

**MINUTES OF THE JACKSON TOWNSHIP PLANNING BOARD
REGULAR MEETING – DECEMBER 1, 2014**

The December 1, 2014 meeting of the Jackson Township Planning Board was called to order at 7:35 p.m. by Planning Board Chairman Robert Hudak with a salute to the flag by all present. Board Attorney Gregory McGuckin read the Open Public Meetings Act Statement, noting adequate notice of the meeting was provided and advertised in the manner prescribed by law.

ROLL CALL

Present: Timothy Dolan
Andrew Kern
Janet Longo
Anthony Russo
Martin Flemming (Alt. #2)

Len Haring, Mayoral Designee
Kenneth Bressi, Councilman
Joseph Riccardi, Vice Chairman
Robert Hudak, Chairman

Absent: Marie DiStefano Miller (Alt.#1), Daniel Burke

ALSO PRESENT: Doug Klee of Owen Little & Associates, Board Engineer, Ernie Peters of Remington & Vernick Associates, Board Planner, Denise Buono, Planning Board Secretary and Janice Kisty, Planning Board Recording Secretary.

PAYMENT OF VOUCHER

Motion to approve the voucher for the recording secretary for tonight's meeting by BRESSI/Haring. YES: Dolan, Kern, Longo, Russo, Flemming, Bressi, Haring, Riccardi, Hudak.

APPROVAL OF MINUTES

Motion to approve the Executive Session minutes of November 3, 2014 by KERN/Bressi. YES: Dolan, Kern, Russo, Flemming, Bressi, Haring, Riccardi, Hudak.

Motion to approve the Regular Session minutes of November 3, 2014 by BRESSI/Kern. YES: Dolan, Kern, Russo, Flemming, Bressi, Haring, Riccardi, Hudak.

ENGINEERING/PLANNING MATTERS - none

LEGAL MATTERS

Resolution 2014-10 – Block 6506, Lots 42, 78-82 – 766 Brewers Bridge Road - Christian Congregation – Amended P/F Major Site Plan approval

Mr. McGuckin read the approving resolution into the record. **Motion to approve by BRESSI/Russo.** YES: Dolan, Kern, Russo, Bressi, Haring, Riccardi, Hudak.

Chairman Hudak stated an email was circulated to the Board regarding the Reorganization Date for the Planning Board for January 12, 2015. **Motion to approve the Reorganization Date for January 12, 2015 at 7:30 p.m. by BRESSI/Haring.** YES: Dolan, Kern, Longo, Russo, Flemming, Bressi, Haring, Riccardi, Hudak.

BOARD MATTERS FOR DISCUSSION

Jackson Woods Subdivision & Site Plan – Posting of Bonds

Chairman Hudak said applicant is present to discuss posting of bonds for the project. Tom Bovino of Estate of Mitch Leigh is representing the applicant, William Aife is contract purchaser and future builder, and Dave Eareckson is the applicant's engineer, of New Matrix Engineering.

Mr. McGuckin briefed the Board on the reason for this discussion, stating the applicant questioned, after approvals were granted for the Central portion of this site, about posting certain bonds with the municipality. The applicant is here to ask permission not to post bonds, citing that this is a private development with few public improvements to be bonded but not the whole project. Mr. McGuckin said there is nothing in his notes where the Board agreed that the applicant wouldn't have to post bonds for onsite improvements.

Mr. Bovino said a \$300,000 preliminary restoration bond is posted. Contract purchaser William Aife said it is their intention to construct improvements in order to obtain the Certificates of Occupancy (c o). The last improvement would be top coat paving and striping and they want to do that once at the end because roads get torn up during construction. They believe the restoration bond will more than cover that part. For any unit to get a c o , all improvements will be done; the only thing left is top coat after the last building is constructed. Mr. Hudak asked how much extra the bond is and was told the top coat and paving would be \$150,000, which is under the \$300,000 that is posted, and their idea is not to bond for site improvement. Mr. McGuckin has seen this proposed in developments, but this is a rental community. Mr. Kern said it is normally phased by the number moving in and asked if there is phasing. Mr. Eareckson said the job on the northeast side would be constructed first. The amenity package is for the pool and recreation area, and the tennis courts. They propose to start building the units along Commodore Boulevard and work back to the southern part of the job, building by building. Mr. McGuckin said he didn't remember phasing in the original testimony. Mr. Bovino said this came about when it was time to post bonds. He said the infrastructure would go in first. 100% of the improvements would be done for each building in the areas where residents move in, except the top coat.

Mr. McGuckin asked what if they don't get to build the recreation area. Mr. Bovino said this is a private community and it is in the builder's best interest to complete it. They will need the recreation center to market the rentals. Mr. McGuckin said 250 units could be built and no amenities or top coat, and with no bond, the Township couldn't do anything about it. Mr. Bovino said the rentals would expire and the tenants would leave. Mr. McGuckin said phasing should have been addressed before the approvals were given. Mr. Bovino said a c of o wouldn't be given unless the improvements are in. This is a rental community and there are no municipally owned roads. They are asking this because this is privately owned. Mr. Bovino did not want to create a legal disagreement, but he said they were under the impression they would not have to post bonds. The residents would not be in harm's way. Mr. McGuckin said he did not want to argue, but this is different than a single-family home development, and if you don't want to bond, then the only leverage is the c of o.

Mr. Klee said this request is not unusual and our ordinance allows it, although there are some provisions, and the developer must have all permits. The developer must bond for whatever is in public right of way and must post a bond for whatever is needed to protect the adjacent property owners; that is what the restoration bond is for. Amenities were not discussed in original resolution. All improvements will be inspected by the town. Inspection fees will be there. It will be built in accordance with the approved site plan. Mr. Hudak asked if the \$300,000 bond is enough for this scale project. Mr. Klee felt it was enough.

Mr. Peters felt that the \$300,000 was enough, noting the developer could only get so far along. The town holds the card with the c of o and it becomes more of an enforcement issue. The \$300,000 could easily re-grade, reforest and restore the site if necessary.

Mr. Bressi said he only heard about three separate sections during the approval process. He has seen enough developments that when it came to building the amenities, it became a tough struggle to get them built. If this came up earlier, there would have been discussion on phasing in the amenities. He leaves the bonding up to the professionals. Mr. Hudak agreed they should come up with a phasing in schedule.

Gonen Paradis, one of the developers, was sworn. Regarding the clubhouse, they have other projects and have built clubhouses for those; they have no intention of not building it or no intention to stop building despite if times are tough. He hoped to alleviate some of the Board's concerns. They have no intention of stopping; they would like to start the project and complete it in 3-4 years. He doesn't anticipate a lengthy process. Mr. Hudak appreciated his comments, but he said he has heard these promises before and the Board wants to ensure how best to get the job done and ensure it happens in a timely fashion.

Mr. Bovino said they were going to show the phasing plan at the pre-construction meeting, to ensure the process will occur and keep everyone informed. Most infrastructures will be built, then the buildings would be built in order, but it is not a phasing. Mr. Paradis did not know there was phasing. Mr. Bressi felt the Board should have some say in this, and if they had credibility, then there should be no problem. Mr. Kern asked if said Section 2 didn't have to wait for Section 1 to be built in order to begin the project, and whether all 3 phases are owned by the same entity. All three phases are not owned by the same entity.

Public portion opened; no one came forward

Mr. Klee said it would be a good idea to phase some threshold with a certain number of units that would make a certain amount of recreation to be constructed. The base course pavement also needs to be striped in order to function safely.

Mr. Peters said a section of the Township Code requires recreation space provided for each dwelling unit. Phasing is a misnomer from a planning perspective. At the pre-construction meeting, they will establish benchmarks and can put milestones to construction in accordance with the ordinance. It gets done along the way. Those details can be worked out as part of resolution compliance. Things get worked out in the field. Some of these concerns get worked out during construction.

Mr. McGuckin said they are looking for approval from the Board to not post bonds, other than the \$300,000 restoration bond. Mr. Bressi had no problem with the \$300,000 but felt there should be something which determines at what point the recreation amenities would be started. There have been too many projects that in the end, the Township had to get into it to complete the project. He offered that after 25% of c of o's, a building permit for the recreation building should be pulled, 50% of the c of o's means the building is frames and at 75% of the c of o's, the recreation building should be complete.

Mr. McGuckin noted this is a private project, but what if they go bankrupt? The units will be there with no recreation facility and the Township wouldn't be able to restore the project, and he has seen that happen. It is important to phase the c of o's to get the recreation facilities built. Mr. Hudak said Mr. Bressi made a suggestion of percentages. Mr. McGuckin repeated the percentages, but he said it does not address other facilities. Mr. Aife said they haven't gone bankrupt in 40 years. Building in one big phase, the recreation building will probably get built sooner. The residents will want the recreation facilities and this is how they run a business. Mr. Hudak said he is puzzled. If he is that confident that they will go full speed ahead, then why are they resistant to coming up with an agreement to ensure these things get done? Mr. Aife said haven't been able to put a number with the percentages, so he was unsure right now. Mr. Hudak said given the magnitude of the project, they should come up with a better plan. Mr. Russo asked if he knows the cost of the recreation building and Mr. Aife didn't know. Mr. Klee asked if the restoration bond could be loosened up and used for something more, and whether the bond could give the town more latitude. Mr. Hudak said \$300,000 only goes so far. Mr. Hudak's opinion is they are asking for approval to forego additional requirements and felt more homework needed to be done.

Mr. Paradis said they just finished a recreation center on a 30-year-old project to bring more value. He did not want to commit to when the recreation building would go up, but he said they will not forego the recreation building. Mr. Hudak said we have a meeting in 2 weeks, and they could consider what the board has said and come back. Mr. Paradis felt the

percentages the Board stated would be okay. He said he hasn't been doing this too long, but he is confident. He already spoke with Mr. Klee about expanding the use of the \$300,000 bond to include more than just restoration.

Mr. Riccardi said he is completely confused, and asked for clarification of what bond they felt is not necessary. He said you have to cancel a bond to change it. Mr. Bovino said no bonding is required until the first c of o is posted. The restoration bond has been posted. He said that will protect that the improvements are completed. Mr. McGuckin said a restoration bond is to restore the land to how it was, not to complete the improvements. Mr. McGuckin knows it is planned well, but the purpose of the bond is to protect the town and ensure it is built properly. After a c of o, bonding comes into effect. Mr. Bovino said 30-40 acres is cleared, and water and sewer is going in now. A lot of that goes in before first the unit can be occupied. The bond is there now for the restoration. Mr. Riccardi asked what happens if the building stops. Mr. Klee said the Township would want to 'button it up and stop the bleeding'. Mr. Hudak said the requirements are different for a single-family development. Mr. Klee said he wouldn't get a c of o if infrastructure is not in.

Mr. Paradis said he knew the clubhouse would be done but didn't want to commit to a certain percentage. They want to start the project as soon as possible. Mr. Hudak suggested coming back in 2 weeks with a solid plan. The Board is gun shy; other developers have said the same thing. Mr. McGuckin asked if 150 units are built and there is no top coat, can the restoration bond be used to finish. They need the document in front of them to read it. Mr. McGuckin said the court wouldn't hold them to it. There was a suggestion to increase the restoration bond to \$400,000 to cover the town. Mr. Bovino said they would have to work with the bonding company to change the language. Mr. Paradis agreed to the increase to \$400,000 and the percentages, to be coordinated with the Township Attorney.

Mr. McGuckin is to compose a letter to amend the Restoration bond to \$400,000, that a permit for the recreation building is pulled upon the issuance of 50% of certificates of occupancy and the recreation building be completed upon issuance of 75% of the certificates of occupancy. Verbiage to be approved by the Township attorney and to allow the \$400,000.

Motion to approve by BRESSI/Riccardi. YES: Dolan, Kern, Longo, Russo, Flemming, Bressi, Haring, Riccardi, Hudak

Ordinance – Solar Energy Facilities

Ray Shea represented Six Flags along with representatives of KDC Solar. Mr. McGuckin said the ordinance was generated per request by Great Adventure to allow for a solar field on their land. The Township Council did not introduce the ordinance as it was too late to refer it to the Planning Board before the end of the year, but the Council is sending it now to the Planning Board to weigh in prior to introduction of the ordinance.

This ordinance will be referred back to the Planning Board for review of consistency with the Master Plan, after the Township Council's first reading introduction. Mr. Hudak said this is a request from Six Flags to put in a solar array on a 100 acre site on property they own. The property is not developed and is currently wooded. They will be able to generate almost all the energy they use at Great Adventure. Mr. Bressi said another positive note is they would go back three years on taxes for their forestry benefit. They could run the entire park at times on the solar power. The Council supports the ordinance but couldn't introduce it before the end of this year, but they want it to move forward.

Rick Roseberry, KDC Solar, was sworn. He said there are two changes brought by this ordinance, the rezoning of Lot 15 to CR-2 and to add the solar use as a conditional use in the zone. The project will make Six Flags completely solar dependent. They have the ability to project their costs for the next 20 years which would allow them to save money on electricity and develop other commercial ventures in accordance with the Master Plan.

Mr. Peters said in terms of the Master Plan, it is environmentally friendly. The area is not developed and the solar field would help meet the needs of the facility. The project would put some land back on the tax rolls. Mr. Peters finds nothing wrong with the proposed ordinance, adding that it is the more time efficient manner to approvals than asking for a use variance. The ordinance preserves their rights in a cleaner and efficient manner. Mr. Bressi added that if they went before the Zoning Board and anything changed, they would have to appear again before the Zoning Board.

Mr. Klee said he met informally and said this is a good project. There would be an analysis of all the trees to be lost. Mr. Kern asked about the net meter projects as he felt it important to look forward. Mr. Roseberry said the Board of Public Utilities regulates that. This is an accessory use. They can specify that it is a net meter project. Mr. McGuckin said they should submit that to the governing body. Ms. Buono gave a copy of the ordinance to Mr. Roseberry. Mr. Kern asked how large the project is and was told 22 megawatts DC, 17 megawatts AC. He asked why not use the parking lot, and was told it would be not feasible. They would deforesting near Reed Road. Mr. Kern asked if there is any non-forested area to consider. Mr. Roseberry said this is the only area that has contiguous acreage to support the project. Mr. Kern asked about the inter-connection and was told there would be a substation on Route 537 near the employee entrance. They will have to build another substation.

Public portion opened, no one came forward; Motion to close public portion by BRESSI/Kern. YES: Unanimous among those present.

Mr. Hudak approved of the project for tax revenues and helping the environment.

Motion to approve by BRESSI, based on protecting the wetlands and savings on fossil fuels. Second by Russo. YES: Dolan, Longo, Russo, Flemming, Bressi, Haring, Riccardi, Hudak. NO: Kern. Letter of recommendation to be written to the Council by Planning Board Secretary Denise Buono.

Recess at 8:55 p.m.; reconvened at 9:05 p.m.

APPLICATIONS -

1. Jackson Property, Inc. - Block 2101, Lot 5.01 – 485 Hyson Road – P/F Major Site Plan

Continued from 10/6/14; application carried to December 1, 2014 with notice

Mr. Klee stated this is a continued application for a 19,000 square foot business park. Modifications were made to the plans in response to the comments from traffic safety and the Board; testimony is requested.

Ray Shea, Esq., represented the applicant with Ian Borden of PDS and Scott Kennel of McDonough and Rea. No traffic study was required for this application by law, but the Board asked the applicant to provide one and they have done so. The applicant has approval from the Fire Commissioner and the Environmental Commission.

Ian Borden, Graham MacFarlane and Scott Kennel were sworn. Exhibit A-3 is revised sheet #2 submitted to the Board. The 11/27/14 letter from the Police Department will be addressed. The applicant agreed to change the driveway to a single, 2-way driveway on the eastern portion of the property and the driveway opposite Stanley Place is going to be for emergency access only. That driveway provides an area in front of the site to be constructed of grassy pavers. The Fire Prevention Bureau asked for a breakaway barrier, which is provided. Officer Trevor Crowley of the Jackson Police Department asked for a turnaround on the site for delivery vehicles. The parking spaces would no longer be land banked and they would be constructed. A turnaround is provided toward the front side of the property and there is no parking there. There is now additional supplemented landscaping.

Mr. Russo said the October 22 letter from the Environmental Commission asked for an oil/water separator, and he also said the Commission did not grant approval. Mr. Borden said the Commission voted to approve at their last meeting. He also said they added an oil water separator and there are no slop sinks or floor drains in the buildings. There was a question on types of materials to be stored and they agree not to have any high hazard usage in the building. Mr. Russo spoke of hazardous materials on site and the concern of any leak or spill. Mr. Borden said they are not going to have a high hazard classification, "H". There are no uses classified as "H". Mr. Hudak asked for an example of what an "H" might be. Mr. Borden gave code section 307 of 2009 International Building code. Mr. Russo said no hazardous materials, to be specified in the leases. He asked how that is enforced and was told they are subject to Building Department approvals and subject to annual Fire Department inspection. Mr. Russo felt this was not voted on [by the Environmental Commission] even though he was not there. He said there were issues at their October meeting. Mr. Shea said that Mr. Borden appeared a second time before the Commission on November 18, he addressed the items and a vote was taken.

Mr. Borden said the Police Department issued an initial memo, and an updated review letter was issued on 11/27/14. The issues were the number of parking spaces, the handicap parking space was delineated, and longer parking spaces 26' deep. The site layout was developed that way, and Police were concerned that two vehicles would want to park there. The applicant felt that wouldn't happen. There is no loading dock as referenced in the Police review letter and a vehicle turnaround was provided. There is room to back out as the barrier is along the roadway. The entrance radius is sufficient to allow trucks to turn into the site.

Scott Kennel, Traffic Engineer with McDonough and Rea Associates, qualified as a traffic expert and his credentials were accepted. He conducted traffic counts on 11/12/14 during peak hour traffic. In the morning, observations were taken between 7:30-8:30 with 200 vehicles both ways. In the evening between 4:30-5:30 shows 220 vehicles both ways. Hyson Road is a County road, a collector roadway. 30 trips to be generated by this size building in the morning, 35 in the afternoon. 60% of the traffic flows to Jackson Mills Road and 40% to the east. They estimate a 2% annual growth rate. They determined A-B levels of service for right turn in. The site driveway has plenty of ability to allow turning movements in and out and can accommodate a box truck size vehicle with no encroachment on other lanes of traffic. Emergency access is proposed. There is a minimal impact on Hyson Road and the site is designed for positive onsite circulation. Mr. Kennel had both police reports. For Item 9, large vehicles, Mr. Kennel disagreed with their statement of encroachment on opposing lanes. An offsite comment, trucks from I-195 exit the ramp and proceed on Jackson Mills Road and turn left onto the site. The exit ramp is under yield control, and trucks must yield; there is more than sufficient sight distances to travel 350' to the intersection to make the left hand turn. Mr. Kennel felt the intersection can operate in a safe manner. For the design of the intersection, turning right onto Hyson Road from Jackson Mills Road, it has been built to handle trucks as well as school buses, and the stop bar on Hyson Road is 50' back from Jackson Mills Road, which he felt is adequate.

Mr. Klee asked about sight lines with the sign. Mr. Kennel felt they could slide the sign back about 5'. Mr. Klee said the sign is 6' high and 11' wide, and there is no sight triangle at the driveway. He would look for comments from the County as well. Mr. Klee noted that the plans were revised to include complete perimeter curbing, which eliminates a waiver. Mr. Borden agreed.

Public portion opened

Vickie Rickabaugh. She obtained a copy of the revised site plan today. She said the lot was originally 6 acres, Highway Commercial zone property, and was subdivided. She knows they have the right to build, but she wants them to build in accordance with the ordinance. No variances or waivers should be given. Dealing with buffers, they need a 25' buffer, which doesn't really exist; it is more like 10' and as low as 3.8' to farmland preservation and basin overflow would go there. The spillway will spill onto farmland preservation land. A 25' right of way is required for signage, and 2.4' is provided. For parking, 32 spaces are required, and there are only 18 provided. She has concerns with how big the vehicles could be. She felt fire zones should not be used for loading and unloading. Handicapped spaces are shown to be 9' wide and she said they must be 12' wide, and the space is too far from the handicap ramp on the building. Two variances are requested for parking area side setback, 20' required, 10' proposed, and 25' required, 2' provided for the other variance. The first parking space must be set back 100' or 60', which Ms. Rickabaugh needed an explanation. Mr. Klee said when a certain number of spaces is required, there is a drive aisle requirement of 100' or 60', but he felt that

did not apply in this case. She said you can't get an 18-wheeler in there. It couldn't back up into the street. Solid waste must be 100 square feet and buffered, but it doesn't make it. The 225' long building needs another trash enclosure and a 5' minimum landscaped area is required. She said they are missing buffers everywhere. You can't have a refuse container within 10' of the right of way and property line. She said a recyclable bin is not provided. They need two refuse and two recyclable enclosures. The storm water management shows a 5' drop and she said it has to be two feet higher than the seasonable high water table. Mr. Klee agreed. Ms. Rickabaugh said she was confused on when that was determined. She said chemicals and leakage from cars are going to the basin, and she asked how they would clean that up. Once this is approved, she asked who will enforce it. She referred to statement of operations and she said this is a 24/7 operation, and she was told that goes against our ordinance. She said build, but build to the ordinance and the land use rules. Parking to unload is in the fire lane and that is not allowed. She is opposed to all the exceptions. She wants the project smaller to eliminate the exceptions. Make it fit and able to allow the large trucks in. There are still a lot of chemicals that can be put in there.

Timothy Harrigan, owner of home next door was sworn. Ms. Rickabaugh was also sworn at this time and stated that she told the truth in her testimony. Mr. Harrigan said there will not be a property manager on site to dictate what kind of materials can be brought on site. Mr. Shea said will handled within the lease. Mr. Harrigan said no one would be on site to see what is brought there. Mr. Harrigan said he has well water and does not want it contaminated by chemicals, and gas and oil can leak on site. There was no objection to an oil/water separator. Mr. Hudak said one is going in. Mr. Harrigan apologized. The separator is being put in as a precaution. Mr. Harrigan spoke of traffic, children waiting for the bus. Traffic safety is a concern. Accidents occur, cars go into the woods, and as far as the intersection, trucks go in all the time into the opposing lane traffic.

George Rickabaugh was sworn. He drives tractor trailers. He said there is a yield sign coming off I-195. Traffic is going both ways and an accident will happen there, and other accidents have happened there. To make the turn you will have to go into opposing traffic. There is a telephone pole and electrical box there. He said the buses just miss going into oncoming traffic.

Vicky Rickabaugh commented on hazardous waste. She said HVAC contractors will have R-22 or R-410; Mr. Hudak noted those chemicals are in our homes.

Motion to close the public portion by BRESSI/Kern. YES: Unanimous among those present.

Mr. Shea responded. Mr. Kennel said the vehicles are generally smaller than a bus, and those types of vehicles can make the turning movements without going into the opposing lane of traffic. Mr. Shea reiterated Mr. Kennel's comments and he is a traffic expert.

Mr. Borden said the perimeter buffer is 25' where required where it abuts residentially zoned property. Three sides of this property are zoned HC. Mr. Klee clarified the use and maybe the buffer is warranted. Sidewalk not to be constructed and a contribution would be made. Moving the sign back would mean cutting more trees and they would like to save trees. They are proposing 44 parking spaces, not 18 parking spaces. The handicapped space is fully conforming to the ordinance in width. The plan needs 5' striping adjacent to it, which they will provide. Mr. Hudak said he counts 27 spaces. There are 18 garage doors and using those areas as parking spaces. Mr. Shea said this is similar to the Commodore Boulevard site. They provide 20' from side lot line to parking spaces, and parking was moved to the back, and there is no parking to a side property line, so they conform. They don't propose an access drive to back into the street. They spoke of trash and recyclables, and the 10' setback conforms and is landscaped. The storm water basin boring was December 2013 and the 7.5' seasonal high water table to the bottom of basin is 5' below existing ground with a 2.5' separation, and they exceed standards. They plan to conform to the ordinance on their Statement of operations.

Mr. Shea said this is a permitted use, it has been examined closely, and he hopes for an approval.

Mr. Hudak referred to Mr. Harrigan's lot, saying his dwelling is at 131' [above sea level]. He noted everything slopes back to the storm management area, so any spillage will go away from his property, and it will drain into their basin. Mr. Hudak asked where his well and septic is located. Mr. Harrigan said it is north of his house; his well water is southwest of his house. Mr. Hudak tried to see if it would impact him and it appears as if it would not. Mr. Harrigan said no one will tell them not to bring hazardous materials. Mr. Hudak said we are trying to take whatever steps that could be taken. No high hazard materials are to be stored on the premises.

Leslie Savage said she counts 18 spaces: 8 spaces along the back, 9 on each side of the building and larger spaces between. She said that is a loading zone. Mr. McGuckin said it is like a driveway at your house; it is not a loading zone. Leslie Savage was sworn. She said her husband drove over the road trucks, and they load and unload.

Mr. Haring asked Mr. Kennel if any tractor trailers came down Hyson Road while he was performing the traffic study. Mr. Kennel said his staff records the types of vehicles and there were no tractor trailers, but that was only one day.

Mr. Hudak asked if the lot is conforming. Mr. Klee said the applicant has protection under the original approval, and yes it is a permitted use. One variance was requested for the sign and the applicant will increase the landscaping.

Mr. McGuckin read back stipulations, if the Board votes favorably. The applicant must obtain a letter of no interest from the Environmental Commission or return to this Board, must make a contribution to the pedestrian safety fund in lieu of constructing sidewalks, fire approval, tractor trailers prohibited on site, COAH contribution at time of building permit, lighting on timer to be turned off at 9 pm, and no high hazard "H" materials, to be regulated by the property owner. Also, stripe the handicap space, not currently on the plan.

Motion to approve by BRESSI. He stated they did a traffic study although it was not required, listened to and responded to comments from the public. There was no second to the motion.

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Mr. Russo said he was going to be a no vote. He did not know this item was on the Environmental Commission agenda and was therefore unaware of the outcome; he apologized to the applicant, to the Board and to the public for not doing his homework. He said the applicant is moving in the right direction; the placard and lease is good, but they have to think about the exception when it occurs, and he has concerns how it is going to be managed. Mr. Shea asked what he would like the applicant to do if the tenant violates the lease. Mr. Russo said the oil/water separator is a step in the right direction, but he has concerns. He did not know this was discussed at the Environmental Commission and he couldn't vote yes until he gets those questions answered. Mr. Bressi pointed out that they need a letter of no concern from the Environmental commission, or they have to return to this Board.

Then **Mr. Russo seconded the motion**, subject to the stipulations. YES: Dolan, Kern, Longo, Russo, Flemming, Bressi, Haring, Riccardi, Hudak.

Mr. Hudak noted the next meeting is December 15. CDR Whitesville is only application on the agenda. He said if the application is withdrawn, we will have to cancel the meeting, but a lot of residents are expected. Mr. Shea was unsure if the application would be withdrawn at this time. He said he would send a letter to the Board after a decision is made when he meets with his client. Mr. Hudak noted the Board would still meet on December 15 to meet with any members of the public who come out for that application. He noted there are other housekeeping items as well for that night.

Motion to adjourn at 10:35 p.m. by KERN/Dolan . YES: Unanimous among those present.

Respectfully submitted,

Janice Kisty,
Planning Board Recording Secretary