

**HOWELL TOWNSHIP PLANNING BOARD  
REGULAR MEETING**

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JANUARY 30, 2020**

The meeting was called to order by Chairman Brian Tannenhaus and the opening statement was read by the Administrative Officer.

**ROLL CALL:** Showed the following members were present: Paul Dorato, Nicholas Huszar, Chief Andrew Kudrick, Robert Nicasastro, Paul Schneider, Robert Seaman, John Leggio, Deputy Mayor O'Donnell and Brian Tannenhaus. Michael Bozicevic and David Everett were excused.

Also in attendance were: Ron Cucchiaro, Board Attorney, Laura Neumann, Board Engineer, Peter Van den Kooy, Shari Spero, Board Certified Tree Expert, James Winckowski, Traffic Engineer and Eileen Rubano, Board Secretary.

**PLEDGE OF ALLEGIANCE:**

**APPROVAL OF MINUTES:**

Deputy Mayor O'Donnell made a motion to approve the minutes from the Special Meeting held on October 10, 2019. Motion was seconded by Mr. Huszar and carried with Mr. Dorato, Mr. Huszar, Mr. Nicasastro, Mr. Schneider, Mr. Seaman, and Deputy Mayor O'Donnell voting for the motion.

Mr. Schneider made a motion to approve the minutes from the October 17, 2019 Regular Meeting. Motion was seconded by Chief Kudrick and carried with Mr. Dorato, Mr. Huszar, Chief Kudrick, Mr. Schneider, Mr. Seaman, Deputy Mayor O'Donnell and Chairmen Tannenhaus voting for the motion.

Deputy Mayor O'Donnell made a motion to approve the minutes of the Regular Meeting of November 7, 2019. Motion was seconded by Mr. Schneider and carried with Mr. Dorato, Mr. Huszar, Mr. Nicasastro, Mr. Schneider, Mr. Seaman, Deputy Mayor O'Donnell and Chairman Tannenhaus voting to approve.

Mr. Schneider made a motion to approve the minutes of the Regular Meeting of December 5, 2019. Motion was seconded by Chief Kudrick and carried with Mr. Dorato, Chief Kudrick, Mr. Nicasastro, Mr. Schneider and Deputy Mayor O'Donnell voting for the motion.

Mr. Schneider made a motion to approve the minutes of December 19, 2019 Regular Meeting. Motion was seconded by Mr. Seaman and carried with Mr. Nicasastro, Mr. Schneider and Mr. Seaman voting to approve.

Deputy Mayor O'Donnell made a motion to approve the minutes from the Reorganization and Regular Meeting of January 16, 2020. Motion was seconded by Mr. Seaman and carried with Mr. Huszar, Chief Kudrick, Mr. Nicasastro, Mr. Schneider, Mr. Seaman, Mr. Leggio and Deputy Mayor O'Donnell voting to approve the minutes.

**VOUCHERS:** None

**CORRESPONDENCE:** The Board Secretary announced that she had a letter from Attorney Todd Cohen asking the Board to carry the application of DNR Management LLC to the Board's March 19, 2020 meeting with no further notice. Mr. Cohen also granted the Board an extension of time to act on the application through March 31, 2020. Mr. Cucchiaro made an announcement that the application of DNR Management would be carried to March 19, 2020 with no further notice for the members of the public.

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RESOLUTIONS:**

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**a. Planning Board Attorney**

Mr. Schneider made a motion to memorialize the resolution appointing Ronald Cucchiaro, Esq. from the firm of Weiner Law Group, LLP as the Planning Board Attorney for 2020. Motion was seconded by Deputy Mayor O'Donnell and carried with Mr. Huszar, Chief Kudrick, Mr. Nicastro, Mr. Schneider, Mr. Seaman, Mr. Leggio and Deputy Mayor O'Donnell voting for the motion.

**b. Planning Board Engineer**

Mr. Nicastro made a motion to memorialize the resolution appointing Laura J. Neumann, P.E., P.P., from CME Associates as the Planning Board Engineer for 2020. Motion was seconded by Mr. Schneider and carried with Mr. Huszar, Chief Kudrick, Mr. Nicastro, Mr. Schneider, Mr. Seaman, Mr. Leggio and Deputy Mayor O'Donnell voting for the motion.

**c. Planning Board Planner**

Deputy Mayor O'Donnell made a motion to memorialize the resolution appointing Peter Van den Kooy, P.P., A.I.C.P., from CME Associates as the Planning Board Planner for 2020. Motion was seconded by Chief Kudrick and carried with Mr. Huszar, Chief Kudrick, Mr. Nicastro, Mr. Schneider, Mr. Seaman, Mr. Leggio and Deputy Mayor O'Donnell voting for the motion.

**d. Planning Board Certified Tree Expert**

Mr. Seaman made a motion to memorialize the resolution appointing Shari M. Spero, L.T.E., from CME Associates as the Planning Board Certified Tree Expert for 2020. Motion was seconded by Mr. Huszar and carried with Mr. Huszar, Chief Kudrick, Mr. Nicastro, Mr. Schneider, Mr. Seaman, Mr. Leggio and Deputy Mayor O'Donnell voting for the motion.

**e. Case No. SD-2988 / John Schuler**

Deputy Mayor O'Donnell made a motion to memorialize the resolution granting Submission Waivers to John Schuler. Motion was seconded by Chief Kudrick and carried with Mr. Dorato, Chief Kudrick, Mr. Nicastro, Mr. Schneider and Deputy Mayor O'Donnell voting for the motion.

**SUBMISSION WAIVERS BEFORE THE BOARD:** There were no submission waivers.

**APPLICATIONS BEFORE THE BOARD:**

**a. Case No. SP-1052 / Monmouth Commerce Center, LLC**

Both Meryl Gonchar, Attorney for the Applicant, and Craig Bossong, Objecting Attorney, put appearances on the record and Ms. Gonchar said the Objecting Counsel reserved the right to question the Traffic Engineer only on the new exhibit that was presented at the last hearing.

Mr. Taylor was reminded that he remains under oath. Upon questioning by Attorney Bossong, Mr. Taylor testified that the trucks entering or exiting the site would have to utilize the full extent of Randolph Road to make the turn. When Mr. Bossong asked if that meant the entire width he said yes.

**Ms. Gonchar said she reserves the right to call witnesses for rebuttal and Mr. Bossong reminded her that there would be no more witnesses.**

**Board Attorney Cucchiaro made some comments for members of the public wishing to come before the board to comment on this application. He said they would be testifying and therefore they may be subject to cross examination. He reminded everyone that the Board is governed by the MLUL and we need to make a verbatim recording. He said witnesses need to be able to clearly state what they are saying and the Court will throw out the board's decision if there is no transcript. He also said that the testimony has to be limited to what this case is about since you are not professionals. This is the law that the Board must follow. Mr. Cucchiaro told the members of the public that if they hear us say we can't consider it, it is recognition that the strict requirements of the law won't allow the Board to consider it.**

**Mr. Cucchiaro said that there are approximately 40 residents who are members of HOPE (the objectors) and Mr. Bossong will call them up. All others wishing to speak on this application will have an opportunity to do so after them. He also said that everyone must be sworn, state and spell their name and give their address. He also said the testimony must be relative and asked everyone not to be repetitive.**

**Chairman Tannenhaus opened the hearing up for the members of the public and the following appeared:**

**Dawn Van Brunt, 21 East Shenendoah Road – showed a video of existing traffic conditions which was taken by herself, Susan Springer and Andre DeGarmeaux. Dawn explained that she was the founder of HOPE and most of her concerns were already addressed. She said Howell is not what it once was; it is no longer rural as it is over developed. She said she would like to speak about the elephant in the room and wants to know why we need a project of this size with road issues, traffic, pollution, noise and environmental concerns. She also said that the SED zone need close proximity to highways and rail lines and commented that 195 is not in close proximity and railways are not an option. Ms. Van Brunt was especially concerned with the traffic and the children that play at Maxim Field and Soldier Memorial and asked the Board to deny the project.**

**Ms. Gonchar questioned Ms. Van Brunt asking her if she was objection to the use that is proposed and does she understand that it is a permitted use. She also asked about where she lived and if she sent a letter to her client suggesting alternate uses.**

**Susan Springer, 494 Lakewood Farmingdale Road – spoke about the traffic in the video and the flooding issues just last weekend during the storm.**

**Kirsten Gallo, 23 East Shenendoah Road – said she is a clinical pharmacist and she looked at studies that show the burdens a project of this size puts on the area especially the pollution from the trucks. She said that there is no reason to approve this, only reasons to deny it.**

**Ms. Gonchar objected to her testimony saying she is not a qualified witness and she does not have the reports to back up her statements.**

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**Barbara Lloyd, 695 Oak Glen Road – said she has no problem with development around her, but her problem is she can't back out of her driveway and she has a problem with industrial sites moving down the street in the middle of this residential area. She said this property was a horse farm in the 70's and asked if we want the town to be industrial or residential. Mr. Lloyd said this is a family town and they should consider the residents for once.**

**Andre DeGarmeaux, 34 Porter Road – Spoke about the video which was about ten minutes long.**

**Ms. Gonchar objected since it was provided to her in advance and she doesn't know what editing has been done. She also said that other than one part of the video we don't know when the other parts were taken. She also asked if the video was taken in front of their property and he said no because they don't have any trucks yet.**

**Mr. DeGarmeaux said after the last hearing on this application he observed tractor trailers on Lanes Pond Road with guys sleeping in the trucks and both lanes of the road were blocked off by them. He also testified that he has a 68 page accident history report from Howell Township Police Department and since the area was zoned industrial 24 years ago there have been 746 accidents on Route 547. He said he thinks this is the wrong project for the wrong place. It is the size of Freehold Mall on a road with no sidewalks, shoulders, etc. He said there is no talk of who is paying or what infrastructure is being improved.**

**Tina Smilek, 22 Charles Street – spoke about the tree removal, the amount of tractor trailers coming and going every two minutes, the traffic pattern and emergency responders having safe access to the site. She also said the County Traffic Study wasn't released yet and part of the Board's job is to protect the residents, public safety and health and she asked the Board to please vote no.**

**Fred Gasior, 24 Gristmill Road – Testified that he is a retired trooper and he has weighed and inspected over 100 trucks. He said trucks are very dangerous and there is a reason they separate the cars and trucks on the turnpike. He also said he lived near a project that was about half this size and he watched the trucks destroy the roads, the turnpike had to be redone, trucks sat and there was a gigantic cloud of diesel smoke and if this is built he's leaving.**

**Ron Springer, 494 Lakewood Farmingdale Road – asked Mr. Taylor a question about kids crossing the street near the fields when traffic is all backed up and Mr. Taylor said he observes the traffic signal. Mr. Springer said this is an extremely unsafe condition and the traffic study that was done did not consider this intersection. The County is concerned with Herbertsville Road and County Route 547 as well. He said his house is 30' off the Route 547 and when trucks go by he can see ripples in his coffee and he has structural cracks in his house as well. He urged the Board to please vote accordingly.**

**John McNulty, 4 and 12 Arnold Boulevard – spoke about the traffic trying to turn onto Arnold Boulevard and can't find their way to the parkway or 195 if there is a traffic jam. He said he currently has tractor trailers going past his house that come from Lakewood and the telephone pole is the only thing that keeps them off his property. He mentioned air quality, noise from the truck traffic, run off, property damage, the number of employees on site and the traffic generated by them and security. He is concerned about the quality of life and said we don't know what we don't know and you won't know until it is there.**

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**Gary Shunk, 542 Newtons Corner Road – said he has lived here for 40 years and there used to be 10 cars a day going past his house, now there are 10 cars a minute. He said he lives near a very dangerous intersection and trucks will be coming from all directions. There are also streams and bridges in the area that can't hold the weight of these trucks. He hopes the Board votes right.**

**Katherine Moore, 757 Oak Glen Road – lives about 1,000 feet from the facility and is concerned that this will reduce property values and make it hard to sell. She said this is a big challenge and a threat to the safety and health of the people in the area. She said that Mr. Taylor testified at the August meeting that Randolph Road is a long stretch that leads to nowhere. She wants to tell him that it leads to her home and others. She implored the Planning Board to deny the application asking if this is the legacy they want to leave behind.**

**Mike Bernstein, 3 Colleen Court – Said that this is a process and just because you can build something doesn't mean you should. He said the applicant sells you a package of goods and there is no guarantee that this won't happen with this project. They are not responsible for anything other than what you see right there. You should zoom out to see everything this project will affect. There are too many unknowns on everything that surrounds this. They haven't given you specifics they have given you broad terms. He said he is asking as a person who pays ridiculous taxes, don't take it away from me, say no.**

**Carl Reichenbecher, 41 Brook Road – Said he sits on his porch and hears jake brakes and watches school buses go by. The traffic study that was done only went back a block. He is concerned with water quality and where the runoff is going. If it is going into the river that is drinking water for part of Howell, Lakewood, all of Brick and some of Point Pleasant. Take care of us, we are not asking for much.**

**The Board took a short recess and then the following members of the public came forward:**

**Chris Garrick, 25 Firestone Drive – Mr. Garrick said we are putting the cart before the horse. He said there are tree frogs on this property and it could be endangered species that needs to be considered.**

**Nancy Reichenbecher, 41 Brook Road – Spoke about the traffic study for this project and said there is also one for the waste transfer station. She asked if we have a study for the combination of the two projects. She also said there is considerable flooding now on Brook Road and is concerned that there will be additional flooding with the removal of 30,000 trees. She is also concerned with the wear and tear to other roads besides Randolph Road and the tax increase to pay for the wear and tear. This project will put a significant amount of truck traffic on two lane roads. She said the benefit of this project would be job creation, but do they pay a living wage and will they provide enough to buy a home in Howell?**

**Michelle November, 74 Cascades Avenue – Said she is retired Police Officer from New York and is certified in noise pollution and truck enforcement. She is concerned with quality of life issues, such as where are the drivers going to go to the bathroom while queuing, public lewdness, sleeping on the sides of the roads, trying to plow in inclement weather while they are parked on the side of the road and sleeping in public parks. She asked the Board to give consideration to the residents.**

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**Patricia Mayer, 2152 Spruce Drive, Sea Girt (Wall Township) – Ms. Gonchar objected to her testifying as she is not a resident and is not defined as an interested party.**

**Joan Osborne, 22 Bronia Street- Said the applicant is asking for a leap of faith by asking for Preliminary and Final approval for all four phases and asking you to accept that everything is going to work as planned and she asked the Board not to take this leap of faith.**

**Pamela Noumair, 141 Arnold Blvd. – spoke about the traffic, infrastructure, rail lines, and the tree frog.**

**Paul Rehberger, 147 Arnold Blvd. – said we don't need to add any more trucks to these roads; we need some weight restrictions on the roads.**

**Samantha Friedeman, 42 East Shenendoah Road – said she has a business and over 26% of her patients come from Ramtown. If this is built there is a good chance that those people will go to Wall or Brick and her business won't handle the decline in patients. She asked the Board to think about what this is doing to other people.**

**Marissa Lamonte-Paulsen, 17 Freedom Court – said she lives five miles from the proposed site, but all of Howell is affected somehow. There will be auxiliary traffic and bus route changes. She said she stands on Aldrich Road waiting for the school bus and there is physical wind from cars and tractor trailers. The truck drivers will be looking for alternate routes due to traffic. She said there are kids standing on main roads now waiting for buses when they never did before.**

**John Gurzo, 707 Oak Glen Road – Said he has lived here for 44 years but he doesn't have to stay here. He stayed because he enjoys the quality of life here. If something negatively affects us, he will leave and you can't tell him that this won't affect us.**

**Dave Albertson, 28 Nate Lane – Asked the Board to do there jog and give the residents of Howell the quality of life we deserve.**

**Marc Parisi, 2 Castle Court – Spoke about the pro-rata share of improvements and getting the County to agree. He also the 25 acres of constrained land that they used for their calculations on impervious coverage and the 30,000 trees being clear cut and whether that meets the Woodlands Management ordinance. He asked the Board to weight the veracity where the evidence conflicts and said the applicant could have scaled down the project to lessen the impacts and he hopes they will deny the application.**

**Karen Schmitt, 74 Cascades Avenue – spoke about her concerns for pollution and quality of life.**

**Pat Heaney, 56 Vienna Road – spoke about sustainability issues and why we are not insisting on sustainable designs in this project. She also spoke about the stormwater management and said they could be doing bio swales, porous pavement and a green roof. They should also supply river friendly certifications. Ms. Heaney said I would rather you say no but if you allow it to be built you should insist they do it right with LEED certified buildings.**

**Ms. Gonchar asked her if she heard the Architect testify about solar panels.**

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**Lina Docasal, 64 Danella Way – Spoke about the nice safe environment when she moved here 23 years ago from the city and how it has gotten busier.**

**Uzelma Santos, 768 Oak Glen Road – spoke about the quality of life for her family. She is concerned with traffic, the safety of the kids on the school buses, families in the park, water for her well and the impact to the soil and wild animals with the trees cut down. She said the bridge near her driveway is collapsing. She also presented a picture of a school bus accident. She said her son and five other kids were on that bus that was caused by a distracted driver.**

**Janet Coakley, 3039 Lakewood Allenwood Road – informed the Board that she spoke out about this property 24 years ago when it was being zoned SED. She said she was assured at that time that we could expect to see a self-storage unit or medical offices not a large development. The owner is entitled to the use of the property not the abuse of the property. This project is totally disregarding the environment and if this project dumps water into the Metedeconk River it will flow to Dick's Brook and cause more flooding to her property.**

**A motion was made, seconded and carried for the board stay later than 10:30 p.m.**

**Ms. Coakley continued testifying saying there is an enormous potential for issues, such as noise and pollution. She is also very concerned about flooding and said the bridges on Brook Road and Oak Glen currently have metal plates on them. She said she was landlocked during Hurricane Sandy because all the bridges were out. If this is approved she is concerned that there is no recourse. She said it should be approved in such a way that if Phase 1 is constructed and their traffic report is wrong there should be recourse to stop the rest of the project.**

**David Schulz, 149 Yellowbrook Road – Not sure how the board will act on this but it seems like we will need a four lane highway from Randolph Road to 195 because of the traffic issues.**

**Seeing no other members of the public wishing to speak about this application, Chairman Tannenhaus closed the public portion of the hearing.**

**James Winckowski, Board Traffic Engineer said that he has been here for all of the meetings and heard all of the testimony. His biggest concern is the access points on Randolph Road and the excessive queuing at the intersection of Randolph and Lakewood Farmingdale Roads. He said it is still unclear if a traffic signal will be installed. He said he doesn't have the information need to be able to opine on whether the access points are safe. Mr. Winckowski said that the applicant's model assumes that a traffic light is required but he doesn't think the traffic signal is accurate and he is not satisfied that the access is sufficient. He further stated that the applicant said the County will not approve the application without a traffic signal but Mr. Winckowski hasn't seen anything from the County. He also said that saying there will be a traffic signal is one thing but the queuing lines and how that impacts the access points should be reviewed. No traffic signal plans have been submitted and we don't know if the representations will be met. The application is subject to County approval and he needs to understand how this will affect the ingress and egress of this project.**

**Board Attorney Cucchiaro asked if the applicant will be giving the board a copy of what has been submitted to the County and Ms. Gonchar said they haven't submitted it yet and they haven't been asked for it up to this point.**

**Ms. Gonchar asked Mr. Winckowski if there is a possible scenario where putting in the signal would cause the traffic to stack up to 1340 feet and Mr. Winckowski said there is concern that the traffic signal will not achieve the level of service reported.**

**Mr. Winckowski said the right turn has a 5' radius so a tractor trailer would have to go off road and with 13' for a passenger vehicle they would have trouble as well. Mr. Winckowski also said that in his July 26, 2019 review letter he addressed improvements to the intersection and asked for improvement plans to be submitted.**

**Ms. Gonchar said they will comply.**

**Mr. Cucchiaro said we have finished direct and the public and the Board can carry or they can determine if this has been out there and if you choose you can move to closing arguments.**

**Mr. Nicastro said we have heard this for over a year and he thinks the board should weigh the testimony. He would like to make a decision tonight and Deputy Mayor O'Donnell said she wants to hear summations.**

**Ms. Gonchar renewed her request and said they could have concept plans within a month. She said they thought the concept plans were required if the application was approved.**

**The Board members made a motion to go to summations.**

**Mr. Bossong made his summation to the Board saying the Planning Board was the gatekeeper of development in the municipality and he commended the members. He said the board has the right to deny an application that is not right for your community. Is this project right for your community? Doe the benefits substantially outweigh the detriments? There will be detriments and negative consequences. He asked the Board to deny the application on the expert testimony on the numbers. One thing is certain and that is that there will be a substantial increase in traffic and a substantial increase in risk to safety.**

**Mr. Bossong said the intersection of Route 547 and Randolph Road need to be signalized and that is controlled by the County. The applicant did not definitely say they would pay the costs for the traffic signal or costs for acquiring the property to make the traffic signal work. They even refused to provide this Board with a concept plan for the traffic signal improvements. His clients paid a traffic engineer to make a concept plan. There will be an exorbitant increase in tractor trailer traffic in and around the community with 1 tractor trailer every two minutes which would make the entire day a peak time. This seems like a substantial detriment.**

**Mr. Bossong also said the applicant needs two variances, for the buffer zone and truck storage. They never explained why they can't comply with the buffer requirements or how long the tractor trailers could remain on site. The trailer storage needs to be in the rear yard and screened. They could have redesigned the site to comply with the ordinance but they refuse. There is no requirement for tractor trailer storage but they are proposing six times as many loading spaces than what is required. Why? It seems like it is excessive and extreme. This extreme excess is what is creating this issue. They are**

creating the hardship by overdeveloping the property. If these spots are necessary they could be moved to the rear of the property and screened. This Board needs to weight all the factors. Is it right for Howell at this time or will they listen to the residents and do what is right for the public good. He then thanked the Board for their time.

Ms. Gonchar gave her summation and said that if there is a substantial benefit, the municipality made that determination by making it a permitted use. They are not asking for any variances from the bulk standards in the ordinance. The coverage is met with the way the law requires them to measure it. The law says that the buffer is part of their property. The property in the SED Zone focuses on economic development. The zoning has been in place for 24 years, they are not asking for rezoning and they are not seeking a use variance. Zoning is a property right and we are not abusing that right or overbuilding.

She said they are proposing 1,242,000 square feet in multiple buildings in various sizes. They could have submitted five or six different applications on multiple lots with two access drives on Randolph Road plus an access on Brook Road. They were asked by the Township not to put a driveway on Brook. The number and the spacing comply. No one application would have required the improvements or the County traffic signal. We came in with an application in compliance.

Ms. Gonchar explained that a portion of the buffer has healthy trees and the met with the Tree Expert who agreed that it was worthwhile to maintain those trees. They will withdraw that request, tear down the trees and put in the buffer.

She also said that they filed their application and got initial reviews. They were not told there was a variance required for the trailer parking. It is a normal incidence of this permitted use. Incidental and outdoor storage must be in a rear yard and buffered. They are not proposing it in the rear yard but it is in the rear of the building and it is buffered. They don't agree that trailer parking with no time frame is outdoor storage and the court will make their own determination. She also agreed to limit the trailer parking to 24 hours.

Ms. Gonchar said that if the Board was not inclined to grant the variance they would eliminate the stripe and make it a tractor and trailer parking space and they will eliminate that variance as well. She did remind the Board that the testimony of the planner put proofs on the record for the granting of these variances.

She said another issue was the SED zone is for economic development and this would create jobs and taxes. They are paying \$27,000 now and would be paying between one and one point five million per year when built. The public keeps asking who is going to pay for the roads. The taxes pay for that. This type of development doesn't generate the types of costs that other developments generate such as affordable housing which would need schools. This is industrial so there are no kids going to school.

Ms. Gonchar said they are extending the water and sewer lines in the area as well as road widening in various locations. She then spoke about the design waivers required with this application. She said the loading in the front yard is only 60 feet of one building and it is substantially buffered. She

also said they were seeking a waiver for plantings around the garbage and recycling enclosure as they are immediately adjacent to the building and shielded by it, but they can also comply with this. As far as one tree and shrub for every ten spaces, they will be provided so they are no longer seeking a waiver for this. Ms. Gonchar said they are seeking a waiver for sidewalks as they don't connect to anything. She said this is not an appropriate location to encourage pedestrians to walk and the board can deny this, the waiver doesn't change anything. She also talked about the waiver for foot-candles and said they are using led lights and can shield and will dim them for the hours deemed appropriate and they are willing to work with the board on this.

As to the waiver for the bollards or some type of feature to protect the building, she testified that they have 8" thick concrete or glass with vertical steel reinforcement which accomplishes the same thing as the bollards. If the board wants bollard they can put in bollards.

They are also seeking a waiver for signage and where two monument signs are permitted, they are proposing five, (one at each entrance) for safe movement and guiding people where to go. They are also proposing two building signs for each building (where one is allowed) so people visiting can locate the proper building.

The loading spaces all meet the 12 x 60 foot requirement at the building and they also have 242 proposed at 12 x 55' which they are willing to convert to tractor trailer parking that would be 110' and exceed the 60' length required.

Ms. Gonchar also spoke about the request for the trees replacement and said they are not able to provide the number of trees on site so they are asking to approve with payment in lieu of planting as the board grants this on a regular basis.

She also said they are not asking for variance relief as they are building the project in conformance with the bulk standards.

Ms. Gonchar said there is only one thing that is the basis for denial and it is not off-site traffic, it's not current traffic and it is not traffic problems in the town. There has been testimony that the level of service will be at or better whether there is a traffic signal at Randolph Road and Route 547 or not and she doesn't believe that has been questioned. She said she had no understanding that the concept plan was a requirement prior to the board acting on the application. The board has many ways to condition the approval. They could condition the certificate of occupancy on the completion of a traffic signal and those things could be discussed. The County does not have that intersection on its priority list but there are existing problems and no one else is offering to build that traffic signal.

If the Board is concerned with stacking, even if their numbers are off by 100 or 200 feet of stacking, they will be nowhere near their driveways. You can easily move through the site and get out any one of the five driveways so there are no conflicts with the driveways. What people do once they are on the roads, they can't control.

Ms. Gonchar said that the site was designed to direct the traffic to the intersection of Randolph and County Route 547 for the traffic signal. A property owner has a right to have their vehicles on a

public street. They will comply with the ordinance and chapter 42 of the MLUL with their fair share contribution for their portion of the improvements necessary by their project. The statute limits it to sewer, water, drainage and roads. Some of the improvements they have voluntarily indicated that they will bear the full cost. Obviously the residents believe they are asking for something they are not entitled to. She said she doesn't know how many applications with permitted uses meeting the bulk standards do that.

Ms. Gonchar further stated that for anyone having concern with trucks parking on the street, the parking they are proposing on site would address that concern. The site has been designed to meet all DEP stormwater regulations and State of New Jersey noise requirements. They have also submitted a report which speaks for itself; the determination on wetlands with no endangered species identified and the environmental commission accepted the information in that report after doing a site review.

As far as the impervious coverage goes, they may meet the number even if they exclude the wetlands as they are close, but the law doesn't allow that to be excluded so it doesn't make them nonconforming.

It was also her position that other items in the traffic report that they said would be provided, she felt were conditions of approval, especially since the County approval would be a condition of a local approval and that is how we understood it up to tonight.

Ms. Gonchar said that their testimony established that they have safe access to the site and if the traffic signal will not operate as they have indicated, it is highly unlikely that they will be so far off as to affect the driveways. The levels of service will hold and allow for free movement of trucks in and out of the site so it is her conclusion that these are safe driveways.

She urged the Board to hold off on their decision to allow them time to submit the concept plan. She said this is a permitted use and they have eliminated one variance and can eliminate the other one if the Board desires and they are willing to pay for the off-site impacts as required by law. She also said that she is no unsympathetic to the residents; we all have to deal with these issues.

Her conclusion was that there is no legitimate reason for the denial of this application. The only basis is the driveway and she feels it is erroneous. She asked the Board to approve the application subject to certain conditions such as preliminary on the entire project, and preliminary and final on first or first and second phases or have the traffic signal in place prior to any tenants. She asked the Board to grant the approval subject to conditions the board deems necessary as they have met their obligations under the MLUL.

Mr. Cucchiaro reminded the Board that they were not allowed to consider greed or elements that are irrelevant, or any monetary items. He said the Board is responsible to see if the site plan for a permitted use has complied with the ordinance requirements. He said that variances are deviations from the zoning ordinance and they must satisfy the positive and negative criteria. They need variance relief for the buffer, side yard storage and trailer parking or truck and trailer parking. They believe that having a truck and trailer parked on site eliminates the variance but you don't

have to accept that. They also need design waiver relief for the light intensity, sidewalks along the site frontage, number of signs, tree removal ordinance and loading in the front yard for building E. The board can grant relief for the design waivers if they find that it is impractical or creates undue hardship.

Mr. Cucchiaro also said that this is a permitted use and an increase in traffic is not relevant to approve or deny a permitted use and the legislative body already took that into account when they made it a permitted use. The safety of the ingress and egress is in the Board's discretion and can support the denial of an application even if it is a permitted use.

Mr. Cucchiaro said that it is not this Board's job to evaluate who will pay for the traffic signal or what the fair share is. How it gets built is not in this Board's decision process. He said it was his legal position that the Board could conditional a preliminary approval on it.

Mr. Nicastro said the Board granted a courtesy to go this late and have as many meetings as we have had for this application and he thanked the residents for their patience. He also said that the MLUL is clear that the owner of land has a right to develop their property. He said that they have heard hours of expert testimony, some conflicting and some not. There is a big issue and it is still the issue, the traffic testimony. He feels he has insufficient information to address the Board's concerns. He said we have heard from three different traffic experts and two can't come to the same conclusion regarding the ingress and egress. The majority of the tenants are unknown and the fact that it could be an e-commerce facility center is a troubling question. He said he will not be supporting this application and will support a motion to deny.

Deputy Mayor O'Donnell made a motion to deny the application of Monmouth Commerce Center citing environmental issues and the testimony on the traffic. Her motion was seconded by Mr. Leggio and carried with Mr. Dorato, Mr. Huszar, Chief Kudrick, Mr. Nicastro, Mr. Schneider, Mr. Seaman, Mr. Leggio, Deputy Mayor O'Donnell and Chairman Tannenhaus all voting for the motion to deny.

**MASTER PLAN STATUS REPORT:** There was no update this evening.

Since there was no other business, Mr. Nicastro made a motion to adjourn. Motion was seconded by Mr. Seaman and carried.

Meeting adjourned at 12:39 a.m., Friday, January 31, 2020.

Respectfully submitted,



Eileen Rubano  
Recording Secretary