being illuminated and the background be opaque and may reduce the illumination by 70-80%. Chairman Widdis asked what was that kind of sign.

John Czajkowski, 8 Haskell Way, asked if the illumination was similar to the Somerville Shopping Center style in terms of the backlighting and was told yes.

Henry Schultz asked if it was considered a business directory sign and was told yes.

Mr. White asked if the LED lumination level could be dimmed. Mr. Mark answered not presently.

Mr. DeNoia asked that the illuminated lettering on an opaque sign was 70-80% and did he feel that was sufficient to meet the objective of the shop owner and was told yes.

As there was no one else from the public that wished to be heard, that portion of the hearing was closed.

Mr. Falvo called for the Engineer, Mr. Hanrahan to return for clarification of the sign setbacks.

Mr. Hanrahan testified that the E. Main Street was setback 19.5’ from the extended curb line, there is parallel parking there which was why it was earlier stated 12’. With regard to the Port Au Peck Avenue located on the east side of the driveway and an issue with the bushes at the park blocking the visibility and originally was proposed on the west side but moved to the east to increase visibility at the request of the Board but they were willing to move it back to the west side.

Mr. White asked if any of the signs would be in the site triangle and was told no, well out of the site triangle.

Mr. Kahle asked questions about the sign on E. Main Street and its dimensions and the visibility of the sign when cars parked in the parallel spaces and did it make sense to move the sign away from the parking. Discussion ensued but no changes made.

Chairman Widdis expressed concern with those travelling from the east to west along Port Au Peck and where the sign was thought from a safety standpoint should the sign be on the east or the west side. Mr. Hanrahan’s opinion was that it should be on the east side. Discussion ensued on the hedges and the sign, putting the sign up on the building instead.

Mr. Falvo stated after review of the ordinance that the size on the façade was limited and concern with not damaging the wall whereas the fascia could be replaced.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public. As there was no one else from the public that wished to be heard, that portion of the hearing was closed.

Victor Gourkanti, Applicant and Managing Member of Oceanport Center LLC, was sworn in and testified as to the potential tenants for the end units and points of concern in negotiation of leases was the desire for a presence of signs especially in the bank’s case because of internet banking, they wanted proper signage to direct business to their location and see in advance to turn into the center and his opinion that the proposed signage being discussed would satisfy those potential tenants.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public.

Ray Bubarian, 4 Iselin Lane, asked if the consideration for res judicata was presented by the owner based on reducing the number from 3 signs to signs. Mr. DeNoia advised yes, the Board felt that it was enough difference to proceed. Mr. Bubarian commented that the Applicant was saying that signage very important yet they’ve reduced the number to 2 from 3. Mr. DeNoia responded that because the Board had turned down 3.

Flori Cook, 38 Iselin Lane, asked for clarification would the bank unit be on both signs which Mr. Gourkanti answered no, only on one sign. Discussion ensued on the size of the units and that the banks no longer want large areas.

As there was no one else from the public that wished to be heard, that portion of the hearing was closed.

PUBLIC:

Chairman Widdis opened the meeting to comments from the public.

John Czajkowski, 8 Haskell Way, commented that the current design of the sign and its illumination similar to Somerville sign was out of character with the neighborhood.

Sam Zimmerman, 6 Iselin Lane, commented that the application was a lighter proposal than the last one, agreed that the design as backlit was inappropriate for the neighborhood, the current ordinance prohibit freestanding signs period, when the building was designed someone should have thought where the ends would be facing.

Henry Schulz commented that the signs being proposed are strikingly similar and not different and as proposed backlit signs were business directory and not monument signs like the Jockey Club and ask the Board to deny the application.

Robert Dennis commented that the Board may approve wanted to make sure what design the Board was considering and urged the Board to approve a sign being lit considering all of the comments being made.

Christina Hewitt stated her agreement with the statements made by Sam Zimmerman and Henry Schulz.

Flori Cook commented that the lighting was her biggest issue and thought the sign expert's suggestion for light illuminated letters was better though she preferred the appearance of the Jockey Club type sign and asked the Board to make a clear statement about lighting. She also expressed confusion because if they don't have anchors and some tenants will have signage, understood why the bank would want the signage but not if they were doing the drive-thru. Her biggest concern about the signs was to require the management to keep up the maintenance of the signage too and referred to the poor quality of the older shopping center.

As there was no one else from the public that wished to be heard, that portion of the hearing was closed.

Mr. Falvo gave closing summary comments and asked that the Board approve the application for 2 stand-alone signs with lit lettering on an opaque background and the sign on the Port Au Peck Avenue be placed on the east side of the driveway.

Mr. Whitson made a motion to approve the variance for 2 stand-alone signs with lit lettering on an opaque background and the sign on the Port Au Peck Avenue be placed on the east side of the driveway which was seconded by Mr. Kahle and received the following roll call:

AYES:	Mr. Kahle, Councilman Gallo, Mr. Sullivan, Mr. Whitson, Mr. Widdis
NAYES:	Mr. Johnson
ABSTAIN:	None
ABSENT:	Mr. Kleiberg, Mr. Gruskos, Ms. DeSousa, Mr. Savarese

Ms. Smith stated the motion carried.

Mr. Whitson made a motion to amend the Agenda to allow discussion on an item of old business concerning the RPM Development application. There was discussion on the motion and whether it was an issue that the public was not notified.

Mr. DeNoia commented that it wasn't a matter of a notice issue but the fact that they were not on the Agenda but there are mechanisms for adding something to the Agenda with the proper motion if a number of Board members feel it appropriate to add it to the Agenda. There was discussion on the concern for the public being notified afterwards was determined that no one from the public had presented at the hearing and only the US Government was listed for the required notification.

Mr. Kahle seconded the motion to amend the Agenda to add an item concerning RPM Development and received the following roll call:

AYES:	Mr. Kahle, Councilman Gallo, Mr. Sullivan, Mr. Whitson, Mr. Widdis
NAYES:	Mr. Johnson
ABSTAIN:	None
ABSENT:	Mr. Kleiberg, Mr. Gruskos, Ms. DeSousa, Mr. Savarese

Ms. Smith stated the motion carried.

Mr. Whitson gave a statement of explanation that 2 weeks earlier at an application presentation he voted based on certain legitimate concerns but upon further reflection and the knowledge of 3 memorandums of understanding between Oceanport, FMERA and RPM Development public documents but not available to the Board at the time he came to the conclusion that the benefits outweigh the negatives and therefore makes a motion to reconsider the application which was seconded by Mr. Kahle and received the following roll call:

AYES:	Mr. Kahle, Councilman Gallo, Mr. Sullivan, Mr. Whitson, Mr. Widdis
NAYES:	Mr. Johnson
ABSTAIN:	None
ABSENT:	Mr. Kleiberg, Mr. Gruskos, Ms. DeSousa, Mr. Savarese

Ms. Smith stated the motion carried.

Mr. Whitson then made a motion to approve the RPM Development application which was seconded by Mr. Kahle and received the following roll call:

AYES:	Mr. Kahle, Councilman Gallo, Mr. Sullivan, Mr. Whitson, Mr. Widdis
NAYES:	Mr. Johnson
ABSTAIN:	None
ABSENT:	Mr. Kleiberg, Mr. Gruskos, Ms. DeSousa, Mr. Savarese

Ms. Smith stated the motion carried.

PETITIONS FROM THE PUBLIC: Chairman Widdis opened the meeting to Petitions from the Public and as no one from the public wished to be heard that portion of the meeting was closed.

ADJOURNMENT: As there was no further business, the meeting was adjourned at 10:17 p.m. on a motion by Mr. Gallo which was seconded by Mr. Kahle and approved by the Board.

Respectfully submitted,

JEANNE SMITH
Secretary