

**BOROUGH OF BERLIN  
PLANNING BOARD MINUTES  
March 13<sup>th</sup>, 2023**

**CALL TO ORDER:**

D. Pomponio called the meeting to order at 7:00 PM

**FLAG SALUTE:**

D. Pomponio called for everyone to rise and recite the pledge of allegiance to the flag.

**SUNSHINE STATEMENT:**

D. Pomponio announced that this meeting is being held in compliance with the Open Public Meetings Act and has been duly noticed and published by law.

**ROLL CALL:**

On roll call vote, the following members answered present to roll call: R. Miller, J. Schumacher, D. Pomponio, H. Earle, M. Wilkinson, E. Hahn, J. Cole, F. Ballak, K. Ryker, M. Foster,

D. Pomponio asked if there were any questions or comments on the minutes for February 13<sup>th</sup>, 2023, none heard.

**MINUTES:**

A motion to approve the February 13, 2023, minutes was made by R. Miller and seconded by F. Ballak

Roll Call

D. Pomponio-AYE  
R. Miller-AYE  
J. Schumacher-AYE  
H. Earle-AYE  
M. Wilkinson-AYE  
E. Hahn-AYE  
J. Cole-AYE  
F. Ballak-AYE  
K. Ryker-ABSTAIN  
M. Foster-ABSTAIN

D. Pomponio asked if there were any questions or comments on the minutes for the closed session on February 13<sup>th</sup>, 2023, none heard.

A motion to approve the February 13, 2023, closed session minutes, was made by H. Earl and seconded by J. Schumacher.

Roll Call

D. Pomponio-AYE

R. Miller-AYE

J. Schumacher-AYE

H. Earle-AYE

M. Wilkinson-AYE

E. Hahn-AYE

J. Cole-AYE

F. Ballak-AYE

K. Ryker-ABSTAIN

M. Foster-ABSTAIN

**ZONING OFFICERS REPORTS:**

NONE

**NEW BUSINESS:**

**Case No. 23-01**

David and Lori McPeak  
252 South White Horse Pike  
Berlin, NJ 08009  
Block 1408, Lot 15  
*Use Variance Application*

Mayor R. Miller and Councilman M. Wilkinson excused themselves since it was a use variance application and will return on the next application. Chris Norman, the Borough attorney, then swore in the professionals, Christopher Dochney from CME Associates, Project Planner for Berlin Borough and Ted Wilkinson from Colliers, Engineering for Berlin Borough that was stepping in for Anthony LaRosa. Chris Norman also swore in David and Lori McPeak.

Jennifer McPeak spoke on behalf of David and Lori McPeak, about seeking a use variance on the property at 252 South White Horse Pike, there are two units on the property, and they are looking to convert the rear unit from a commercial use to a residential use. Mr. Scott Smith stepped forward to testify on behalf of the McPeak's. Mr. Smith has been in front of the Planning Board numerous times. Chris Norman asked if Mr. Smith license was still in good standing and Mr. Smith answered, yes. Mr. Smith then went on to explain exhibit one showing a variance plan, based upon a current land survey, showing the perimeter of the property. Mr. Smith went on to explain that the proposal for tonight is to obtain approval in the form of a use variance to utilize the rear portion of the building, which has been separated from Rita's water ice sometime in the past. Mr. Smith went on to say that they are proposing a 1,371 sq ft apartment. This portion was some type of sales use, it was not retail to the best of Mr. Smith's knowledge. Mr. Smith went on to say it has been vacant for a while and does have its own entrance at the rear. Mr. Smith stated that they are proposing two designated parking spaces for

the tenant's use only that will be designated through signage. The balance of the property is Rita's water ice operation, which is a 1,094 sq ft and there is a line that exists and divides the two which is the wall. The parking calculations are contained in the land use chapter, as part as Attachment A, which is a mixed use restaurant and the reason Mr. Smith used that requirement was because there are only tow table outdoors but those tables can only hold up to 16 people and mix use calculation in the Borough ordinance calls for seating, one space for every three seats and it also has a assign value of one space for 40 sq ft of gross floor area for a restaurant or food service that on the site. Mr. Smith went on to say that there is a need for 35 parking spaces and the other option would have been to view this as strictly take out but taking into consideration the seating. Mr. Smith advised that on the property today they currently have 27 parking spaces and they are proposing to remove two of them which would leave Rita's with 25 parking spaces.

Mr. Smith responded to the Borough's Planner comment regarding bulk variances and voiced that no exterior improvements are proposed on site. Mr. Smith stated that they are asking for relief on the parking. Mr. Smith would like to put the use variance on record, that they are converting a business use in the C-2 district to an apartment use and in a C-2 district residential uses are not permitted. Mr. Smith went on to explain that the existing property around the rear of the property in the zoning boundary is between the R-1 which is the single-family district that faces Tansboro Road which is 80 to 100 feet off the property line.

The color on the exhibit one shows the existing plantings that are on the property which are a row of 8-to-10-foot arborvitaes on the rear property line that serves as a buffer. In front of the property there are several manicure landscapes species in the three-planting area. Mr. Smith also advised that there is not a drive-through on the property. They are looking to give it a residential character by landscaping on the grass area near the entrance of the rear building along with a vestibule or open roof canopy at the rear door to give protection for people opening the door, looking of keys to get into the building. There are windows on each side which will have shutters. Mr. Smith then went on to say that the barbershop next door has a residential apartment use on the second floor, limited yard use and the next building down has the same thing. Directly across the street is a six-unit apartment building which is all residential. Mr. Smith stated that the masterplan in the Borough on which is to encourage properly scale residential in fill which is filling in between existing homes and filling in a vacant lot.

Mr. Smith advises that this proposal is in filling part of this vacant building which is more in square footage then principal use which is the Rita's water ice so they are proposing a dual use here but making use of a current vacant space that has been vacant for a few years, is a form of in-fill. Mr. Smith then went on to explain the positive criteria for the proposes of zoning will be advance of granting, his first positive criteria is N.J.S.A 40:55D(2), which is to provide sufficient space in a appropriate location for a variety of agricultural, residential, recreational, commercial, industrial uses in open space both public and private according to the respected environmental constraints in order to meet the needs of all New Jersey Citizens. The property was two uses at one time, both commercial, what is being proposed is to go back to two uses again but one is a non-conforming use but in Mr. Smith's opinion, one is a very non-intense use. Another positive criteria Mr. Smith went on to explain would be to encourage coordination of the various public and private procedures and activities shaping land development with a

view of lessening the cost of such development and to be into the more of the sufficient use of land. Mr. Smith then stated that this couldn't be more than a sufficient use of land because they are not paving anything, creating anything or taking away green space to construct something, it is already here to make use of.

Mr. Smith then explained the third positive criteria addressed is to promote the establishment of appropriate population density and concentration that will contribute to well being of person, neighborhood, communities, regions in preservation of the environment. Mr. Smith went on to state again, that this not affecting the environment in a negative way and as far as the appropriate population this is a single apartment use and it is bordered by R1 use in the rear and it is already buffered in the rear and buffered by the district of the homes to Tansboro road.

Mr. Smith last positive criteria is that it would be creating a desirable visible environment through creative development techniques and good civic design and arrangement. Mr. Smith says they are trying to make a positive improvement at this location, making use of that space will not overburden the need for parking, the building is structurally well suited, it is a one-floor apartment. This may be suited for a person with disability since it is one story and there are two handicap parking lots which meets the percentage of the count that on the location. Mr. Smith says, as far as negative criteria, the key word would be substantial. Mr. Smith puts on record that they are not creating anything that would be a substantial detriment to the public good and the intensity that would go with it. Mr. Smith went on to say there is no substantial impairment of the intent of and purpose of your planning zone. It is going contrary to the intent of the zoning plan. It is not a substantial impairment because they are not proposing new construction, they are just trying to make use of something that is already there. Mr. Smith doesn't see it as an impairment to the intent of the zone even though it clearly says in a C-2 an apartment use would not be prohibited.

David McPeak then stepped forward to speak, he introduced himself and his wife Lori McPeak as owners and operation of Rita's water ice for the last 12 years. They do not own the building but they do have a sale on the building, contingent upon approval on the residential apartment. Mr. McPeak went on to give a history of the building. He stated that the first three years they were there the unit was vacant and then there was a manufacturer in the unit for about five to six years and has been vacant for the past three years. Mr. McPeak stated as far as parking, Rita's is an in and out take out operation. There may be 10 to 12 cars in the parking lot on a busy Sunday night and even with that they are in out in about ten minutes. There are very few people that get treats and sit at the tables. Mr. McPeak explained that on the other side of the building, near the barbershop side, there are rarely any customers that park on that side. The employees mostly park on that side.

Mr. Smith asked Mr. McPeak to clarify that he is planning to do additional landscaping at the rear of the entrance to make it look more residential. Mr. McPeak stated that he was going to do landscaping, the utilities along the wall are going to be screened also he is going to put shutters on the windows along with the overhang to make it feel more residential. Mr. Smith then flipped the drawings to the second page, and that was marked as exhibit two which has four photos, the first photo is the east bound view of the White Horse Pike, second photo is the west bound view of the White Horse Pike, and the other two photos is the building and how it

exists today. Mr. Smith advised that the parking would need to go under a c(1) variance, they have no ability to add parking if they take the conservative approach, they are short quite a few if they take the realistic approach which functions more as a takeout then they are only two spaces short. Mr. Smith chose to take the conservative approach since it is the right thing to do. Mr McPeak brought pictures of the interior for the members to view. To make this residential this will need to be completely rehab. Chris Norman marked those pictures as exhibit three.

Dan Pomponio wanted to verify that all utilities were separate and David McPeak answered, yes. Jennifer McPeak, who is representing David and Lori McPeak wanted to touch base on the fact that the building was divided into two units, since David and Lori McPeak were there and ten years before he was there. Mr. McPeak stated, to his knowledge, it's been separate for 20 some years. Chris Norman asked how many total employees, Mr. McPeak answered that there are usually about three employees working at a time on a busy summer night there may be four employees working and the employees are sixteen and do not drive. Jennifer McPeak brought up the trash for the residential unit and Mr. McPeak answered that the cans are picked up by borough and he has purchased additional trash cans from the borough and if he must order additional trash cans for the residents he will.

He also mentions that there is plenty of room in the trash corral for additional trash cans. Chairman Pomponio then asked to hear from the professionals, starting with the engineer Mr. Wilkinson advised that they do not see any major issues with it. He thinks it is a good use of the land especially since there is limited parking if another big commercial came in there may not be enough parking splitting it between commercial and residential may balance it out better for parking. The only thing they see is fixing up the ADA parking signs on the building and couple of concrete on the sidewalk that are settled that need fixing. Mr. McPeak agreed. Mr. Pomponio asked if the parking was already an existing condition and Mr. Smith stated that when it operated as a KFC it was a drive through and people inside eating so it was a mixed use back then so you would need thirty-five parking spaces, so Mr. Smith is thinking maybe received relief for the parking. D. Pomponio asked if there was any room for additional parking across the back and Ted Wilkinson advised for Fire safety you wouldn't want any parking spaces there and then Chris Dochney brought up the garbage trucks would need to get to the dumpster for the trash cans.

Chairman Pomponio asked, how many entrances, are there for this apartment. Mr. McPeak advised only one the other door that is in there is boxed for the bathroom on the other side. Mr. Wilkinson then states that the zoning official or construction official could deny him a building permit and make that door a secondary access. Mr. McPeak said they were thinking about adding another window to one side of the apartment which would give it another access out if needed. Chairman Pomponio wanted verification that it is not an issue with this application, but it could come up in the construction office, Mr. Wilkinson agreed. Chairman Pomponio did want to make clear on the record that this case is 23-01 not 008.

Chris Dochney then went over his report for this application on use variance and what means for the C-2 district, and he had six non-conforming conditions on the site which are the minimum lot area, width, depth, front yard setback encroachment, rear yard setback encroachment and maximum lot coverage is exceeded along with the variance for insufficient

parking. Mr. Dochney stated that he had an agreement with Mr. Smith on parking in terms of what standard to apply. Rita's is basically a takeout restaurant then a sit-down restaurant but the borough codes say for parking for a mixed restaurant or take out for no seats but Rita's have two tables outside of eight each, so it would be a mixed restaurant so they would have to supply parking for the sit down tables outside. Chris Dochney doesn't see that the parking is an issue. They will be providing two parking spaces for the residents which would meet RSIS but Mr. Dochney did mention all the other bulk are for existing condition which would view them as grandfathered in because we can't change them but at the same time they need to be taken into consideration because part a proof for a variance to a multiple principal uses on the same site is demonstrating that the site can accommodate both uses efficiently. Mr. Dochney states that they don't need to be granted these variances again, that should be part of the consideration whether this site could accommodate both Rita's and the apartment and that it is undersized and non-conforming to the existing regulations in the C-2 district. Mr. Dochney went on about the Masterplan does not address the mixed uses in this context but the zoning plan uses the mixed residential and commercial in the downtown district. Mr Dochney did mention that historically speaking, mixing a small apartment with a small commercial business is common. Mr Dochney stated that, the one little concern is having cars circling around the apartment, he does realize that it is not a drive through. There is no separation between the apartment and busy but there is also nothing in the code that states that you need a certain amount of separation from a residential and business. Making this an apartment takes away for it being a commercial business and that is contemplated by the zoning. Mr Dochney touched base on the negative that Mr. Smith outline about and he agreed with him. Mr. Dochney advised regarding the municipal land use law, that there is no substantial detriment to the public good which means it's not going to be a nuisance to the community and no substantial impairment o the intent of and purpose of your zone plan, which means its not directly contradictory to the masterplan or the zoning ordinance. There is some contradictory to the zoning ordinance that's why he is asking for a use variance. The downtown district allows this but not outside of the downtown.

Chairman Pomponio asked if the board members had any questions and F. Ballak asked if they could see the prior D&R from the prior variance from the prior owners, could there be restrictions in there. The tax records state, the last approved site plans were 1984 then F. Ballak asked how many bedrooms and Mr. McPeak advised two bedrooms and the apartment is over 1,000 sq ft. F. Ballak asked if there was going to be signs that state tenant parking only and Mr. McPeak advised, yes. Chris Norman asked how long the rear unit had been vacant and Mr. McPeak answered about three years and prior to that about five to six years it was in operation. E. Hahn then asked a basic question on logistics, how would the tenant get plowed out in the wintertime when Rita's is closed, Mr. McPeak answered since they own the building, they would be responsible to plow the parking lot. E. Hahn also asked about the handicap ramp and if there was one closer to the apartment and Mr. Smith answered if it is a residential use, they are not required to have one. Chairman Pomponio then opened up, the discussion to the public, none seen, or none heard so public portion was closed. Chris Norman then outlines the conditions, which are add landscaping to the grass area near the residential, add shutters to the windows on the apartment, add a hangover on the entrance of the apartment, add parking spaces for the tenant, add ADA signs and overall, ADA compliance, illuminate the tripping, hazards with the concrete and if required by the construction code, provide a second entrance. H. Earl then stated he feels that it is a solution to a building that has be vacant for a while.

**A motion to approve Case No. 23-01 was made by H. Earl and seconded by M. Foster.**

Roll Call

D. Pomponio-AYE  
J. Schumacher-AYE  
H. Earle-AYE  
E. Hahn-AYE  
J. Cole-AYE  
F. Ballak-AYE  
K. Ryker-AYE  
M. Foster-AYE

Mayor Miller and Councilman Wilkinson returned for the next new business application.

**Case No. 23-02**

Treah, Inc.  
2 South Route 73  
Berlin, NJ 08009  
Block 1002, Lot 3 & 4  
*Site Plan Waiver Application*

Robert Long came forward to be sworn in by Chris Norman. Chris Norman put on the record that the professionals were sworn in at the beginning of the meeting. Mr. Long stated he owns the Olliegators in the old circle shopping center and he submitted a site plan waiver approval and Mr. Long also would like to ask for an approval to change the use on the two adjoining spaces, the old hair salon and the phone shop that was there last. Mr. Long submitted the plot plan analysis. The shopping center has had multiple vacancies throughout the year and Angelo's pizzeria is also leaving very soon. Mr. Long states that he understands there is a concern about parking. Mr. Long advised that even on the busy nights, Friday & Saturday, there are open parking spaces. The other business peak time is opposite of their busy times. Mr. Long states that door dash also affects the parking because he loses four to ten tables a night and the online service. Mr. Long is hoping to take over the hair salon and add two bathrooms and additional seating in the front for forty people. Ted Wilkinson stated that he did spend about an hour out there to see the operation and the only thing he is concern about is needing an official ADA improvement plan and if Mr. Long would agree to prepare an improved official ADA plan showing how to get people from the ADA parking spots, across the driveway, up the ramps to each use. The codes have changed over the years, want to make sure there are no slobos that are excessive. Mr. Long agreed to a plan showing that the ADA is compliant. Mr. Dochney then went on with his report, stating that there really aren't any changes, they are just expanding the restaurant one door over. Chairman Pomponio asked if it is only one space that they are going over and Mr. Long stated, that is correct. Mr. Dochney only concern on parking calculation

were a little bit off. Berlin Borough code for a shopping center is one for two hundred square feet. The code is set up for parking at a shopping center in the assumption that tenants are coming and going, and it is not going to be always the same sum of tenants. Mr Dochney doesn't see parking as an issue, this was approved as parking spaces for a shopping center. Mr. Dochney explained, that in a lot of towns, the change of use in a shopping center is permitted by right and they don't have to come in front of the planning board because there are no new variances being created so maybe the Borough can look into that, in terms of the code.

Mayor Miller asked both professional Chris Dochney and Chris Norman, if the site plan use waiver would be considered in the future would that start at the planning board or the Governing body to make that change. Chris Norman answered, either way it needs to originate by ordinance then Chris Dochney went on to explain that the ordinance must be originated by the governing body, or the planning board can write a letter stating that we have received a few applications for this, and the board feels we really don't need this coming before us, and the governing body can adopt it. In the master plan this code really doesn't need to be changed. Mayor Miller then went on to ask, Mr. Long if he plans on expanding further past the hair salon and Mr. Long answered, right now it is not something he is asking for, if the landlord rents it out then that fine, if things are going well and it is still available then maybe he would consider using that as a private dining room but for now he is only asking for the hair salon. Mayor Miller asked if they could approve both those units if potentially being expandable and if he wanted to expand both units. The units are the Hair salon and the AT&T and Mr. Dochney stated that regardless of the code changing, both units are approved tonight then if Olliegators wanted to expand in the future then they can. Chairman Pomponio asked if there were any other questions, from the board. No other questions were asked. Then Chairman Pomponio opened it up to the public, no questions seen or heard. Chris Norman then summarized the application which is the granting of the minor site plan parking variance, ADA improvement plan reviewed by Borough's engineer. Mr. Long asked if that is something he needs to do right away or does he have time, Mr. Wilkinson advised him that he had time, he just needs a drawing of the survey showing the improvements, once he has that he can give it to the board secretary. Mayor Miller verified with the attorney Chris Norman that if Mr. Long starts the work, it's at his own peril if the resolution doesn't pass. Chris Norman then did state to Mr. Long that if he does start doing work before the resolution is official if anything goes wrong then it would be on him.

**A motion to approve Case No. 23-02 was made by F. Ballak and seconded by J. Schumacher.**

Roll Call

D. Pomponio-AYE  
J. Schumacher-AYE  
H. Earle-AYE  
E. Hahn-AYE  
J. Cole-AYE  
F. Ballak-AYE  
K. Ryker-AYE  
M. Foster-AYE



R. Miller-AYE  
M. Wilkinson-AYE

**Ordinance No. 2023**

**Redevelopment Plan (Block 1100, Lot 4, 6, 7, 8, 9, and 9.01)**

Ordinance of the Borough of Berlin, County of Camden, and state of New Jersey Adopting a Redevelopment Plan for Block 1100, Lots 4, 6, 7, 8, 9, and 9.01 on the official Tax Map of the Borough of Berlin in Accordance with the Requirements of the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1, et seq.) (“LRHL”)

Ken Ryker lives within 250 feet from this redevelopment plan, so he removed himself. Chris Norman stated that this proposal is a referral from the council and the determination that it is consistent with the masterplan. Chris Dochney then gave the highlights of the ordinance, there are six properties on Rt 73. Lot four was agreed to be added as a part of redevelopment and include lot 6. This site has been vacant for a while. Chairman Pomponio asked if all these lots are owned by one, Mr. Dochney said, he thinks they are in common ownership right now but there is a developer that has approach the Borough, that is interested in developing the entire site. Mr. Dochney advised the board that he believes they are contract purchasers. The redevelopment scenario by law is, the first process is to go to the planning board hearing and then the council to get a designated area in need of redevelopment which has already happened on all these properties, under two different stages. The one scenario to be designated in redevelopment, the next step is to prepare a redevelopment plan which is a new zoning ordinance which would just apply to these properties. In a redevelopment ordinance you can be a little more specific than you can be with a general zoning ordinance. A redevelopment plan can be done with no particular developer in mind even when there is a public process or planning board or governing body that comes up with a plan and puts it forward or waits for a developer to come forward. This area was designated back in 2016 and lot 6 was just added last year. Chairman Pomponio asked about a restaurant, going up on lot 6 a few years ago and Mr. Dochney said to his knowledge the new developer doesn't have any specific commercial tenants at this time. Chairman Pomponio verified that this wasn't designated for anything particular and Mr. Dochney answered, that the designated process and planner are two separate things. The designated process means, is this in need of development and the answer was yes and the second stage is now, which is what would be permitted to be built here. What is being proposed here is a mixed-use development where approximately half to a 1/3 will be a commercial development trac and the other 1/2 would be a multifamily residential trac. This permitting up to 270 residential units being on the southeast section of closer to Oak Ave with cross keys railroad tracks in the back and with the frontage or Rt 73 being majority of commercial. Chairman Pomponio asked what are we actually looking for tonight and Chris Norman answered is to accepted the proposed ordinance for the masterplan. Chris Dochney went on to explain the three things, since this is a land use ordinance this would be new zoning of this site, this is pretty similar to the existing C3 zone that coverage 1/2 of the site, it is different from the I2 zoning that use to be the car dealership. This new zoning for the site and any land use regulation need to come to the planning board for your review and recommendation back to the council. Mr. Dochney went on to explain, the exact working of the municipal land use law and the local redevelopment housing law is, your roll is to identify any inconsistencies with the masterplan and provide recommendation back to the council on those inconsistencies and the

third thing that is allowed is any comment that our would like to make back to the council. They cannot adopt this and make it into law until the planning board has weighed in on it. M. Foster what verification that it is 270 units and Mr. Dochney stated that the maximum would be 275 permitted, with townhomes or multifamily being permitted there with the thought of required affordable homes being set aside. There is another set of affordable housing coming out in two years. There will be an obligation of several hundred units. If they set aside 20% with this, then that would give the Boro thirty to forty affordable units which would be a nice chunk on meeting the Borough's obligation on affordable homes in the next round. The other component is the commercial side which is the permitted uses and the bulk standards which is similar to the underlined 3C zoning which permits the use of retails sales, services, restaurants, hotel and funeral homes, would be conditional use. It is similar to the 3c with the exception of lumber yards and a few other industrial uses. One of the setbacks from Rt 73 to Harker Ave would be more decorative landscaping along route 73 frontage will be required. The first thing that will need to be done is to report back to the council on whether you feel this is consistent with the masterplan. The land use ordinance that was adopted in 2017 recommends redevelopment, lot 6 on site and a mix use. The economic development element of the masterplan that was adopted in 2019 recommended the same thing. Mr. Dochney also recommended, an enhanced designed standards for highway commercial uses and also to use redevelopment as a tool to attracted development on properties that are not contributing to the Boroughs vitality. Mr. Dochney advised that the Masterplan doesn't state how many uses. The masterplan does state, it wants to see this development site with mixed uses. Through redevelopment this gives the Borough an opportunity to negotiate with a developer that would need to come to a redevelopment agreement with the Boro council, which set forth even more strict perimeters as far as what they are able to do in the sense of financial incenses, they can be eligible in payment in lieu of taxes which usually works out in favor of the municipality. Mr. Dochney stated he was just giving examples on different negotiation the Boro can have with the developer. Mr. Dochney stated no application in place right now just want to set the new zoning in place. Once this is adopted then the redeveloper would need to get designated by borough and work out some terms after that they would come back with a site plan that it was compliant with everything in the redevelopment plan, just like any other site plan as a board, you would have the ability to grant or variance or waiver or deny a site plan that needs if they need variances or waivers that you feel are not appropriate. Mr. Dochney stated that this board would not have the authority to grant a use variance that was not permitted by this plan. They would need to go to the council to amend this plan. M. Foster asked if the 275 is the whole development or just the residential units. Mr. Dochney states, 275 was the residential units, with no limit on the commercial units. Commercial units would just be limited by the height and setbacks. E. Hahn wanted to clarify that the lots are all six. Mr. Dochney stated that the southeastern half or a little more would be the residential which is closer to Oak ave. M. Wilkinson asked if they could be 55 and older, Mr. Dochney said that could be a possibility. The board could make that as a comment to the council. M. Wilkinson stated things like that don't consume other resources in town. M. Foster commented that could roughly be four hundred new students in the school, which could be a loss for the Boro with the taxes. Mr Dochney stated he didn't do the calculations, so he is not sure what the number is. H. Earl commented that if we reduce the houses and two or three years from now the affordable houses come back and we don't need it then we lose total control over it, is that possible. Mr. Dochney is not sure what the third round of affordable housing is going to be. Mr. Dochney did comment that is anyone was reviewing the borough in terms of affordable housing when determining a number, they would review if you

had vacant land and approved on commercial construction, or you didn't set aside for affordable housing that usually gets factored in and bumped your numbers up. One other point that Mr. Dochney would like to make is that the law is the governing body has the authority to adopt land use, this board is just making recommendation back to them either this is consistent with the masterplan, or this isn't consistent with the masterplan but here are the comments. The governing body does need to know the comments from the planning board. M. Wilkinson asked if they could use 55 and older as affordable housing and Mr. Norman said yes, but there is a cap on that. Mr. Dochney stated that 25% can be used through affordable age housing. H. Earl asked if they could give feedback as far as the entrance to the residential only being in the far back. Mr. Dochney said yes, the board can then M. Foster asked if they say it's not consistent what will happen. Chris Norman answered by explaining what Chris Dochney means, and that the board can find that it is consistent with the masterplan, but the planning board has additional recommendations. Mr. Dochney stated that you can say that it is not consistent, but they can still adopt but need to state their reason why they are adopting over the planning board's objections, and it must be a full Marjorie vote. H. Earl asked, does there have to be a number, to fall back on, he stated to determine the amount of residential, would fall back on the parameters of the area they need to fit in. Mr. Dochney stated the concept plan was not a well thought out plan, yet in the commercial area but the multifamily are would essentially, have the amenity spaces for the residents, like the clubhouse would be in the frontage and then several feet back is the entrance drive. There are no setbacks so if you want to recommend to be closer to the route 73 frontage you can do that. M. Foster asked who was the developer and Mr. Dochney answered, Buckingham Partners then M. Foster asked from where and Mr. Dochney said, he thinks Bensalem or somewhere in Bucks County. They are represented by Parker McKay. R. Miller stated that their homes are near Haddon Field lumber. H. Earl then stated, could there be a restriction on the way they are built then Mr. Dochney said, they did define the terms on motel to hotel so that a motel where you enter from the outside is prohibited and the hotel where you enter into the lobby will be permitted as a condition use and will have to meet some conditions and one condition is they will need have minimum of a hundred rooms so that would trigger occupancy tax, that the borough would be able to collect and if they are going to be two story in height then the top part will need to be set back 50ft further than the rest of the building. H. Earl asked if they would do a motor lodge and Mr. Dochney stated that would not be permitted and truck stops are not permitted. Mr. Dochney said there is no proposal at this time for a hotel, but they did add it to the plan. Chris Norman asked if Mr. Dochney had anything to show what it was going to look like, and Mr. Dochney answered no it was just a concept plan. This not a done deal there is no development official proposed yet, if it goes through then there will be a site plan. This is not by right in zoning, so the Borough is not under any obligation to do anything. M. Wilkinson asked if they are continuance on that number. Mr. Dochney, not sure on the number but it needs to be high enough to make it valuable for the developer. Mr. Dochney stated that this is twenty areas in total. One of M. Foster concern is the high number of residents with the school district. F. Ballak asked if we have the numbers from the Tansgate apartments, on how many students from there, instead of going to the state numbers we would have something in town to look at. Mr. Dochney stated, the unit type and the way it sits on the market that lower income market usually has more children than higher income market so it depends on the market. F. Ballak stated when we are trying to decide, it would be easier to have all the information because before when it came through board about the Tansgate apartment, they gave us one number and it ended up another number. Mr. Dochney stated that the only source of data is from the State that is not produced by

a developer and aggregates at least four or five hundred different developments then just one. Mayor Miller is going to see if he can request that information from the school. M. Foster asked if they could table this for now and Mr. Dochney stated that they have 45 days to make a recommendation if you don't give a recommendation within 45 days then council is allowed to adopt without receiving your recommendation. M. Foster feels there is not enough information to decide. Mr. Dochney stated the next meeting will be within those 45 days. J. Cole asked does it has to be specific and Mr. Dochney stated it can be as specific as you want it to be. F. Ballak said that there is a big difference between two hundred with one bedroom and two hundred with two bedrooms. M. Wilkinson asked if they had a say on how many bedrooms, Mr. Dochney stated you can make that recommendation. F. Ballak commented that the last developer said there was a 12x12 closet that was big enough to be a bedroom. M. Foster can we recommend them to be just to be townhomes or condos but no apartments and then J. Cole asked if it could be broken down to age restriction. Mr. Dochney said the only issue was with the law you can't control tenured. Mr. Dochney stated he can put in a recommendation that you would rather see occupied owned condos than apartments he can do that. H, Earl asked if they could just go back to the space on the plan and then go back to some kind of standard, they already have instead of giving a number. Mr. Dochney said that recommendations can be made. H. Earl stated to start specifying the number of bedrooms, that's not going to be easy, but Mr. Dochney commented that he has seen it being done as long as it is reasonable. Chairman Pomponio either recommend or say everything is good how do we get them back from our decision, Mr. Norman answered through a resolution, from him. Mr. Dochney said it is not a resolution of approval or denial, it would be a resolution on a recommendation. M. Foster asked if we table it should we make a resolution stating it is in motion for a recommendation. M. Wilkinson asked if they could reach out to see how flexible they will be on the number of houses and Mr. Dochney answered, yes. F. Ballak did make a comment that the next meeting is the day after Easter and there may not be a lot of people at the next meeting and then M. Wilkinson asked if we could change the date and Mr. Norman stated they could have a special meeting. Mr. Dochney stated that legally the planning has up to 45 days to make a recommendation and after 45 days the council can act without any recommendations. Mayor Miller asked if they could ask for an extension. Mr. Dochney says you can ask for an extension. Mayor Miller asked if the governing body is obligated to decide, and Mr. Dochney said they could wait until next year to decide if they wanted to, the governing body could give the planning board as long as they want. Chairman Pomponio asked if this must be open to the public and both Mr. Norman and Mr. Dochney said it doesn't have too. Mayor Miller confirmed that the information need is the flexibility on the units from the developer and the ability to get information on the number of kids, but Mr. Dochney stated that it may be difficult to get that information on the number of kids in the schools from what he has experience in the past. Chairman Pomponio then asked if there was a motion to table.

**A motion to table was made by M. Foster and seconded by F. Ballak.**

A voice motion was heard and all were in favor.

**CORRESPONDENCE:  
NONE**

**PUBLIC PORTION:**

None seen nor heard.

**GOOD OF THE ORDER:**

Mr. Norman advised that in the packet are all the decisions the board made in the last year to review in case there are any recommendations or decision the board may want to make. Mayor Miller asked about parking in a shopping center to see if there was a way to change the code. Mr. Dochney stated that the borough's code states for any change of use for a commercial building they need to come in front of the board for minor site plan. Mr. Wilkinson stated that parking is something that needs to be considered. The members then talked about the zoning officer making the decision if the business needs to go in front of the board in terms of parking.

**ADJOURNMENT OF REGULAR MEETING:**

A motion to adjourn the meeting was made by J. Schumacher and all in favor at 9:20pm

Cc: Bill Behnke, Fire Marshall  
Stacey DiVello, Escrow Financial Department  
Al Hallworth, Construction Official  
Michael Bernardins, CTA Tax Assessor