BOROUGH OF OCEANPORT

PLANNING/ZONING BOARD

MINUTES ● MARCH 23, 2021

Regular **REMOTE/VIRTUAL** **7:00 PM**

Clement V. Sommers Municipal Building, 910 Oceanport Way, Oceanport, NJ 07757

I. **Call to Order:** Chairman Widdis called the meeting to order at 7:02 PM.

II. **Board Policy:** Chairman Widdis advised the public of the below Board policies:
•It is Board Policy that no application will be opened after 9:30 P.M.
•No new testimony will be taken after 10:00 P.M., except at the discretion of the Board.

III. **Open Public Meetings Statement:** This meeting complies with the Open Public Meetings Act by adequate and electronic notification on January 22, 2021 of this virtual/remote meeting and its location, date and time to the Asbury Park Press, Star Ledger and Two River Times and by the posting of same on the municipal bulletin board and Borough's Web Site. Ms. Smith then read the virtual/remote meeting advisory advising the public how to attend and participate during public portions of the meeting as detailed on the meeting agenda.

IV. **Flag Salute:** Chairman Widdis led attendees and members of the Board in the flag salute.

V. **Roll Call:**

Attendee Name	Title	Status	Arrived
Christopher Widdis	Chairman	Remote	
James Whitson	Vice Chairman	Remote	
Patty Cooper	Mayor's Designee	Remote	
Thomas Tvrdik	Class III	Remote	
Joseph Foster	Environmental Committee Liaison	Remote	
John (Jack) Kahle	Class IV	Remote	
Michael Savarese	Class IV	Remote	7:24 PM
Robert Kleiberg	Class IV	Remote	
Darren Davis	Class IV	Remote	7:09 PM
Michael Dailey	Alternate I	Absent	
Jeanne Smith	Board Secretary	Present	
Kevin Kennedy	Board Attorney	Remote	
William White	Board Engineer/Planner	Remote	
Jaclyn Flor	Conflict Engineer	Remote	

VI. **Board Business:**

1. Approval of Minutes - Mar 9, 2021

RESULT:	**ACCEPTED AS AMENDED [8 TO 0]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kahle, Kleiberg, Davis
ABSTAIN:	Savarese
ABSENT:	Dailey

2. Approval of Minutes - Oct 13, 2020

RESULT:	**ACCEPTED [8 TO 0]**
MOVER:	James Whitson, Vice Chairman
SECONDER:	John (Jack) Kahle, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kahle, Kleiberg, Davis
ABSTAIN:	Savarese **ABSENT:** Dailey

3. Approval of Minutes - Sep 22, 2020 7:30 PM – Tabled to April 13, 2021
4. Administrative Request - 282 E. Main Street – Site is being required by NJ American Water to install hot box not known at time of site plan approval; discussion ensued on whether the change is minor and should come back to the Board for amended site plan, the need for the hotbox as a result of pushing building back at request of Board in order to provide for additional parking spaces but triggered more than 100' from curb which requires hotbox, its location, landscaping of box to be provided, does not impact the site triangle, no different than other sites required to have a traffic box or transformer. Afterwards, the Board directed Ms. Smith to notify the Zoning Officer by letter that the change is minor in nature, does not require the owner to return to the Board for amended site plan and may be processed administratively.
5. Report of Pending Applications

   Ms. Smith advised of upcoming applications for the April 13th and April 27th meetings, confirmation that Oport Partners had submitted Phase II and Phase III and were under review.

VII. Old Business:

1. Resolution of Approval, PB2020-33, Torregrossa - As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the resolution and conditions, which Councilman Tvrdik made a motion to approve the Resolution, which was seconded by Mr. Foster and received the below roll call:

RESULT:	**ADOPTED [8 TO 0]**
MOVER:	Thomas Tvrdik, Class III
SECONDER:	Joseph Foster, Environmental Committee Liaison
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kahle, Kleiberg, Davis
ABSENT:	Dailey
INELIGIBLE:	Savarese

2. Resolution of Approval - PB2020-34, Kohler - As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the resolution and conditions, which Mr. Kahle made a motion to approve the Resolution, which was seconded by Mr. Davis and received the below roll call:

RESULT:	**ADOPTED [8 TO 0]**
MOVER:	John (Jack) Kahle, Class IV
SECONDER:	Darren Davis, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kahle, Kleiberg, Davis
ABSENT:	Dailey
INELIGIBLE:	Savarese

3. Resolution of Approval - PB2020-32, Rosenbloom/O"Shaughnessy - As the Resolution had been previously provided to the Board, Mr. Kennedy summarized the resolution and conditions, which Mr. Davis made a motion to approve the Resolution, which was seconded by Mr. Kleiberg and received the below roll call:

RESULT:	**ADOPTED [8 TO 0]**
MOVER:	Darren Davis, Class IV
SECONDER:	Robert Kleiberg, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kahle, Kleiberg, Davis
ABSENT:	Dailey
INELIGIBLE:	Savarese

Mr. Savarese entered the meeting at 7:24 pm

4. PB2020-29 Oport Partners LLC

675 Oceanport Way
Block 110.14, Lot 1
Fort Monmouth Commissary Parcel

HISTORY:

02/09/21 Planning/Zoning Board
EXHIBITS:
A-1 Oceanport Planning Board Land Use Development Application
A-2 “Boundary and Topographic Survey Map of Property Known as Parking & Commissary PX Parcel - Front Monmouth” prepared by John T. Luts, PLS, dated January 23, 2020, revised through July 22, 2020, consisting of one (1) sheet;
A-3 Site Plans entitled “Preliminary and Final Plat - Major Site Plan for Oport Partners, LLC Phase:1 Commissary Parking, Lot 1 in Block 110.15 & Lot 1 in Block 110.16, Borough of Oceanport, Monmouth County, New Jersey” prepared by James A. Kennedy, PE, dated August 31,2020, revised on October 01, 2020, consisting of (7) sheets;
A-4 Architectural Plans entitled “FT. Monmouth Commissary Core/Shell, 1007 Alexander Ave., Oceanport, NJ” prepared by Cybul Cybul Wilhelm Architects, AIA, dated August 6, 2020, consisting six (6) sheets.
A-5 Traffic Impact Analysis Report prepared by John H. Rea, PE and Scott T. Kennel, of McDonough & Rea Associates, Inc. Traffic and Transportation Consulting, dated October 5, 2020;
A-6 Freehold Soil Conservation District Certification Letter, dated November 5, 2020;
A-7 Monmouth County Planning Board Approval Letter, dated November 9, 2020;
A-8 MCR Application Review, dated November 18, 2020;
A-9 Stormwater Management Compliance Statement, dated August 31, 2020;
A-10 Natural Resource Inventory, prepared by Phillips Preiss Grygiel LLC, dated May 2015.
A-11 Correspondence requesting waiver of Environmental Impact Statement, prepared by John A. Giunco, dated December 21, 2020
A-12 MCR Application Review - Preliminary Major Site Plan, Prepared by FMERA, dated December 21, 2020;
A-13 Flood Hazard Area Verification Approval, prepared by Keith P. Stampfel, PE, dated May 12, 2020;
A-14 ENGenuity Infrastructure Review Letter dated January 28, 2021
A-15 Aerial Exhibit prepared by Kennedy Consulting Engineers, LLC, dated February 9, 2021
A-16 Illustrated Rendering of Building
A-17 Illustrated Rendering of Future Building Styles
A-18 Site Plan Rendering, 1 Sheet, prepared by Kennedy Consulting Engineering LLC, dated February 9, 2021
A-19 Conceptual Site Plan of Phase II, prepared by Kennedy Consulting Engineering, LLC, undated

March 23, 2021 Meeting
EXHIBITS
A-20 Site Plans entitled “Preliminary and Final Plat - Major Site Plan for Oport Partners, LLC Phase:1 Commissary Parking, Lot 1 in Block 110.14, Borough of Oceanport, Monmouth County, New Jersey” prepared by James A. Kennedy, PE, dated August 31,2020 and revised on February 15, 2021, consisting of eight (8) sheets
A-21 MCR Application Review Supplemental - Preliminary Major Site Plan, Prepared by FMERA, dated March 1, 2021;
A-22 Environmental Impact Statement, prepared by Giordano, Halleran & Ciesla, P.C., dated March 10, 2021
A-23 Stormwater Management Compliance Statement, prepared by James A. Kennedy, PE dated February 15, 2021
A-24 Response Letter to 1st Engineering Review, prepared by James Kennedy, PE, dated March 9, 2021.
A-25 Access, Utility, and Roadway Easement Agreement, dated October 8, 2021
A-26 Traffic Impact Analysis Report prepared by John H. Rea, PE and Scott T. Kennel, of McDonough & Rea Associates, Inc. Traffic and Transportation Consulting, last revised March 9, 2021;
A-27 ENGenuity Infrastructure Review Letter #2 dated March 19, 2021
A-28 Rendering - Phase II and Phase III Conceptual, prepared by Kennedy Consulting Engineers, LLC dated March 23, 2021
A-29 Phasing Exhibit - Phase I: Commissary Parking, Lot 1 in Block 110.14, Oceanport, New Jersey prepared by Kennedy Consulting Engineers, LLC dated March 23, 2021
A-30 Rendering Phase I - "Phase I: Commissary Parking, Lot 1 in Block 110.14, Oceanport, New Jersey prepared by Kennedy Consulting Engineers, LLC dated March 23, 2021"

Ms. Smith advised that Councilman Tvrdik was eligible to participate in the hearing having certified listening to last hearing.

Jaclyn Flor, Board Conflict Engineer, was sworn in. Ms. Flor provided the Board with a summary of the changes she reviewed.

John Giunco, Attorney for the Applicant, summarized the issues from the last meeting and how the Applicant addressed them: building to be adaptively reused for the following permitted uses: craft production facility, food service for dish related establishments, N three, food service, research and development; revised plans submitted for Phase I as well as Phase II and Phase III as requested by the Board; introduced two witnesses – traffic and engineering.

Mr. Kennedy described and marked Exhibits A20 – A-27.

James Kennedy, Applicant’s Engineer, was sworn in, presented his credentials and having previously testified before the Board was accepted as an expert for engineering. Mr. Kennedy provided supplemental testimony including a revised Phasing Exhibit schedule marked as Exhibit A-28; adjustments for lot consolidation and zoning tables, the limits of Phase I, Phase II and Phase III marked as Exhibit A-29, proposed improvements for Phase I and subsequent site improvements of asphalt and parking island to be taken out concurrent with Phase III; said phased improvements with restrictions and conditions for fixed timing to be covered in a developers agreement with the municipality; proposed safety upgrades. Mr. Kennedy, described and marked Exhibit A-30, and provided testimony concerning the design waivers and variance being sought for Phase I development; existing asphalt to be repaired until redone with Phase III; proposed lighting upgrades to the existing fixtures with a waiver sought to replace poles at 20' in lieu of 18 as required by FMERA which will provide for adequate spacing of light and reduces incidence of glare and is a better design alternative considering the layout of the lot; the requirement of a hotbox to service the building; and design waiver for plantings on 3 sides of the hotbox instead of all around – the 4th side providing for inspections and maintenance; designed crosswalks in accordance with design waivers with the exception of full extension which was not possible due to parking field, crosswalks provide access from parking field to the loading area and into the main entrance of the building; site now proposes bike racks outside the building so a design waiver required for that; a design waiver is also sought to add lighting to old Anson Ave and site driveway as the foot candles for that area exceed the permitted with good and safer condition as it spills out to unlighted Oceanport Way; they are admittedly lighting two areas across the property line; design waiver sought for building mounted lights on the northern side of the building to light those 5 parking spaces, the drive aisle which cannot be provided as no lighting fixtures located there on the adjacent lot owned by JCP&L. Mr. Kennedy also provided testimony concerning the variance needed for lot coverage of Phase I which technically will go away with Phase II and III but Phase I needing to stand on its own they have provided stormwater compliance statement as they are not increasing runoff and the existing infrastructure is satisfactory to convey water from the parcel therefore his conclusion is that there is no adverse impact from the existing condition. The plan does show a portion of the site as barricaded to indicate no use of that portion of the property as the parking field provides adequate parking for the commissary. Mr. Kennedy also provided testimony concerning ADA compliance and its relation to existing parking stalls and guidelines to conform with ADA which they agree to follow that document consistent with federal requirements including upgrading of signs, striping, parking stalls but doesn't mean they have to repave the parking lot but provide reasonable accommodation, aesthetically pleasing and safe place to work. Mr. Kennedy lastly reviewed with Ms. Flor her technical letter to and provided testimony addressing each item satisfactorily with the exception of traffic and planning to be provided by other witnesses.

Chairman Widdis asked for questions from Ms. Flor. Ms. Flor asked questions about the spaces near the emergency access and if they would be signed or say employee only because if general public parks there's no pedestrian sidewalk to the front of the site and could the hotbox be moved to allow for a sidewalk. Mr. Kennedy answered no, NJAW mandates 100' from main; the door will not be marked and very unlikely to be taken as an entrance way. Plan will be revised to add note that that door be marked temporarily as employee access only. There's a balance between that and impervious coverage. Mr. Kennedy stated they would provide the requested spot elevations. Refuse container enclosure would be located in the back of building. Mr. Kennedy testified that for section 10, the Applicant has engaged an LSRP on the site to address soil, construction and excavation; there is no contamination on the commissary lot. Mr. Giunco added that there may be potentially contaminated soil on adjacent lots but the LSRP would oversee and provide for clean soil.

Ms. Flor stated she had recommended a licensed EIS based on her review of the State's Geomap but Mr. Kennedy had assured that it was being overseen by LSRP and if the Board would accept that or require it be prepared by an environmental scientist. Mr. Kennedy stated that the report was prepared by FMERA's environmentalist and the Applicant has done a Phase I and a Phase II and did research on the army's efforts as well. Mr. Kennedy provided some history on LSRP (Licensed Site Remediation Professional) and NJDEP and that process. Mr. Kennedy provided testimony for stormwater stating that the existing infrastructure supports the site with FMERA as the utility. Chairman Widdis pointed out Ms. Flor's note concerning televising of the stormwater pipes. Mr. Kennedy opined as to why he felt it was not necessary, no visual indication of system failure, no ponding, and the system is private and FMERA owned and would not impact the Borough. Ms. Flor stated she did not observe any ponding and while pipes are clay and likely in poor condition but felt comfortable accepting it as a temporary condition being replaced with Phase III. This would be covered within a developer's agreement.

There was some discussion on what would be covered by a developer's agreement and what would fall under a performance guarantee. Ms. Flor further recommended that drainage be addressed in the developer's agreement.

Mr. Kennedy next spoke to the water service comment; FMERA is under contract with NJAW to update the system but was unable to provide a timeline but were assured that it was forthcoming. Mr. Kennedy also agreed to show on the plan the limits of curbing repair. Mr. Kennedy also testified that a structural evaluation of the roof – free span was not capable of supporting solar panels. Ms. Flor asked that the buildings be secured during asbestos removal and demolition which the Applicant agreed to comply.

Ms. Flor stated that she felt the testimony addressed the majority of her comments but recommended that the site triangle issue may require the removal of the impacting trees but can take a look when they visit on site for the curbing. Mr. Kennedy stated they would agree to removal of the trees in the way based upon the site visit.

Chairman Widdis asked for questions from Board members.

Mr. Foster asked on Lot 5 belonging to Conrail were there any utilities that would transfer. Mr. Kennedy stated Lot 5 was actually JCP&L and yes, there were utilities – and they were not willing to convey. Chairman Widdis asked who would be maintaining those lots and was told under the easement rights the Applicant would maintain those areas.
Mr. Foster asked about the LSRP certification and soil certification which came from Freehold Soils. Mr. Foster asked if they had any knowledge of the type of contamination found. Mr. Kennedy answered those areas were former railway bid with historic fill which broad range of material with the potential for contamination, excavation is observed by the LSRP. There is a deed restriction against the use of the groundwater which they attribute to naturally occurring metals in the soils.
Mr. Kleiberg expressed concern for the ADA parking compliance and asked if they were compliant and nearest to the doors open during working hours and was told yes.
Mr. Whitson asked if there was a timetable on the developer's agreement and was told it would have to be done before they start.
Mr. Kahle asked about the buildings to the west of the commissary building were they part of Phase II and was told yes, and they were to be demolished. Mr. Kahle asked if the reason for not putting in sidewalk by the hotbox was not enough room. Mr. Kennedy answered they could but they didn't want to lose the greenspace, the landscape around hotbox for a sidewalk he didn't believe it would be used.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public. Ms. Smith provided the details for participation. As there was no one from the public, Chairman Widdis closed that portion of the meeting.

Chairman Widdis asked what would be the use of the building, retail? Mr. Kennedy answered it was a large space but presently there were 3 leads on leases – one was direct to consumer meal prep service, second was a professional chef for food prep, third was a potential micro-brewery – all permitted by the plan. Microbrewery would be manufactured and permitted to have a tasting room. Mr. Foster asked if it included wine and was told no – they had separate licensing.

Scott Kennel, Traffic Engineer, was sworn in, presented his qualifications and was accepted by the Board as an expert witness. Mr. Kennel provided testimony concerning the traffic generation study and conclusions which included a traffic generation for the entire buildout with Phase I, phase II and phase III. Mr. Kennel reviewed projected trip generations, peak hours, study included intersection of Anson and Main and was based on 2013 traffic data due to COVID impacts on traffic; trucks were factored into analysis and would depend on users and tenants ultimately using the site but they did include trucks, commercial traffic, personal traffic, employee generated primarily; range during peak hours was 10-30% but was speculative with no known tenants. Mr. Kennel further testified that the report provides results based on build and no build; intersections studied Oceanport Ave and incorporated traffic generated by other developments such as the university, bowling center, etc.; reviewed the service levels of B, C, and D and the periods for those varying service levels.
Ms. Flor asked why they took a small # of trips from Anson Ave which seems to be the closest intersection and why the split was low for that intersection. Mr. Kennel answered there could be deviation – their assumption was 15% and because Rt 537 and Rt 35 were collector roadways for the Fort but was confident that Anson would remain level C based on the road network. Ms. Flor asked if his testimony changed should the tenants go more 50-50 and based on the 3 potential tenants mentioned would that change anything. Mr. Kennel responded that they did consider it but the anticipated use for the commissary believed it would remain a level C.
Mr .Davis asked if a restriction could be placed on the roadway and access from Anson Ave. Mr. Kennel didn't believe it would impact the traffic but would redirect the volumes. The Applicant had no objections. There was discussion Mr. Foster felt that most users would try for the shortest distance and local traffic was more likely to use Main Street access. Mr. Whitson expressed concern that the proposed uses seemed more retail than industrial resulting in increased volumes on Main Street which already has bottle neck issues. Less gates available for ingress/egress also impact congestion.
Ms. Flor commented on the traffic study being conducted with COVID volumes and recommended that updated traffic study be provided for Phase II and then Phase III as volumes return to pre-COVID.

Chairman Widdis asked for questions from Board members.

Mr. Whitson requested updated traffic study as more activity has come about since the period.
Councilman Tvrdik agreed that an updated traffic study would be appropriate and thought it an excellent idea to divert commercial and keep it to 35 and 537 and off of Main Street.
Mr. Foster commented that in 1970's the Fort generated a lot of traffic considering the number of troops at that time.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public. Ms. Smith provided the details for participation. As there was no one from the public, Chairman Widdis closed that portion of the meeting.

Andrew Janiw, Applicant's Professional Planner, was sworn in, presented his qualifications and was accepted by the Board as an expert. Mr .Janiw provided testimony concerning planning, described the zone permitted uses and bulk requirements; variance being sought for Phase I was for impervious coverage of 83% where 75% permitted; factors being Phase I taken separately from Phase II and III, and the site being an existing condition; several design waivers cured but remain design waivers were temporary and would be cured with the development of Phase II and III; design waivers are practical; reviewed the Borough's Master Plan, goals for the 15th amendment; all of which the site is consistent with; the application demonstrates a public benefit providing sufficient space for variety of uses and redevelopment of the Fort for commercial development; site is naturally existing for commercial purposes. The application is for an existing site and existing building with both variance and design waivers eventually being cured with phase II and III development. Mr. Janiw provided testimony concerning the balance test for "c" variances including existing infrastructure; no nuisances, and believes the site qualifies under C1 criteria as well as criteria for C2 as the positives outweigh any negatives, which are demonstrated by the reuse of an abandoned building and fostering the re-use plan; and opined that there were no substantial detriments and no impacts to the zone or the master plan; negative criteria typically entails nuisances such as the creation of excessive traffic, noise, trash or drainage which have been addressed by the engineer's testimony and based on recommendations for traffic he believes there is no substantial impacts to the neighborhood and that the positive impacts outweigh any detriments.

Chairman Widdis asked for questions from Board members.

Mr. Davis stated that there are nuisances and difficult to calculate the parking without knowing the uses; doesn't necessarily agree with everything said but it was an improvement to existing conditions. Mr. Janiw responded that the commissary was previously a retail use which was more intense use than what was being proposed at worst the conditions would be equivalent but at best it would be an improvement. Mr. Davis added but the site was not open to the public so not necessarily relevant.
Mr. Foster commented that he felt comfortable with the testimony and the answers provided to questions.

PUBLIC:

Chairman Widdis opened the meeting to questions from the public. Ms. Smith provided the details for participation. As there was no one from the public, Chairman Widdis closed that portion of the meeting.

PUBLIC:

Chairman Widdis opened the meeting to comments on the application. Ms. Smith provided the details for participation. As there was no one from the public, Chairman Widdis closed that portion of the meeting.

Councilman Tvrdik made a motion to approve, as stated and testified, with commentary captured by the recording of professionals heard and both attorneys which was seconded by Mr. Savarese who commented that he would rather see a dilapidated site redeveloped than worry about road networks; and developed correctly and as an asset to the town. Mr. Kennedy reviewed summarized standard conditions, general compliance with all promises, commitments, compliance with FMERA regulations, Ms. Flor's review letter.

Motion to Approve Application with Conditions

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Thomas Tvrdik, Class III
SECONDER:	Michael Savarese, Class IV
AYES:	Widdis, Whitson, Cooper, Tvrdik, Foster, Kahle, Savarese, Kleiberg, Davis
ABSENT:	Dailey

VIII. Petitions from the Public: Chairman Widdis opened the meeting to Petitions from the Public. As no one from the public presented, Chairman Widdis closed that portion of the meeting.

Chairman Widdis thanked everyone for participating over the last long four weeks.

IX. Adjournment: As there was no further business, the meeting was adjourned at 10:12 pm on a motion by Mr. Davis which was seconded by Mr. Foster and approved by the Board.

Respectfully submitted,

Jeanne Smith
Board Secretary