

**LAKWOOD PLANNING BOARD
MINUTES
SEPTEMBER 11, 2007**

I. CERTIFICATION OF COMPLIANCE

Chairman Banas called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Ms. Johnson read the Certification of Compliance with the NJ Open Public Meetings Act:

“The time, date and location of this meeting was published in the Asbury Park Press and Ocean County Observer and posted on the bulletin board in the office of the Township of Lakewood. Advance written Notice has been filed with the Township Clerk for purpose of public inspection and, a copy of this Agenda has been mailed, faxed or delivered to the following newspapers: The Asbury Park Press, The Ocean County Observer, or The Tri-Town News at least 48 hours in advance. This meeting meets all the criteria of the Open Public Meetings Act.”

2. ROLL CALL

Mr. Neiman, Mr. Banas, Mr. Akerman, Mr. Gatton, Mr. Percal

3. SWEARING IN OF PROFESSIONALS

Mr. Peters and Mr. Truscott were sworn in.

4. NEW BUSINESS

1. SD # 1542 (VARIANCE REQUESTED)

APPLICANT: RYE OAKS LLC

Location: Ocean Avenue (Route 88) east of railroad
Block 536 Lots 1, 2 & 4

Preliminary & Final Major Subdivision for 40 townhouses and 1 retail center

Mr. Peters stated the applicant is seeking Major Preliminary and Final Subdivision and Site Plan approval for 38 townhouse units, a two story office building, a community center, parking areas, a tot lot, and a stormwater management basin. The existing property fronts on Ocean Avenue (NJSH 88). The eastern and southern property lines are adjacent to the Metedeconk River Conservation Area. The west side of the property is bounded by the New Jersey Southern Branch – Main stem C.R.R. Company of New Jersey. The existing property, which consists of three (3) lots: Lots 1, 2, and 4, is predominantly open except for a wooded area in the southwest area of the property and a smaller wooded area on the east side of the property. There are a number of existing buildings on the property that will be removed; including the existing dwellings located at the northeast and northwest corners of the property that front on Ocean Avenue. The open area of the site is composed

of asphalt and gravel areas previously utilized for parking. The property is located in a Wholesale Service zone, B-4, which permits retail and office uses. Townhouses are also permitted as a conditional use. The applicant shows on the Final Map a new Lot 1.42 with an existing dwelling is subdivided from rest of the development. Information regarding the lot shall be added to the zoning schedule on the Final Map and Layout Plan to show compliance with the Lakewood UDO. A minimum lot area variance is required for this lot; 6064.7 SF are proposed where 7500 SF are required. In addition, lot lines that separate the Lot 1.42 from rest of the development shall be added with dark lines. The numbering "Lot 1.42" shall be shown on all plans instead of "Lot 4", except on the Existing Condition Plan. The applicant will be required to obtain outside agency approvals from Ocean County Planning Board, Ocean County Soil Conservation District, NJDOT, and an NJDEP permit for TWA. Evidence of approvals should be made a condition of final subdivision approval. Review of the NJDEP I-Map shows wetlands may be present along the southern limits of the property. The applicant shall obtain from the NJDEP a Letter of Interpretation (LOI) or a wetlands absences determination. The site will be accessed by a driveway from Ocean Avenue. Approval of the driveway location is subject to the applicant obtaining permit from NJDOT. The applicant will be required to form a homeowners association for maintenance of the public portions of the development. Homeowners' association documents shall be provided for review by the Planning Board Engineer and Planner. The documents shall address ownership and maintenance of the stormwater management system, roadway, community building, tot lot, and all other public portions of the site. The documents shall also include a schedule of when the public amenities will be completed in terms of number of certificates of occupancy. A note has been added to the plans to prohibit medical or dental office in the proposed office building. The architectural plans submitted by the applicant has confirmed dimension of the office building. However, 28'x50' townhouses are shown in the architectural plans where some townhouses are dimensioned 26'x50' and 25'x50' in the Layout Plan. Required parking space calculations in the zoning schedule provided by the applicant were based on 3 parking spaces per unit. Per RSIS 2.4 off-street parking spaces are required for townhouses with 3 bedrooms. Since the applicant is proposing 4 bedroom townhouses, the Planning Board should determine adequate parking spaces for this application. The applicant shall revise the zoning schedule to show 121 park spaces are proposed instead of 125 for the proposed townhouse on the Layout Plan. Furthermore, required and proposed parking spaces shall be added to the zoning schedule on the Final Map. The zoning schedule on the Final Map shows 14 parking spaces for the proposed office building, but only 12 parking spaces are shown on the plans. The applicant shall address this discrepancy. The applicant has revised the architectural plans to remove the outside entrances the basements to some of the units. The applicant shall provide testimony to the board on which units will have outside entrances to the basements and which ones will not. The applicant shall include a trash enclosure detail for review. An individual trash enclosure is shown on the site plans but no detail provided on the site or architectural plans. Legend Circle can accommodate school busses, fire trucks and trash trucks moving counterclockwise around the circle, the plan has been revised to be one-way in a counterclockwise direction. The applicant shall confirm the name of the road; "Legend Circle" is not a duplicate name within Lakewood Township. The proposed road name shall be approved by the zoning secretary. The applicant has revised the architectural plans to remove the separate outside entrance to the basements. The Layout Plan indicates a stockade fence proposed along a portion of the rear property line, the west property line, and the south and west sides of the retail

parking lot. The detail shows a chain link fence. This discrepancy should be resolved. The board should determine what type of fence will be installed around the detention basin. We have safety concerns with having the basin totally screened from public view. The proposed turn around areas on two the stub offs of Legend Circle they are too small for trucks to turn around. A truck can pull into the space provided but there is not enough room for the truck to back out and make a full turn. The board should determine if this is acceptable. The applicant has revised the plans to show a dedicated left turn and right turn lane with widths of 11 ft leaving the site. Per NJDOT Roadway Design Manual although not desirable, an 11 ft lane is acceptable in urban area. The entrance design will be subject to DOT approval. The remaining comments are technical in nature.

Mr. Truscott read from a letter dated September 7, 2007 Revised September 10, 2007. The applicant seeks preliminary and final major subdivision and major site plan approval to construct a 38-unit townhouse development and separate commercial building on a 5.2-acre site in the Wholesale Service Zone District (B-4). Forty two (42) lots are indicated on the subdivision plat: thirty eight (38) are designated for townhouses, one (1) for stormwater management, two (2) for a community center and open space, and one (1) for commercial use. Additional site improvements include parking, stormwater collection and management facilities, a community center within the development, utility services, landscaping and lighting. Access to the development from Ocean Avenue will be provided via a private road with access to the commercial area and to the residential development. Currently, the site is used as a junkyard/automobile storage facility. The tract abuts the NJ South Branch rail line and Ocean County Park (Lake Shenandoah). As noted above, the site is located in the B-4 Wholesale Service Zone District. This zone permits various commercial uses as permitted uses and the construction of townhouses as a conditional use (Chapter 18-903). Several undersized and/or nonconforming lots are proposed for dedication to the homeowners association for open space and stormwater management and recreation. Therefore, the following variances are required: Lot 1.41 (dedicated for open space): Minimum Lot Area: 20,000 square feet required; 7,367 square feet proposed. Minimum Lot Width: 125 feet required; 16.87 feet proposed. Lot 1.42 (Existing single-family dwelling) Minimum Lot Area: 20,000 square feet required; 6,065 square feet proposed. Minimum Lot Width: 100 feet required; 50 feet provided. Lot 1, Block 536.01 (dedicated for open space and community center): Minimum Lot Area: 20,000 square feet required; 11,228 square feet proposed Minimum Lot Width: 125 feet required; 104 feet proposed. Lot 1.16 (dedicated as a detention basin): Minimum Lot Area: 20,000 square feet required; 15,560 square feet proposed. Lot 1.01 (Office Building): Minimum Lot Area: 20,000 square feet required; 11,928 square feet provided. Minimum Lot Width: 100 feet required; 80 feet provided. The positive and negative criteria for the requested bulk variances should be addressed. All variances should be identified on the subdivision plat and the site plan. Based upon a meeting with the applicant, the architectural plans have been revised to indicate optional exterior stairs for access to the basements. The applicant should provide testimony addressing this design revision. The applicant is proposing a total of one hundred twenty-five (125) parking spaces, or 3.29 spaces per unit ($125 \div 38 = 3.29$) for the 38 dwelling units. NJ Residential Site Improvement Standards (RSIS) Parking Requirements for Residential Land Uses (Table 4.4) contains lists standards for townhouses up to three (3) bedrooms in size. The revised architectural plans depict four (4) bedroom townhouses. The applicant has stipulated in prior testimony that there will be no bedrooms on the third floor. Similar to other Planning Board applications, the

number of bedrooms per townhouse unit exceeds those listed in RSIS Table 4.4. Therefore, the Planning Board must establish a sufficient parking ratio based on the number of bedrooms in each unit consistent with the RSIS, the project site location and local conditions. We note that the RSIS standard for a three (3) bedroom townhouse is 2.4 spaces, greater by 0.1 spaces over that of a two (2) bedroom unit (2.3 spaces required). In prior applications, the Planning Board has extended the RSIS parking standard to require 2.5 parking spaces for a 4-bedroom townhouse unit and 2.6 spaces for a 5-bedroom townhouse unit. In addition, the Planning Board has required parking to address potential occupancy of the basement. Therefore, the required parking, not accounting for basements, would be: 38 units @ 2.5 spaces = 95. If basements are considered for parking spaces, even though occupancy is not intended nor permitted, the required number of parking spaces is as follows: 38 units @ 4.3 spaces = 163(1.8 parking spaces per basement). We recommend the Board require expert testimony to provide the necessary data for an informed decision regarding the necessary on-site parking. An access easement must be perfected to guarantee access to Route 88 for both the townhouse development and Lot 1.01. We recommend the Board require expert traffic engineering testimony addressing the revised road connection to Route 88. The access drive is 27 feet away from Lot 152. Since Lot 152 contains a residence, a waiver from the buffers required by Section 18-803.E.2.a (fifty [50] feet wide where the nonresidential development is adjacent to an existing single-family residential development or an area zoned for residential land). As required by Chapter 18-1010.B.6., the applicant is required to obtain Department of Public Works approval for the proposed location and size of the individual trash and recycling enclosures for the townhouse development. We note that the footprints of the town homes in the architectural drawings are twenty-five and twenty-eight feet in width. The site plan indicates that the width of each unit will be twenty-six feet in width for building Nos. 1, 2, and 3. The applicant should reconcile the building width between the two sets of drawings. Parking for the community center is a minimum 3 spaces; the applicant has provided one (1) handicapped space in addition to the three (3) required. The applicant is proposing a two-story office building on proposed Lot 1.01, an irregularly-shaped lot with frontage on Route 88. The latest architectural renderings indicate that the building has a footprint of 35 feet by 51 feet (1,785 square feet per floor), and includes a floor plan for an unfinished basement and two floors. The front and side elevations indicate the potential for an attic, for which a floor plan was not provided. The revised site plan specifies that the office building will not contain medical or dental offices. Additional Board approval should be required if the parking requirement of the proposed use in the building is greater than that under review. The use of the basement and attic areas (if applicable) should be stipulated for storage. Locating the trash enclosure area on the north side of the proposed office building (toward Route 88), as proposed, would appear to be more appropriate than locating it near the townhouse development. Landscaping and sufficient access should be provided. The enclosure should be constructed of similar material and color as the office building to minimize the appearance of the facility. Chapter 18-808 requires that applicants who are proposing residential development projects over 25 units are required to preserve not less than 5 percent of the tract land area as common open space, or dedicate the area to active recreation or community facilities for residential development projects. The tract is 5.238 acres, of which 4.7757 acres are dedicated to residential uses; 5% of 4.7757 acres is 10,402 square feet (rounded up). For this application, the open space standards appear to be met with the proposed playground (Lot 1.41) and community center (Lot 1), which total 18,595

square feet. We note that Section 18-808 requires that the dedicated open space is to be contiguous; Lots 1 and 1.41 are not. A design waiver may be appropriate. The applicant has supplied documentation to the Board in regards to compliance with Chapter 18-1010.9., which requires that commonly-owned areas for the enjoyment of all townhouse residents and their guests be owned and maintained by a non-profit homeowners association. The Township UDO identifies specific requirements as well as requiring that the applicant adhere to the New Jersey Department of Community Affairs (NJDCA) requirements. The document must be filed with the NJDCA. The proposed development shares a border with the New Jersey Southern Railroad right-of-way. New Jersey Transit is conducting an investigation into reopening passenger rail transit along this right-of-way. If approved, this would result in trains running within 100 feet of the proposed construction. This information should be accorded appropriate consideration in terms of the setbacks along the west side of the site and screening. The applicant may want to provide some landscape treatment for the center island area in addition to that proposed surrounding the proposed lot. Additional landscaped screening should be considered along the southwest corner of Lot 152 which contains a residential dwelling. The applicant has presented the zoning bulk requirements as two distinct tables on the site plans and plat, as standards for townhouses are based upon the (townhouse) tract, whereas commercial bulk standards are based on the actual tax lot. The townhouse tract boundary distance from State Highway 88 should be indicated on the plans and added to the bulk table requirement (minimum setback: 100 feet). The applicant should correct the Bulk Table section on the site plan for office parking requirements to indicate that the office contains 3,570 square feet of office space, and change the building use description to "office." The subdivision plat should be revised to reflect the change of the commercial structure on new Lot 1.01 to an office building. Since the lot is fronting the access drive (which is proposed to be private) and borders Route 88, we recommend treating Lot 1.01 as a corner lot. The bulk chart should be revised on the plans and plat to show two (2) front yards, (1) side yard and a rear yard. The references to N/A for the rear yard setback provided should be removed from the Zoning Bulk Table for Lot 1.01, as corner lots require a rear yard. Based on the new location of the access road, the issue of dedicated sight triangle easements should be re-addressed. If variances are granted for the proposed undersized lots, a deed restriction should be filed with any undersized lot limiting its future use to that proposed. The applicant should discuss the appropriateness of screening of the pump station in the center area near the community center. Compliance with the Map Filing Law is required; Lot numbers should be reviewed by the Lakewood Tax Assessor and evidence submitted of their approval; If any conditions of approvals related to this application require perfection by deed, then deeds and property descriptions are to be reviewed by the Board Attorney and Board Engineer prior to filing with the County. The proposed street name of "Legend Circle" should be reviewed by Lakewood Township to avoid duplicate names; prior to razing existing structures, the applicant should remove the building prior to submitting the subdivision map for signature or post a performance bond with the Township. Posting of performance bonds and inspection fees for all required improvements. The Planning Board should consider a requirement of Title 39 jurisdiction for the private road for enforcement of municipal traffic laws. The required outside agency approvals include, but are not limited to: Ocean County Planning Board; New Jersey Department of Transportation; Soil Conservation District; Sewer and water utilities; and, All other required approvals.

Mr. Truscott revised the letter stating that there was no variance needed for the lot width on the community center and open space minimum lot width should be 100 ft. and 104 ft is provided.

Mr. Pape Esq. appeared on behalf of the applicant. Mr. Carpenter is the design engineer, Mr. Fears is the traffic engineer and Mr. Feldman is the architect. Mr. Pape said there was a request for soil borings and they have been submitted to Mr. Peters and the Title 39 recommendation they are in agreement with for the interior roadways and parking lots. Mr. Pape stated there were concerns with procedures and they met with the professionals and Mr. Kielt on what needed to be submitted and we have since done a resubmission more than 10 days ago. In addition, Mr. Pape met with Mr. Truscott and Mr. Peters by telephone conference and went through the staff reports. Mr. Jackson said his review of the transcripts showed the public did not get an opportunity to comment on any of the prior procedure and they will be starting fresh. Mr. Pape stated this meeting was published as a special meeting. Mr. Carpenter entered into testimony the following exhibits: A-1 Sheet 1 of 7 (Cover sheet); A-2 Sheet 2 of 7 (Existing Conditions); A-3 Sheet 3 of 7 (Layout Plan); A-4 Sheet 4 of 7 (Grading Plan); A-5 Sheet 5 of 7 (Lighting & Landscaping); A-6 Final Map (Mager Assoc.) These have all been submitted to the board as part of the application. Mr. Banas said asked about sheet 3 of 7 and wanted Mr. Carpenter to show him how the vehicles would be driving and Mr. Carpenter said they would move in a counter clockwise movement and the entrance and exit would be from Ocean Avenue. There would be 5 townhouse buildings, 1 community center building and 1 commercial building to be constructed on the site. The detention basin is in the southwest corner of the site and the existing grades go from north to south and this will stay within the same configuration. The water does flow towards this corner now. They added landscaping to the eastern portion of the site and added a double row of evergreen along lot 152 to shield it from the site (existing residential lot) and have added a screening area between the townhouses and the commercial site and placed some landscaping along the westerly border that abuts the New Jersey Southern Branch of the Railroad. They also have internal landscaping around the tot lot and they will add additional landscaping around the pump station as recommended by the professionals. The final map shows all the lots that are going to be created as a result of the this subdivision: tot lot and community center being one lot; the pump station being one lot; detention basin being one lot; open space lots are also shown as not contiguous and also shown is the separate lot for the commercial development and Lot 142 which will be the single family dwelling that is to remain on the site.

Mr. Carpenter said the basin is a retention/detention basin and will be owned and maintained by a homeowners association. They will be provided with a maintenance plan that will be part of the homeowner's association manual. Mr. Pape also stated there were numerous landscaping revisions made to the original plans, and there is a thick wall of evergreens around the basins to create a visual block along with a stockade fence. The professionals recommendation was for a fence that has a masonry post and wood cross member and use evergreens selectively to create a visual interest and create window into the basin for safety reasons and where the tall dense pines were not planted they would put red barberry, something with a sticker on it that would not be inviting to children but still be an attractive visual presentation. Mr. Truscott said that aesthetically that would be acceptable. Mr. Banas asked what the depth of the basin was and Mr. Carpenter stated it

was approximately 8 ft. and there was not more than a 3 to 1 slide slope and the initial outlet is an orifice would leave an accumulation of 2 ft. of water in a 2 year storm. Mr. Pape said they would also add landscaping along the area of the pump station. Mr. Carpenter said the pump station was location adjacent to the community center and the parking for the community center and 99% of a pump station is underground. You have a vent pipe (J shaped) which stands 3 ft. out of the ground, made of PVC pipe and the control panel, which is approximately 3ft. wide by 18 inches deep by 4 ft. tall. They will be decorated by ornamental grasses and low shrubs and they are not in a sight triangle and Mr. Truscott agreed. The 2 story office building that fronts on Ocean Avenue is approximately 3,500 sf and they are landscaping that building from the remaining subdivision. The landscaping in the northwest portion of the site is a double row of evergreens buffering the commercial building from the residential building and there are yellow pines and Leland cypress. Mr. Banas said the types of vegetation should be worked out with the professionals and would be acceptable; the board is not going to go and pick out colors. Mr. Banas did ask how wide the buffer was and Mr. Carpenter said 10 ft. on the commercial lot and said if the professional recommend, they could put an additional row of landscaping between the townhouses and the property line which is 12 more feet. Lot 152 is an existing dwelling not part of this site and there is heavy vegetation existing on this site and they have 2 rows of evergreens planted in that area to buffer that residential dwelling from the commercial site and actually they also have 25 ft. of street and 40 ft. of parking lot and Mr. Banas said a street is not a buffer and he cannot enter that into testimony. Mr. Pape said originally there were 42 residential units and they have reduced it to 38 units. In addition, Mr. Carpenter has increased the number of parking spaces in the residential part of the site to 125 parking spaces. The number of parking spaces for the office building is 12 and that is the same amount required. The technical requirements in both professional's reports are acceptable to the applicant and can be addressed to the satisfaction of the board.

Mr. Jackson asked if the buffer could be designed in any way to fulfill the requirements and not need a variance in the 2 areas identified and Mr. Carpenter said the entrance to the site off of Ocean Avenue, if they were to put a 50 ft. buffer, would eliminate any other development on that portion of the site other than the driveway and the buffer. This is a standard access driveway width permitted by the DOT for this type of development and these are the minimum dimensions that are allowed by the DOT. Mr. Jackson said they could do it but they would lose those the office building. Mr. Gatton asked what the buffer moved and Mr. Carpenter said the recommendation was a 50 ft. buffer but quoted the UDO as allowing the reduction of the 50 ft buffer to 25 ft. at the discretion of the board and they applicant does have a 25 ft. buffer, they have a 27 ft. buffer at its' narrowest portion and 35 ft. at its' greatest portion. Mr. Jackson asked what the purpose of the buffer was; was it to protect the residents from any activities associated with the commercial property and Mr. Carpenter said yes and felt the spacing appropriated accomplished that. Mr. Banas asked Mr. Truscott if the text in the UDO confirmed what Mr. Carpenter stated and Mr. Truscott said the section he is looking at does not show that. Ray was looking in the B4 zone and they both were doing research on it.

Mr. Pape pointed out the existing residence has commercial neighbors who access this property with the benefit of no existing buffering and the placement of this buffering is far greater than what is here now.

Mr. Banas wanted to go over parking spaces and the basements. He had a problem with it and the number of parking spaces. Mr. Banas asked Mr. Truscott if they met the requirements for open space and Mr. Truscott said yes although it is supposed to be contiguous. Mr. Gatton asked what the UDO said about the board's flexibility about it being contiguous and Mr. Truscott said he would research it but does not believe it has to be. Mr. Banas said the intention is to have it as close as possible. The size of this open space is 18,000 sf and the required size is 10,000 sf. The center portion is designed as a functional recreational area and the other portion is wide and is substantial. Mr. Banas asked for the positive and negative criteria for the bulk variances and Mr. Pape and Mr. Carpenter stated there is an existing residence on a narrow lot and a portion of that narrow lot is incorporated into the development plans and a portion is left for the existing residence. Lot 142 is the lot to remain and the lot dimension of 50 by 120 would make it similar to the 2 adjacent lots so they are not creating a lot that is out of character with the area. There is an existing home on that lot and there would be no change in the front or side yard and rear yard and no variances would be created by this subdivision. There would be no negative impact on the adjacent residential or commercial uses if this residence were to be preserved on this slightly reduced lot. Mr. Jackson asked what the benefits were and Mr. Carpenter stated they have an existing single family house that is being left in place for habitation by the people there and it is not impacting the rear development, nor is the rear development impacting it, so part of the Municipal Land Use Act is to promote proper development of the sites within the town and by leaving this as a single family residence the same lot it is now would be part of that benefit. Mr. Pape pointed out that if you take the lot line down from lot line down it is a 50 ft. strip and most of it will be used for open space and landscape buffer to separate from the adjacent commercial use and that would also be a benefit and provide for buffering.

Mr. Percal asked if there was going to be a traffic study to determine what affect traffic will have on area since the original intent on this zoning was to have commercial with a little residential and now we have the opposite, more residential and a little commercial, and very dense.

Mr. Banas asked for a slight recess.

Mr. Fears, a Traffic Engineer for the applicant spoke about the traffic and access to and from the site. He stated the DOT has final approval and every time they look at an application, they do some sort of modification, but this design is sound. He stated the extension roadways were safe and adequate for this community. There is a turnaround at the end of the roadways and he felt it was safe and adequate for this community. The roadways were not intended to handle school buses especially to turn around, but they can travel within the one way flow area so that there is not backing necessary, and it is a relatively short distance from any of the homes to the first internal intersection at the end of those stubs. You can keep your children in site from your home while they are at the school bus stop. With regard to garbage retrieval, there are small pads located at the intersections of the extension road and Legend which are intended to be for the placement of trash cans for those 3 or 4 families on the extension roadways so there is no need for the garbage trucks to go down that way. These extension roadways are also adequately designed to handle emergency vehicle access when necessary. He also believed that the intensity of traffic on the roadways would not exceed their capacity and would have no

problem recommending this design to the board based on his analysis that they would be privately owned and maintained and not the responsibility of the Department of Public Works. If this were developed fully for office use, the trip generation that would come out of this site would be higher per hour than the trip generation for the residential use that is proposed. Mr. Banas asked if there was a need for acceleration/deceleration lanes and Mr. Fears said not for this project, only for much higher volumes. Mr. Banas asked what did he estimate was the rate of the intersection —A, B, C, D, E, and F? Mr. Fears said he did not do any counts on Ocean so he could not answer that, generally that is done when there is about 100 trips an hour, and this is well below that. When this was originally introduced and it had a retail component, they were approximately at that number, but with the removal of the retail component, it is below that threshold.

Mr. Neiman said garbage trucks would not be able to turn around or go down to the end of the streets and Mr. Fears said that is why there are garbage pads, which is about 100 ft. from their home. Mr. Banas said he is not concerned with the distance, he is concerned with having all those garbage cans in front of his home, there will be approximately 10 pails or greater. Mr. Carpenter said although Mr. Franklin is not here, he has given him specific dimensions on what he needs to back his garbage trucks up in order to make a K turn and based on the dimensions that he gave that is what the turn arounds are designed on. Mr. Neiman asked Mr. Peters if he recalled what the dimensions were and Mr. Peters said he did not but recalled that Mr. Franklin said these turn arounds as designed would not be adequate. He talked about the width of a garbage truck vs. the width of the street and didn't think it would fit (38 ft from the right of way line vs. 45 ft truck) He had put it in one of his prior comments. His also concern is for emergency vehicles. Mr. Banas asked about fire hydrants and if there were any in the development. Mr. Carpenter said there was one at the entrance to the development at the intersection of the driveway and pointed to another 2. Mr. Gatton asked if the question of trash was answered if Mr. Franklin was not at the meeting and Mr. Banas asked Mr. Peters. Mr. Carpenter could not locate the dimensions from his notes but thought they were 15 ft beyond the curb line on one side of the road and 10 ft on the other side of the road in order to pull his trucks in and be able to pull out again. Mr. Banas asked how wide he needed it and Mr. Carpenter said 12-15 ft. wide and he had no problem accommodating it. Mr. Peters said if this project was approved he would check with Mr. Franklin before resolution compliance to ensure the garbage pick up would work. Mr. Jackson asked how that would work without doing finalist to the rest of the plans. They discussed some ways on how to do that. Mr. Gatton asked if it was resolvable and was told it was.

Mr. Feldman, the architect for the applicant spoke to the board on the plans. He entered the following exhibits: A-7 Outside Elevations; A-8 Floor Plans 28' Floor Plan (w or w/o outside stairs); A-9 25' Unit Floor Plans; A-10 Floor Plans & Elevation for Community Center; A-11 Basement Foundation Plan (1st,2nd, Office). All plans were previously submitted to the board. The interior stairwells have been removed from the attic and the bathrooms have also been removed. There are now pull-down stairs used for storage. The number of bedrooms for all townhouse units is 4. The office building has a building and attic and the attic will be used for mechanical space only and the basement use is also mechanical use only. Mr. Pape requested the board granted an approval with 19 units to have outside entryways to the basements. The protections they offer is homeowner's association's documents that would forbid illegal occupancy, and the balance of the units

would be designed with the entryways to the basements interior only. One last element of the applicant's offer would be for those units that are on the extension roadways there would be a prohibition of outside entrances to those units.

Mr. Banas stated the basement is a problem to him. Past experience tells him that whatever the board does on a drawing, in a plan, xxx # of years from the approval of the plan, construction, etc. someone will use that facility as a living quarter and he does not feel badly to provide a living quarter for a needy family, a student going to college, that was the way of American life, except what has happened is that we have gone to an area and a time when fires, congestion have taken a dominant role and the only way we can prevent that is to prevent the living of people in spaces that were not designated for living. If you feel that you can do away with half of the exterior stairs, why not do them all. It is a rhetorical question. Mr. Pape said the way that the board framed the issue and the way the applicant understood the issue was a concern that that if these spaces became residences it would create an unhealthy demand on the parking and they have increased an additional 30 stalls and reduced 2 units from 40 to 38 and they are comfortable that with those 30 additional spaces that if there were to be that activity there would be adequate parking to address that. The reason for providing outside entrances was not to provide an opportunity for these illegal residences but to greater utility of the units to create an opportunity use the basement area for storage by the families and allow the families to use them for interior recreation for the children and have access to the rear yards. They accepted the burden of removing 19 of those from the site but respectfully ask that they be permitted to have half. Mr. Banas said he could not support that. Mr. Neiman said this is a lot for a small area like this and eliminating half of the basements was a good gesture but he feels the same as the chairman, if you eliminate all of the exterior entrances to the basements, you have a greater chance of this being approved. It is not so much the parking, it is just too much going on in this little area here, there is buses, there are kids, there is too much for this small of an area. This is right off Route 88, there is only one entrance in and out, you don't have the normal cul de sac, and these are all concerns. Mr. Pape asked for 2 minutes to speak with the applicant and Mr. Banas agreed.

Mr. Pape requested allowing 9 of the 38 units to have outside entranceways it would create a marketable product and with the 30 parking stalls it would be sufficient.

Mr. Truscott asked Mr. Pape if he would stipulate that the office building that it will be offices and if it would be used for any other permitted uses it would come back to the board and Mr. Pape stated no medical offices or retail would take place there and only general offices.

Mr. Pape and Mr. Carpenter confirmed Mr. Banas' question that the technical comments in the professional's reports would be complied with. There were 2 lots that make up the open space and even though they exceed the requirements they need a design waiver because there are 2. Mr. Truscott also mentioned the office building lot area and lot width required a variance. Mr. Carpenter said they worked backwards to design the office building, they designed the driveway, they designed the buffer area against the residential area and took the remaining area threw a parking lot into it to see how many parking spaces we could get into the parking area and then backed into the size of the office building that would be remaining. It is shown on the final map that the street is part of a

separate lot and technically speaking, the street could be incorporated into the commercial lot, then the lot would meet the lot area requirements, the lot width requirements, but they prefer to leave the street as an entity amongst itself in the site. The driveway could be left as an easement, since it is all private streets anyway and it could be incorporated into the lot area and then the variance could go away for lot area. Mr. Pape added that an earlier comment was made that there be no residential activity within 100 ft. of Ocean Avenue so the residences were kept away from Route 88 which created the opportunity to have this office building. Mr. Carpenter said the building fit with this size lot and it does not encroach with any setbacks. Mr. Truscott said it depends, being that this is a private road, if you treated this as a public road, this would be a corner lot then the southern part of the lot 1.01 as a rear yard and there might be an issue of setback, as a 20ft setback would be required. Mr. Carpenter said if he took away Legend Road, then there would be no variance required, and the road would be an easement. They discussed various combinations of setbacks and easements with combinations of building dimensions. Mr. Truscott thought it might be better to request a rear yard setback to be safe. Mr. Banas asked if he misunderstood Mr. Carpenter before when he said they would use the driveway as a 50 ft. buffer and now use the 50 ft. driveway for the variance and Mr. Carpenter explained what he meant about the buffering and that it was not meant as a buffer but just to show the footage involved. It is an exercise in numbers. Mr. Banas stated the zoning officer requires what will be found in the basements and attics and Mr. Pape stated Mr. Feldman's testimony was that the attic area in the office building would be mechanical only, the attic area in the residences would be accessed by pull down stairs and would be mechanical and storage only. The basement in the office building would be mechanical or storage and there would be a prohibition on office use and the basements in the residential would be for either play areas, legally finished as living areas associated with the residences, no bathrooms or kitchens are designed, no plumbing in those areas for those purposes and they do not envision any kitchens and most likely the predominate use would be storage.

Mr. Gatton had questioned for the professionals. He said they started with B4 wholesale service zone district and they now come want conditional use. Mr. Jackson explained what that meant. Mr. Truscott explained some of the conditions.

Mr. Banas opened the microphone to the public

Mr. William Hobday, 30 Schoolhouse Lane, Lakewood, was sworn in. He said he heard the professionals squared away the buffer with the private roadway and Mr. Banas stated that was the applicant's argument and Mr. Peters said a design waiver was needed. Mr. Hobday said he thinks the buffer is too small. Also, there are a few undersized lots that are non contiguous that will be used for recreational purposes or open space. Why would there be undersized lots, it appears that is another variance. A piece of this sits on the Metedeconk preserve area and as we are looking at the next step of the Master Plan we need to start protecting those areas and it is essential for Lakewood to preserve the ecology. It is also very close to the railroad tracks and there are 14 residential units that sit right next to that railroad track. What happens when the train comes by. The builder does not see the train outside his window or hear the whistle when it crosses over the state highway. We all love MOM, and with the congestion and population increasing, if development keeps building along the tracks we will never see the relief from the MOM.

Sooner or later mass transit has to get off of Rout 9 and use commuter railroads. It is too far to go to Point Pleasant so we have to start thinking about mass transportation as well as other local types of transportation. The traffic issues are extensive. Ocean Avenue is very heavy and it bothers him that there is only one entrance and exit. There will be a tremendous amount in addition to the already overburdened traffic on that roadway. That is an old county road. It does not have the capacity to hold the traffic that it sees now much less adding the burden of another 130-140 automobiles. He worries about the access road and parking in that on holidays will people be parking along that access road. What happens when there is garbage pick up day or an emergency that could very well block that road. There was no testimony about posting No Parking at Any Time on that road and if it is an access road it should be cleared of any and all parking. Too bad Mr. Franklin is not here tonight because in previous testimony, he has stated the hammerhead turnarounds are no good and he doesn't want the liability of backing a garbage truck. Any time you put a truck of that size in reverse you put a chance on liability especially when there are a lot of children present. He is not sure what he heard about basements, whether there are now 5 proposed or what but feels in this area of high congestion, high visibility, high traffic patterns, he thinks that basements with an outside entrance are not a good idea because that would increase the density and this is too big of a project for that area. He thinks they should substantially reduce the number of units, give a little bit more space, give a little bit more open space, widen those access roads, and try to figure out how to have another access to the roadway where all the traffic entering and exiting is at the same place. His suggestion to the board would be that this needs to go back for a little bit more planning and reduction in size.

Seeing no one else, this portion was closed to the public.

Mr. Pape said Mr. Engel, the applicant wished to speak but Mr. Jackson said if he did, then it would have to be re-opened to the public again for another public portion and Mr. Banas questioned why he did not just speak through his attorney. Mr. Pape said Mr. Engel reconsidered and has chosen not to speak.

Mr. Pape summarized by stating they have a conditional use in this zone and they have met all the conditions. There is a limited bulk variance relief requested, one to preserve the existing residential house that is on Ocean Avenue and two, to create to create a small office at the entranceway and three, because we have 2 open spaces instead of one contiguous. The placement of those open spaces is very beneficial serving both as a buffer to the adjacent community and as a well designed recreational area. The comments from the professionals have either been met or Mr. Carpenter has indicated he can comply. The issue with parking appears to be of the greatest concern to the board and they have increased the parking to accommodate those units. The applicant has offered to reduce the outside entrances to 50% and even then to 9 units is a considerable reduction. We ask the board to consider favorably this subdivision and site plan as it is presented to you for these 38 residential units and the 3,575 sf office building and are comfortable that in resolution compliance we can address all of the limited outstanding requirements and we give you assurances that we will secure all outside approvals and permits before presenting the plans for signature.

Motion was made by Mr. Banas, seconded by Mr. Gatton, to Deny this application based on lack of a buffer, lack of adequate parking, he feels it is overbuilt, basically they are trying to put a gallon into a quart and he feels the open space should be more contiguous than it is.

Mr. Gatton wanted to clarify the answer. A yes answer will mean that it is denied.

ROLL CALL: Mr. Neiman; abstain; Mr. Banas; yes, Mr. Akerman; abstain;
Mr. Gatton; yes, Mr. Percal; abstain

Mr. Jackson said it means what it means, a non action. Mr. Banas said Mr. Jackson had some research to do .

5. CORRESPONDENCE

- None at this time

6. PUBLIC PORTION

- None at this time

7. APPROVAL OF MINUTES

- Minutes from August 21, 2007 Planning Board Meeting

Motion was made by Mr. Neiman, seconded by Mr. Akerman, to approve

ROLL CALL: Mr. Neiman; yes, Mr. Banas; yes, Mr. Akerman; yes, Mr. Gatton; abstain,
Mr. Percal; abstain

8. APPROVAL OF BILLS

- None at this time

9. ADJOURNMENT

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Chris Johnson
Planning Board Recording Secretary