

## **1. FLAG SALUTE & CERTIFICATION OF COMPLIANCE**

Chairman Yechiel Herzl called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Ally Morris 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 posted on the bulletin board in the office of the Township of Lakewood at least 48 hours in advance. The public has the right to attend this meeting, and reasonable comprehensive minutes of this meeting will be available for public inspection. This meeting meets the criteria of the Open Public Meetings Act.”

## **2. ROLL CALL**

Mr. Franklin, Mr. Hibberson, Mr. Flancbaum, Mr. Herzl, Mr. Rennert, Mr. Follman, Mr. Garfield

## **3. SWEARING IN OF PROFESSIONALS**

Mr. Terrance Vogt, P.E., P.P., C.M.E. was sworn in.

Mr. Martin Truscott, PP, AICP, LEED-GA and Stan Slachetka, PP, AICP of T&M Associates were sworn.

## **4. MEMORIALIZATION OF RESOLUTIONS**

### **1. 2018 Planning Board Calendar of Meeting Dates**

A motion was made and seconded to approve the resolution.

### **2. Resolution Memorializing the Approval of the 2017 Master Plan**

Ms. Morris said the resolution was forwarded to the board and she believes the content was found acceptable. T&M is here to explain the final tweaks made to the Master Plan.

Mr. Rennert said he sent an email to T&M with his comments based on the motion he made to adopt the Master Plan. He wants to run through a few things to ensure everything was incorporated. He does see the 100 contiguous acres recommendation was included, page 32 of the Master Plan where it speaks about changing the area off of Chestnut Street to the B-5A zone, the original stated if ingress/egress is off of Route 70 only. He wants to clarify that anything in the B-5A zoning, the ingress/egress must be from Route 70. If they want to keep it as a B-5 then they could have Chestnut Street as the ingress/egress. So only if they want the higher density of the B-5A then they must come off of Route 70. He doesn't want to hurt someone who wants to use the B-5 zoning from having access on Chestnut.

Mr. Slachetka said assuming that is the consensus of the board, they would change the language to when the B-5A zoning is used, ingress and egress should be from Route 70 and not Chestnut Street.

Mr. Rennert said on page 38 where he clarified that if someone has the campus development approval in place and would like to use the R-7.5 standards instead of the campus ordinance on those blocks where it has been approved, subject to campus approval being in place at the time the Planning Board adopts this Master Plan. Also, no development of any portion of the property has commenced at time of the adoption of this Master Plan.

Mr. Slachetka confirmed that has been added.

Mr. Rennert said the next item on page 38 states 'Please note that the zoning recommendations of this section related specifically to changes in zoning of areas along Cross Street, west of Massachusetts Avenue and West Cross Street'. He remembers his motion was not to include certain things for this area, it was for the entire Master Plan. He is ok if they say south of the lake but it also east and west.

Mr. Flancbaum said it should include Drake Road, White Street, Chestnut Street, and any of those areas south of the lake.

Mr. Herzl said it should not include for example, Cherry Street or Route 88.

Mr. Slachetka said it would be south of Lake Carasaljo. He questioned if they want to go all the way to the eastern border of Brick Township as there are quite a number of zoning changes in that area which are not necessarily tied into those specific streets improvements.

Mr. Flancbaum said his recollection was the motion should include any zoning changes along the west Cross Street corridor, Cross, Prospect, Massachusetts, Drake, White, Newport, Franklin and Chestnut. There are some zoning recommendations along the Route 70 corridor heading east to the Brick border which should not be subject to the widening of Cross Street in his opinion.

Mr. Slachetka also said there is the ABC zone which is south of that.

Mr. Rennert said the entirety of Lakewood gets affected by any density because the children get bused to school and that's why they went back and forth with the cores, nodes and centers and how they don't really work in Lakewood. It works to a certain extent but they have kids on the north side of town going to the south side of town and east going to west and it happens twice a day. His motion was that nothing should be adopted until all of these road improvements should be completed for the entirety of Lakewood.

Mr. Flancbaum said they can do anything south of the lake but not including the Route 70 corridor.

Mr. Slachetka said in any kind of zoning rational you want to have a rational nexus between what they are doing in terms of improvements versus zones. For example, if somebody were changing a zone to reflect an existing development in the eastern portion of the Township, if they stop the ability for that zoning to take place, somebody could have a legitimate claim and concern that what they are suggesting in terms of the condition that is improvements to roadways in the southwestern part of the Township doesn't have a rational nexus as there is no connection. Secondly, one of the critical aspects of this Master Plan is to preserve open space and the primary mechanism to preserve open space is through the noncontiguous clustering ordinance. Much of that takes place in the southern part of the Township. If that is held in advance because of road improvements, they are going to be losing substantial opportunities for the preservation of open space in that part of the Township. He thinks the board needs to more clearly define it and also to be very clear that what the relationship is to those improvements to the zoning.

Mr. Rennert thinks they are able to justify the relationship as one side of town affects the other side of town immensely. He would like to look at a map of the proposed changes so they can all agree on what south of the lake may mean and maybe they are able to incorporate language into the Master Plan so they don't have to say the entire Master Plan has to be put on hold. His motion was that the density of the Master Plan should not go into effect and what they will discuss shortly is implemented.

Mr. Jackson said the resolution needs to reflect what the board wants so if everybody agrees then it would stay.

Mr. Flancbaum said to just leave it.

Mr. Rennert said more than the area listed here was his intention. He would leave it as the entire Master Plan and if there is reason to amend it later, they could.

Mr. Herzl asked if that can be done.

Mr. Slachetka said south of Lake Carasaljo and to the west of Route 9 as that is where most of the changes are taking place in terms of zoning.

Mr. Flancbaum said Chestnut as well which is east of Route 9.

Mr. Slachetka said then it would be south of Carasaljo, generally west of Route 9 except for the area around Chestnut Street.

Mr. Rennert wants to make sure there aren't any other big changes. Even if it is close to the Garden State Parkway to the east.

Mr. Flancbaum asked if there are any proposed zoning changes on Route 70, east of Route 9.

Mr. Rennert said it may be other areas besides Route 70.

Mr. Slachetka said they do have a copy of a map which was previously distributed to the board. It was identified as proposed land use changes over existing zoning. Some of the changes are for the Crystal Lake Preserve, identifying that as an OSP. He did mention that a substantial part of the noncontiguous cluster overall ordinance would be south of that general line which is intended to preserve open space.

Mr. Flancbaum believes they are just referring to any zone changes resulting in higher density.

Mr. Grunberger arrived.

Mr. Slachetka said this would be edits to the first sentence in the paragraph on page 38 ' Please note that the zoning recommendations of this section related specifically to changes that would result in an increase in density in the area of the Township located south of Central Avenue, south of Cedarbridge Avenue, west of New Hampshire, north of Route 70, to the borders of Jackson Township and Toms River Township, and not including the non-contiguous cluster ordinance etc.'

Mr. Rennert suggests the following changes (shown in italics): 'are intended to be enacted by the Township Committee only when traffic improvement fees have been established through the township and all the following road segments have been sufficiently widened or dualized to minimize congestion *to ensure that Cross Street, US Route 9, Pine Street, James Street, Prospect Street and Massachusetts Avenue are improved such that they operate at a minimum of "C" in terms of the level of service they provide along the entire roadway as determined by the Township Engineer and as defined by the Institute of Traffic Engineers. Such analysis shall evaluate the total traffic buildout including potential basement apartments.*

Mr. Rennert said concerning Cross Street, they specifically said that it would operate at a level "C" from the border of Jackson Township until River Avenue. He also confirmed that Massachusetts from Prospect to Cross, Pine from Route 9 to New Hampshire, James from Cross to River and Prospect from River to Cross.

Mr. Slachetka confirmed they were changed.

Mr. Rennert said they also specifically wanted the TIDs in the entire Township prior to any zone changes which would increase density going into effect.

Mr. Slachetka said they included that as well 'the board recommends that the Township Committee establish traffic impact fees throughout the Township'.

Mr. Rennert has an issue with that because it shouldn't be a recommendation. It should be a condition so he thinks that the bullet point either gets moved up or it should read 'prior to enactment of this Master Plan by the Township Committee, the Township should establish traffic impact fees throughout the entire Township.'

Mr. Hibberson suggested to use the word 'require'.

Mr. Slachetka said they have had conversations concerning this. The Township Committee doesn't enact the Master Plan so that needs to be changed.

Ms. Morris said it should be part of the paragraph 'are intended to be enacted by the Township Committee only when traffic improvement fees have been established throughout the township and all of the following road segments have been sufficiently widened or dualized...'

Mr. Rennert agrees.

A motion was made and seconded to approve the resolution.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Hibberson, Mr. Flancbaum, Mr. Herzl, Mr. Rennert

No: Mr. Follman

- 3. SD 2281 Avenue of the States, LLC**  
Avenue of the States Block 961, Lot 2.04  
Preliminary and Final Major Subdivision to create two lots

A motion was made and seconded to approve the resolution.

- 4. SP 2247AA Yeshiva Stolin Karlin**  
1640, 1660, 1680 West County Line Road Block 2, Lots 24, 51, & 58  
Change of Use/Site Plan Exemption to convert three homes into a school

A motion was made and seconded to approve the resolution.

- 5. SP 2240 Lakewood Business, LLC, c/o Daniel Werbler**  
640 & 644 Cross Street Block 524, Lots 3.01 & 3.02  
Preliminary and Final Major Site Plan for an office and warehouse building

A motion was made and seconded to approve the resolution.

6. **SD 2188 Aaron Sperber**  
Locust Street Block 1083, Lot 7  
Denial of a Minor Subdivision to create three lots

A motion was made and seconded to approve the resolution.

7. **SD 2273 White St Developers, LLC**  
110 White Street Block 251, Lot 9.01  
Minor Subdivision to create three lots

A motion was made and seconded to approve the resolution.

8. **SP 2242 Congregation Yeshiva Mkor Chaim**  
160 Locust Street Block 1081, Lot 9  
Preliminary and Final Major Site Plan for a school

A motion was made and seconded to approve the resolution.

9. **SD 2282 Albert Street Holdings, LLC**  
Towers Street & Pine Street Blocks 830.11, Lot 2  
Amended Preliminary and Final Major Subdivision to create forty-two single family homes ("Somerset Run")

A motion was made and seconded to approve the resolution.

10. **SP 2244 Khal Meor Chaim**  
270 Miller Road Block 9, Lot 3.01 & 6  
Amended Preliminary and Final Major Site Plan for a synagogue

A motion was made and seconded to approve the resolution.

11. **SD 2277 SES Cross LLC**  
688 & 672 Cross Street Block 524, Lots 2.01 & 2.02  
Minor Subdivision and Amended Major Site Plans to adjust lot line

A motion was made and seconded to approve the resolution.

12. **SP 2250AA Congregation Hazon Ovadia**  
500 Marc Drive Block 778.05, Lot 52  
Change of Use/Site Plan Exemption to convert existing home into a synagogue

A motion was made and seconded to approve the resolution.

13. **SP 2251 Shraavan Baile**  
120 Ocean Avenue Block 536, Lot 5  
Preliminary and Final Major Site Plan for a liquor store and offices

Ms. Morris said a clarification is needed as there were setback variances which were clearly granted and also a variance for a buffer is required which is sort of an overlap of that setback variance that was granted. Clarification is

needed as to whether the board intended to approve that waiver or relief for the buffer so it can be accurately reflected in the resolution.

Mr. Adam Pfeffer, Esq. said they had gone through the report and had indicated they agreed to everything. They had architectural plans which showed everything and it was raised later on. He went back and watched the video and thought it was properly addressed.

Mr. Flancbaum remembers it was granted.

A motion was made and seconded to approve the resolution.

**14. SP 2253AA Pinchos Wolhendler**

Sheraton Drive Block 782.01, Lots 11.02 & 11.03

Change of Use/Site Plan Exemption to convert two existing basements into a shul

A motion was made and seconded to approve the resolution.

**15. SP 2258AA Yeshiva Gedolah of Monmouth**

Frances Street Block 446, Lot 7

Change of Use/Site Plan Exemption to permit school trailers

A motion was made and seconded to approve the resolution.

**16. SP 1867B American Classics of Lakewood IV, LLC**

1367 Ocean Ave, Ocean Ave Block 189.03, Lots 75 & 193

Extension of Major Site Plan and Minor Subdivision for automobile show room, service center, and self storage building

A motion was made and seconded to approve the resolution.

**17. SD 2294 Congregation Bnei Torah**

940 East Kennedy Blvd & 1097 Somerset Ave Block 174.04, Lots 30.01 & 33.01

Minor Subdivision to adjust lot lines

A motion was made and seconded to approve the resolution.

**18. SP 2255 Cheder Toras Zev**

950 Cross St and 1000 West Cross St Block 494, Lots 2.01, 3, & 4

Minor Subdivision and Preliminary and Final Major Site Plan for two school buildings

Mr. Follman questioned if the traffic counts were taken on a holiday.

Mr. Joe Kociuba, P.E., P.P. said they actually delayed the traffic study so it could be done during the school year. It was not performed on a holiday.

Mr. Follman argued the report indicates the counts were taken on October 11th which is a holiday.

Mr. Kociuba said the report is showing the physical counts starting on September 14th. He believes the calculations were performed on October 11th.

Ms. Morris said the cover letter is dated October 11th so the counts couldn't have been the same day.

A motion was made and seconded to approve the resolution.

## 5. CORRESPONDENCE & ORDINANCES

### • 2017-51 to implement the Lakewood Township Master Plan (multiple changes)

Mr. Follman questioned how these ordinances are before the board already.

Mr. Herzl said if these ordinances do not accurately reflect this board's recommendations then they won't vote on it.

Ms. Morris said the board's adoption of the Master Plan on October 25th is a matter of public record and there was documentation on what the board's approval was even though it hadn't been perfected until tonight.

Mr. Rennert wants to clarify if this board's role in this is to determine if these ordinances are consistent with the Master Plan or not consistent with the Master Plan. If it is not, the Township Committee must put it on the record or incorporate the changes this board would like made and there must be a majority vote.

Mr. Jackson confirmed.

Mr. Truscott said this ordinance implements most of the recommendations of the Master Plan in the land use amendment, circulation, etc. There are several recommendations which have not been implemented yet because they were adopted late by the Planning Board in the hearing process and are little bit more involved which took some investigation, research and guidance from the Township. There are two items which are inconsistent with the Master Plan. The first is where it talks about when the zoning recommendations would be implemented and it lists certain aspects as to certain road improvements to be done. Specifically it talks about specific changes in zoning along Cross Street, west of Massachusetts and West Cross Street. It is listed somewhat different from not only what the board talked about in the Master Plan itself but what the board discussed tonight. Also, Route 9 is not mentioned in this list so it is not consistent with those recommendations.

Mr. Herzl asked if the board can vote on the resolution including any recommendations they have made tonight.

Mr. Jackson confirmed, the board can say it is consistent or inconsistent or they can say it is consistent subject to their recommendations.

Mr. Rennert asked if the board wants to recognize that this ordinance is not in conformance with the Master Plan. He asked if they need to add language to make it consistent with the Master Plan.

Mr. Truscott said no, they should make comments as to where it is not consistent.

Mr. Slachetka said the board doesn't have to propose specific language to the Township Committee but they can identify that based on the final vote tonight, that it is not consistent and that their recommendation is they incorporate the language adopted tonight.

Mr. Rennert questioned how this ordinance is before this board the same night the Master Plan was adopted and it is not consistent with the Master Plan even before this board's recommendations. Many people dedicated a lot of

time towards this Master Plan and now there is an ordinance before them which leaves out all of the main points including the recommendation for the TID to be Township wide.

Mr. Flancbaum said their recommendation back to the Township Committee is that they incorporate all of the board's recommendations made tonight.

Mr. Jackson said they have the following options: they can say it is consistent with the Master Plan and recommend it be adopted, they can say it is not consistent with the Master Plan and they do not recommend it be adopted or they can make recommendations to the Committee.

Mr. Herzl recommends that the ordinance be adopted incorporating all of the items discussed tonight.

Mr. Grunberger would like to see a final draft before making a recommendation.

Mr. Rennert doesn't trust that all of the changes will be incorporated.

Ms. Morris said unfortunately the ordinances do not go back and forth. The Committee sends it to the board and they have a certain number of days to make a recommendation.

Mr. Herzl recommends that the ordinance be adopted incorporating all of the items discussed tonight.

Mr. Grunberger and Mr. Franklin agree.

Mr. Rennert would like to hear what else is inconsistent.

Mr. Flancbaum thinks it is consistent but it doesn't include everything.

Mr. Slachetka said if the board provides input now, it gives an opportunity for the Township Committee at its next meeting to respond. It is important that this board put their position on the record and present it to the Township.

Mr. Herzl asked if the Township will go back to a first reading or they will just vote on the second reading with the incorporations.

Mr. Jackson said the only thing the Committee needs is the recommendation of the Planning Board, one way or the other, then they can act. If there is no recommendation, then they have to wait until the 35 days passes and then they can act.

Mr. Slachetka said the board should also take action independently on the two ordinances as they'll hear shortly that the second ordinance with regards to the noncontiguous cluster, is fully consistent with the Master Plan.

Mr. Grunberger asked what would happen if this board recommends this ordinance is inconsistent with the Master Plan and the Committee decides not to listen to this board.

Mr. Slachetka said if the Township decided to act regardless and they had a super majority and were able to put their reasons in writing then they would do a second reading with a public hearing and they could adopt it at that point in time. If this board makes a recommendation now and the Township does decide to implement those changes then it gives them time to conform and they might need to do another first reading if the changes were substantial.

Mr. Herzl said they should go through the ordinance and see where there are inconsistencies. The first being the road widening on page 1.

Mr. Truscott said there was a lot of discussion about planned communities as a conditional use and the recommendation of the Master Plan was that planned communities would be allowed with 100 contiguous acres and certain densities which the board had a lot of discussion about. The ordinance would also allow planned communities termed planned unit development but it would also be allowed in the R-20 and R-15 zones in addition to the R-40 so that differs from the Master Plan recommendation.

Ms. Morris said it is Section 5 and Section 6.

Mr. Herzl said there aren't many parcels which are 100 contiguous acres.

Mr. Rennert questioned where these properties are. They spoke about having 100 contiguous acres of undeveloped land and said that golf courses are considered undeveloped. If there is a house on another property, he asked if that is considered undeveloped.

Mr. Herzl said most of the land should be vacant.

Mr. Rennert said when they went through the Master Plan, they delineated exactly which properties are being affected by staying in the R-40 zone. He questioned which properties are being affected now.

Mr. Truscott doesn't have that information. He believes there was some testimony during the Master Plan hearings.

Mr. Herzl doesn't remember that and that is why they put in that it has to be currently 100 contiguous acres and not people getting together to create 100 acres.

Mr. Rennert needs to know which properties are being affected.

Mr. Slachetka said they didn't do that analysis. He thinks the concept here is that wherever the age restricted communities would be permitted, where they are already a conditional use, the rationale was that this planned unit development should be permitted as well. He suspects that in the R-20 or R-15 there aren't many at all.

Mr. Rennert said there had to be an analysis done.

Mr. Slachetka said they were not asked to do one.

Mr. Grunberger questioned why these zones were included then if they don't know what properties this is going to affect.

Mr. Rennert said the board recommends it is removed from the ordinance. He questioned the changes made on page 9.

Mr. Truscott said Pine River Village is currently zoned M-2 Industrial and so that area is being changed. It is part of the land use plan.

Mr. Rennert said page 10, section 20, item c is also inconsistent with the Master Plan. The recommendation was that if an applicant wants to use the B-5A zoning then they have to go out to Route 70. He questioned item f on page 17, mixed use development.

Mr. Truscott said that is the M-1 zone as part of the Cross Street Core, is zoned as such and will continue to be zoned as M-1 to allow mixed use development.

Mr. Slachetka said that is consistent with the board's recommendation.

Mr. Rennert asked if the area zoned as M-1 now is consistent with the previous Master Plan.

Mr. Slachetka said it was zoned M-1 and this would be a new conditional use.

Mr. Rennert asked why it has to be updated if it was M-1 already.

Ms. Morris said they are adding mixed use development in the Cross Street Core as one of the conditional uses permitted in the M-1 zone.

Mr. Rennert asked what specifically is being added.

Ms. Morris said it is on page 39, section 31.

Mr. Slachetka said the conditional uses are an optional development.

Mr. Truscott said this would allow residential within this zone.

Mr. Slachetka said just in that portion of the M-1 in the Cross Street Core.

Mr. Rennert asked specifically where this is located.

Mr. Truscott said between Prospect and Cross.

Mr. Rennert said they have never spoken about changing the density in this area. The motion was that except for certain areas, everything should be no higher density than R-12 zoning. This would be much higher than that and this area has not been brought up previously. He believes this should come out. He asked if there are any others similar to this.

Mr. Truscott said just the Oak Street area on page 43, section 32. It is similar conditional use overlay standards.

Mr. Rennert said this should also come out as it was not identified when this board asked if there are any other areas in Lakewood where the density is going to be increased higher than R-12.

Mr. Truscott said it would apply to the R-10A area within the Oak Street area.

Mr. Herzl asked if there are any other areas they have not yet discussed.

Mr. Truscott said no. As part of the Smart Growth Plan, the Oak Street area and the Cross Street Core were two areas within that and that is the reason for the mixed use area in both of those cases.

Mr. Herzl doesn't believe the board has a problem with mixed use, it is the higher density.

Mr. Rennert said he has no problem with high density but it has to work. He questioned item 8 on pages 20 and 21, additional design regulations for public and private schools. He asked if this is for a specific zone or all zones in Lakewood.

Mr. Truscott said this had to do with the recommendations of the Master Plan to regulate schools within the Industrial Parks to specific standards including recommendations from the Industrial Commission.

Ms. Morris said item m on page 14 goes with that which is currently listed as a permitted use in the M-1 zone.

Mr. Truscott said the reason quasi public and private educational facilities was crossed out was that the language in terms of the title of the permitted use was inconsistent with the rest of the ordinance.

Mr. Rennert asked if item i on page 22 is adding the same requirements.

Mr. Truscott confirmed.

Mr. Rennert asked about page 29.

Ms. Morris said page 29 is regarding the existing ordinance requirements. There is a separate section specifically for public and private schools. This is additional requirements in that section for all schools.

Mr. Rennert would still like to see on-site bus loading and unloading even if it has less than 5 classrooms. Schools may start off with one classroom and they are considered about the safety of the children.

Ms. Morris knows they spoke about those two mixed conditional uses for Oak and Cross. Both of those are listed on page 8 so those would be inconsistent as well.

Mr. Truscott said they are consistent with the Master Plan.

Mr. Rennert said they are inconsistent with the Master Plan testimony.

Mr. Slachetka doesn't think it is inconsistent with what was testified in terms of the questions and answers. They can certainly look at the record but he doesn't want to make it seem that something was inconsistent in the testimony.

Mr. Rennert is upset because it was inconsistent with the testimony. This board asked specific questions, they got back answers and it was inconsistent with the document they had.

Ms. Morris doesn't see in this document where the mixed use development, Oak Street Core is being added as a conditional use in a zone.

Mr. Rennert asked if they have any recourse to amend the Master Plan.

Mr. Jackson said the Master Plan gets revised when they have a re-examination. There has to be notice, public hearings.

Mr. Rennert asked even if it is during the same meeting, they can't go back on their memorialization.

Mr. Jackson said no.

Mr. Rennert asked about front yard setback requirements on page 30.

Ms. Morris said that is still a requirement for schools.

Mr. Rennert said now it is not required in the B-2 zone as there isn't sufficient room.

*The recording stopped working at this point. An alternative recording was used and it is very hard to hear certain members. Please excuse any errors or omissions.*

Mr. Rennert asked what the best option is as to working on between the Township Committee and the Planning Board.

Mr. Jackson said the input the Planning Board has to make recommendations. He is preparing a letter right now which would detail the inconsistencies that have been identified. When a land use ordinance is adopted, it has to be consistent with the Master Plan. If someone contests that an ordinance is not consistent with the Master Plan, the court may be more inclined to find that the ordinance is invalid.

Mr. Jackson read 'Dear Mr. Secare: Please be advised that the Lakewood Township Planning Board completed its review of the above proposed ordinance on September 21, 2017 at the public meeting. The board finds that there are elements in the proposed ordinance that are inconsistent with the Master Plan and the board has asked me to convey its findings in this correspondence. The Board's specific findings and recommendations for changes are as follows:

- 1.) On page 1, the 5th whereas clause is not consistent with the streets and areas as set forth in the adopted Master Plan. If the streets and areas listed are amended to reflect the adopted Master Plan then the Board would approve. The language should be consistent with the language adopted by the board on page 38 of the Master Plan as adopted on November 21, 2017. Impact fees must be imposed here as well as throughout the township.
- 2.) On page 5 in section 5 and section 6, planned unit development is made a conditional use in the R-20 and in the R-15 districts. The Board finds this inconsistent with the Master Plan which make this a conditional use only in the R-40 district.
- 3.) On page 10, section 20 (2)(C), the proposed language regarding road access under B-5A zoning is not consistent with the adopted Master Plan and should be amended to reflect same.
- 4.) On Page 17, section (f) regarding Mixed Use Developments, the board finds that allowing density greater than R-12 is inconsistent with the Master Plan but that Mixed Use is appropriate at the same density as R-12. Likewise on page 10, the Oak Street Core Mixed Use should only be at the existing R-10A density levels.
- 5.) On page 29, regarding bus loading and unloading zones, the board finds that these standards should apply anywhere that buses are being used.'

A motion was made and seconded to recommend the ordinance be adopted by the Township Committee based on the above clarifications.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Hibberson, Mr. Flancbaum, Mr. Herzl, Mr. Rennert

No: Mr. Follman, Mr. Garfield

• **2017-52 to implement the Lakewood Township Master Plan (multiple changes)**

Mr. Slachetka said this ordinance is to implement the Master Plan by creating and adopting standards for the Planned Development Noncontiguous Cluster (PDNC) Overlay Zone. This ordinance is completely consistent with

the Master Plan. The noncontiguous concept was specifically recommended in the Master Plan and in the open space element. It is also an important part in the 2013 Smart Growth Plan. It creates an overlay on underlying zoning and provides for a noncontiguous cluster arrangement where certain properties, "Schedule A", would be preserved. Those properties are primarily in environmentally sensitive areas and areas that are non-sewered, vacant and forested and provides for those to serve as tree save areas for development activity for "Schedule B" properties which are properties within the Township's centers, cores and nodes as well as other areas which have already been identified for development pursuant to the Master Plan. The mapping of the noncontiguous cluster areas including "Schedule A" and "Schedule B" is consistent with the mapping that is provided in the Master Plan.

Mr. Rennert asked if this ordinance would allow any higher density based on Township ordinances.

Mr. Slachetka said no, it is actually very specific about that. It does not allow density bonuses or higher density than otherwise would be permitted in the underlying zoning. It would be simply for the purposes of using the "Schedule A" properties for tree save under CAFRA approvals.

Mr. Rennert asked about impervious coverage allowed.

Mr. Slachetka said it would not affect the imperious coverage that would be permitted in the underlying areas.

A motion was made and seconded to recommend the ordinance be adopted by the Township Committee.

Affirmative: Mr. Grunberger, Mr. Franklin, Mr. Hibberson, Mr. Flancbaum, Mr. Herzl, Mr. Rennert

No: Mr. Follman, Mr. Garfield

- **SD 1410V 319 Chestnut LLC** – deeming previous vacation of approval as null and void

Ms. Morris said the board had previously approved a vacation of approval but they were not aware that the map had been filed. Since the map was filed, the cul-de-sac was created and there is really no way to vacate that as it is already on the tax map, a bond was posted, etc. This is back before the board to acknowledge that the vacation of that approval was not valid.

Ms. Miriam Weinstein, Esq. said this subdivision was approved in 2003 and it was vacated in September of 2016.

A motion was made and seconded to rescind the vacation of approval.

## **6. OAK STREET CORE RESIDENTIAL DEVELOPMENT SUBDIVISIONS**

- **SD 2306AO Oak Vine Development, LLC**, Block 1034, Lots 7, 8, & 10

A motion was made and seconded to approve the application.

## 7. PUBLIC HEARING

1. **SD 2175 Yecheskel Piotrovski**  
30 Gudz Road Block 11.30, Lot 13  
Minor Subdivision to create four lots

*A review letter prepared by Remington, Vernick & Vena Engineers dated September 11, 2017 was entered as an exhibit.*

Mr. Vogt said variances requested include minimum lot area, lot width and rear yard setback.

Mr. Adam Pfeffer, Esq. is sure the board is wondering why they are coming in for 4 lots in an R-12 when they could have 3 conforming lots. There is a long history with this property as it has been part of litigation with the Township. He handed out a Memorandum of Settlement which was part of litigation in Ocean County Superior Court. In no way is he saying the Township Committee can order the Planning Board to approve a subdivision or grant a subdivision themselves but what they did do is resolve the matter on the idea that in the event an application came before the board and was settled and was approved for 4 lots then there would be a lot of other items his client would be agreeing to on behalf of the Township and surrounding properties justifying why 4 lots should be approved. Currently there is an issue with drainage and at one point the neighboring property installed a drainage pipe on his client's property and subsequently his client agreed to give an easement to the Township. Additionally, the sidewalks in this area have not been completed. In fact, the way it was designed, they actually encroach on his client's property and his pool has to be relocated which his client is willing to do. When the subdivision was originally approved, the septic system was on two different properties, his client's property and the neighbor's property. This would also be resolved. Other lots in the area are 10,200 sf so they are not coming in with grossly undersized lots.

Mr. Brian Flannery, P.E., P.P. was sworn. The smallest lot size proposed is 8,667 sf and the largest 9,349.57 sf.

Mr. Pfeffer said justification for that variance is they have to give a lot of easements and clean up these projects. Mr. Herzl asked if variances would still be needed if they didn't have to give any easements.

Mr. Pfeffer said they could have 3 conforming lots. They now have a lot that is not valuable and they are justifying those variances as they have to give easements to the Township.

Mr. Flannery said exhibit A-1 shows the subject property and A-2 is a tax map of the area showing undersized lots in the area, most of which are around 10,000 sf. There are lots which have more area than that but it is unusable as there is a wetlands buffer. There are a total of 39 lots in the area, 18 of them are 10,000 to 12,000 sf and a few others makes it a total of 20 which is more than 50% of the lots. This is a property that was severely impacted by the development which occurred around it. One of the comments in the report is with respect to needing a dedication at the corner of Oasis Court and Gudz Road so that the road is not infringing on the property and additionally the sidewalk. That road is already built and infringes on the property and the pool is within the right-of-way. So it is a property that was before this board previously, the applicant came in for a shul which was approved. The operator of the shul was not a good neighbor so he evicted him. He tried to get some value out of the property by having a shul but the lawsuit ensued and this is a potential resolution of that lawsuit. The lot widths are consistent with other lots in the area, what is missing is the backyard and it's only 4 people that are going to know the backyards are smaller. The people driving down Oasis Court and Gudz Road are going to see lots consistent with the area. It is his testimony that this is a project where the benefits outweigh the detriments and that it resolves several problems indicated earlier. This provides additional housing opportunities which is consistent with the Master Plan. This application provides housing which will fit into the neighborhood as opposed to what exists there

today or changing it to a shul which didn't work out very well. These are C-2 variances and the board can grant those variance if they can show a finding on four things. First, if it relates to a specific piece of property. He doesn't think anyone is going to argue that this is a very specific piece of property which was carved up and was impacted by the development around it, the purposes of the MLUL would be advanced, the variances can be granted without substantial detriment to the public good and they would be providing for light, air and open space. The backyards would be smaller but there are certainly other properties in Lakewood with similar backyards. The variances will not impair the intent and purpose of the zoning plan and zoning ordinance. This is a small piece of property in a development which would solve other exiting problems. Finally, they have to show the benefits outweigh the detriments and it is his testimony that the benefits are additional housing opportunities, resolving past problems, and the detriments are minimal.

Ms. Miriam Weinstein, Esq. is here on behalf of objecting neighbors. These are long time clients and friends and this is such a blatant case with no merit. Someone put a drainage basin in the wrong place, so that entitles an owner to variances that take a property down virtually two zones. If her neighbor comes in and puts a drainage basin in the wrong place, she can come in and ask for 4 lots in an R-12 zone. The neighbors here purchased lots in an R-12 neighborhood and paid premium prices for those lots. The applicant's parcel is a total of 35,646 sf. If it is divided by 3, the lots are still under 12,000 sf and yet the applicant is seeking 4 lots. Mr. Pfeffer claims the property has no value. She questioned how 3 lots in the R-12 zone constitutes as no value. This neighborhood was left untouched in the new Master Plan and there is absolutely no justifiable reason to grant the requested relief and this would set terrible precedent from a planning perspective to grant variances allowing for lots that are between 8,667 sf to 9,349 sf in the R-12 zone. Testimony was provided stating the lots are similarly sized but the smallest lot they could point out was 10,200 sf which is greater in size than the requirements of the R-10 zone. If the board granted this approval, despite whatever extenuating circumstances and what Mr. Piotrovski is alleging, Pandora's Box will be opened for all owners of the properties in the R-12 zone to seek similar approvals. She is only representing two people in the neighborhood but there are a lot of other objecting neighbors in the audience. The benefits do not outweigh the detriments. There can be no justifiable reason to grant approval to this plan that does not even qualify as de minimis relief from the requirements of the R-10 zone which is one zone below the zone in question. She respectfully asked the board to deny this application.

Mr. Pfeffer argued that if there is an issue with that drainage system, there would be no easement in order to fix the drainage for all of the surrounding properties.

Mr. Weinstein questioned why they can't give the easement and only have 3 lots.

Mr. Flannery said there is no reason it can't remain 1 lot other than there were problems with the property created by the neighbors. The impact of what the neighbors are going to see on these 4 lots from Oasis Court, Gudz Road and Jule Court are going to be lots that look similar to the other lots. The neighbors are only going to know the backyards will be smaller is because they are here. There are lots which are 10,000 sf in an R-12 zone but it is still a beautiful area.

Ms. Weinstein said the neighbors are not going to object if he comes in for 3 lots, then they would have 10,200 sf lots, he could give the easements and still have a beautiful neighborhood. The objection is having 8,600 sf lots in an R-12 zone.

Mr. Jackson asked what the nature of the lawsuit was between the Township and his client.

Mr. Pfeffer said his client is suing the Township and developer of the contiguous property.

Mr. Flancbaum said the developer installed a drainage basin on the applicant's property and the Township didn't catch it.

Mr. Jackson said the settlement agreement is that the case goes back to court if the 4 lot subdivision is not granted. He is unsure what happens after that.

Mr. Herzl opened to the public.

Mr. Nathan Schlesinger was sworn. He said there has been a lot of inaccurate testimony by both attorneys. The drainage system was never actually installed on the applicant's property. The question is how wide the easement is supposed to be on that property but it is actually on Jules Estates property. This applicant didn't pay one dollar to bring in sewer, water, roads which the developers went out of their way to provide, selling to people who wanted a certain quality of life. There was a problem bringing in sewer as the drainage was in the way and the applicant tried to block that. It was inaccurate that this property was carved up, this is the way the property was. In fact, the only thing he may have done is block the improvement of this area. There is a certain quality of life that people chose and paid a premium for. As developers of these properties, they owe that to these people and not to destroy the area. There was never a legal synagogue at this location and it was an eyesore for many years. He said some of the lots are 10,200 sf because there was a 50% reduction after a certain number of lots per ordinance.

Mr. Mayer Salzer, 17 Oasis Court, was sworn. He bought the lot and waited years for many of the improvements to be installed. They made sure the house fit the building envelope so they did not have to ask for variances. Two of these lots would be on Oasis Court which was built by the developers and all of the lots are 12,000 sf without any variances. He questioned why Oasis Court should be ruined because of some kind of issue he has with the Township.

Mr. Joe Neiman, 13 Oasis Court, was sworn and is in agreement with his neighbors. Oasis Court is on a hill so it's not like he is only going to see only the front of those houses. He made sure his house was conforming when it was being built and he believes everyone should play by the same rules.

Mr. Aaron Hirsch was sworn. He said it is a beautiful neighborhood and this would not conform to the Master Plan.

Mr. Yechezkel Piotrovski was sworn. It is not the catch basin that was put on his property, it was the drainage for the entire subdivision. There was no plan to put a pipe down through Gudz Road. They installed the pipe, excavated his backyard, took his fence and basketball court down in order to install the pipe. The reason they installed the pipe in his backyard was to help one of the objectors on Oasis Court and the only way to do that was to excavate his backyard. That pipe needs an easement and the neighboring house which the developer owns, is 11 ft off the property line. The only way to service that pipe is to actually dig his property up. So if the drainage pipe ever fails, they would have to come onto his property and with this subdivision he is willing to give access in order to get to the drainage pipe. The grading on that whole subdivision was approved but the whole development was a few feet off which caused damaged to his property and that was all testified in court. He agree to take his garage down and relocate his pool in order to match the existing grade as the whole development was a little too high. A conservation easement was shown on the plans but it was never dedicated to the Township. The previous subdivision also did not show his well and septic and the people who bought into these properties did not know this property had all of these issues. The neighboring developer wants to resolve these issues and actually supports this application. He agrees to regrade his property, give easements to the Township, leave the drainage pipe in his backyard which serves Oasis Court and relocate his pool. The sidewalks were also not finished because they run through his pool area so those would be completed as well.

Mr. Pfeffer didn't mean to say this property has no value but based on all of the things his client has to do to remedy the situation, it gives him justification to ask for that fourth lot. Per testimony from the applicant's engineer, there is not going to be much of a difference looking from street level as the lot area is going to be missing in the back.

Mr. Schlesinger said the developer of Jules Estates is not in support of this application as he had a conversation with him last night. The applicant has an issue going on with the neighbor as to whether there is enough easement area to put a drainage pipe. He is talking about his setback where he can't even build anyway. The pipe was not installed in the wrong place. The fact that it serves for the neighbor's advantage is also false as they can enter straight from Oasis to the basin.

Mr. Herzl closed to the public.

Ms. Weinstein said it seems the applicant has an issue with the developer of Jules Estates but that does not give this board the right to grant this land owner a windfall. This applicant is basically saying the developer of Jules Estates wronged him so he sues the Township and then he uses that as leverage to get a fourth lot he is not entitled to. The applicant already got site improvements for free, Jule Court and Oasis Court paved. She asked that the board deny this application.

Mr. Pfeffer said the neighboring developer is part of the settlement agreement.

Mr. Follman has an issue with the variances, regardless of how it looks from the street.

A motion was made and seconded to deny the application.  
All were in favor.

**2. SP 2248 Aharon Mansour**

512 Chestnut Street Block 1087, Lot 20

Preliminary and Final Major Site Plan for a restaurant and office building

*A review letter prepared by Remington, Vernick & Vena Engineers dated November 9, 2017 was entered as an exhibit.*

Mr. Vogt said a submission waiver is requested from providing an environmental impact statement. The waiver can be supported since NJDEP mapping indicates no environmentally sensitive areas are nearby.

The board granted the waiver as recommended by the Board Engineer and Planner.

Mr. Vogt said variances requested include minimum lot area, width, front yard, side yard and combined side yard setback. In addition, off-street parking relief is required. Design waivers include buffer relief for non-residential development as a minimum of 25 ft is required as well as providing sidewalk along the project's Route 70 frontage.

Mr. Brian Flannery, P.E., P.P. was sworn. Many of the variances are because this is an existing lot, exhibit A-1 shows the property and A-2 shows what is being proposed. This is between route 70 and Chestnut Street close to New Hampshire Avenue. To the east, there is a gas station and to the west an office building.

Mr. Herzl asked where the entrance would be.

Mr. Flannery said the plan as shown shows an entrance on both Route 70 and Chestnut Street which actually provides the availability for traffic to get out to Route 70 without the need to use Chestnut. This is an area which the Master Plan proposes to be changed to B-5A which allows for mixed uses. This applicant proposes a business use that fits in and is compatible with the uses between it. This application is in accordance with the B-5 and was submitted before the new Master Plan was adopted.

Mr. Herzl asked if any variances would be associated if it were a B-5A.

Mr. Flannery said it is similar to the B-5 only it allows additional things that allow a mixed use development. The proposed use is a three-story building with a basement. There would be a hall in the basement which would be used during the evening as well as a restaurant on the first floor and two stories with medical offices.

Mr. Herzl asked if there will be a synagogue.

Mr. Flannery said no, it is just a hall which is associated with the restaurant. Both the minimum lot area and width variances are existing conditions. A minimum front yard setback of 89.48 ft is proposed whereas 100 ft is required. If you look at the plan, it situates the building nicely and he doesn't think anyone is going to find that to be detrimental. A minimum side yard setback of 18.08 ft is proposed whereas 50 ft is required. That would be on the gas station side which he thinks is not a significant request. A minimum combined side yard setback of 89.58 ft is proposed whereas 100 ft is required. Per ordinance, medical use needs 64 spaces, the restaurant needs 22 spaces and the hall needs 12 spaces and all of those figures are based on gross rather than net which is the way the ordinance defines it.

Mr. Herzl questioned the size of the hall.

Mr. Flannery said they need 1 space per 400 sf. There will be some shared parking and additionally on the medical, it is 1 space per 150 sf which about 10 to 12% of that is the stairway and elevator space. Based on that, they think there are 7 to 10 less spaces needed and they are short 17 and they are expecting the bulk of that would be made up in the shared parking. The only person who would be impacted by the lack of parking is the property owner as nobody can park on Route 70 or Chestnut Street.

Mr. Grunberger asked if a parking variance is being requested.

Mr. Flannery confirmed, 81 spaces are being proposed whereas 98 are required.

Mr. Herzl asked if they could get more parking if they shifted the building closer to Chestnut Street.

Mr. Flannery said it looks like they have more room because of the right-of-way. In order to get more parking, they would need an access aisle.

Mr. Flancbaum said this board has not granted parking variances in a very long time. There will be a party and all of those people will be parking on Chestnut Street. It is not going to work.

Mr. Flannery said they would eliminate the hall.

Mr. Herzl questioned what they would put in the basement.

Mr. Follman asked if they can build it on a slab.

Ms. Weinstein said the applicant would agree to that.

Mr. Herzl said they are still short on parking.

Mr. Flannery said they would still be short 5 spaces.

Mr. Herzl said they are asking for a lot of variances.

Mr. Flannery said they could shrink the building and/or change some of the medical to office only so they don't need a parking variance.

Mr. Follman questioned the other variances.

Ms. Weinstein said most of those variances were already granted as part of the previous application.

Mr. Herzl questioned the flow of traffic.

Mr. Flannery said it is a two-way in and two-way out. Obviously on Route 70 it will be one way in and out. He suspects the County will require right in/right out only on Chestnut.

Mr. Herzl said they are both very busy streets.

Mr. Flannery understands but they have a piece of property which can be developed for commercial.

Mr. Flancbaum asked if the properties next door also have access to Chestnut and Route 70.

Mr. Flannery confirmed. This is a property that has an existing undersized lot width and in order for this layout to make sense, they require that variance.

Mr. Herzl questioned garbage pickup.

Mr. Franklin said it is too tight.

Mr. Flannery said it would be private pickup.

Mr. Herzl asked if they agree with the rest of the engineer's report.

Mr. Flannery confirmed.

Mr. Herzl opened to the public.

Mr. Aaron Hirsch, 146 Mountain View Drive, was sworn. He reminded the board what Oak Street and Avenue of the Americas looks like when parking variances are granted.

Mr. Flancbaum said this board is not granting any parking variances.

Mr. Hirsch said the corner is messed up, New Hampshire and Chestnut is one of the highest accident prone areas in Lakewood. Per the County, it is going to be at least two years until the put a traffic signal there. He guarantees more people will be using the Chestnut Street access which will be a mess.

Mr. Herzl closed to the public.

A motion was made by Mr. Garfield, seconded by Mr. Hibberson to deny the application. All were in favor.

**3. SP 2233 Zichron Chaim Inc.**

712 New Hampshire Ave & 1474 Oak St Block 1159.03, Lots 13 & 17  
Minor Subdivision and Preliminary and Final Major Site Plan for a school

This application was carried to the December 11, 2017 meeting.

**4. SP 2256 Congregation Khal Bais Avrohom**

2 Poplar Street Block 1.05, Lot 12  
Preliminary and Final Major Site Plan for a synagogue

*A review letter prepared by Remington, Vernick & Vena Engineers dated November 13, 2017 was entered as an exhibit.*

Mr. Vogt said submission waivers include a traffic study, an environmental impact statement and design calculations showing proposed drainage facilities. The waiver from providing a traffic study can be supported as County approval is required. The waiver from providing an EIS is supported since there are no known environmental constraints. Finally, regarding stormwater management, the waivers is not supported. However, if the board grants approval, they would receive calculations during resolution compliance.

The board granted the waiver as recommended by the Board Engineer and Planner.

Mr. Vogt said due to the nature of the County right-of-way dedication, it could impact a lot to the point where a minimum lot area variance would be required. A setback variance is also required as well as perimeter buffer relief.

Mr. Adam Pfeffer, Esq. said this is an application for a small community synagogue.

Mr. Herzl asked if it is existing.

Mr. Pfeffer said people do pray at this site. This property was purchased by people in the area and would like to make it a formal synagogue to suit the needs of the neighborhood.

Mr. Glenn Lines, P.E., P.P. was sworn. The main sanctuary is 1,766 sf which requires 10 parking spaces where 11 are being provided. There will be no access to West County Line Road, minimum lot area variance (inaudible), curb and sidewalk are being provided along both frontages. With regard to the rear setback variance, these are all side property lines but they would request that variance out of abundance of caution (inaudible).

Mr. Rennert asked if the UDO talks about what is considered a front and side on a corner property.

Mr. Lines said the UDO says on a corner property you have two fronts, a side and a rear. The definition of front and rear do not talk about being opposite the front door. They are not arguing the board engineer's interpretation.

Mr. Herzl asked if the hall in the basement would be rented out.

Mr. Pfeffer said no, it is only used for the members.

Mr. Lines said they can agree to all other items in the engineer's report.

Mr. Herzl opened to the public, seeing no one come forward, he closed to the public.

A motion was made and seconded to approve the application.  
All were in favor.

- 5. SP 2257 Yeshiva Even Yisroel**  
50 Niemann Road Block 251.03, Lot 29  
Preliminary and Final Major Site Plan for a school

This application was carried to the December 11, 2017 meeting.

- 6. SD 2295 Madison Second LLC**  
Madison Avenue Block 72, Lots 7.05-7.08  
Minor Subdivision to create 3 single-family lots

This application was carried to the December 11, 2017 meeting.

- 7. SD 2297 Lakewood Equity LLC & Township of Lakewood**  
15 America Avenue Block 549.01, Lot 2  
Minor Subdivision to create 2 lots and courtesy review of parking lot

This application was carried to the December 11, 2017 meeting.

- 8. SD 2146 Mordechai Eichorn**  
1301 Central Avenue Block 12.04, Lot 48  
Extension of a Minor Subdivision to create 3 lots

Mr. Brian Flannery, P.E., P.P. was sworn. He asked for a one year extension as they are currently working with the County.

A motion was made and seconded to approve a one year extension.  
All were in favor.

- 9. SD 2299 Jonathan Rubin**  
319, 323, 327 Ocean Ave, Ocean Ave Block 246, Lots 40, 41, 42.01, & 67  
Minor Subdivision to create seven lots

This application was carried to the December 11, 2017 meeting.

- 10. SD 2312 Tomchei Shabbos of Lakewood**  
Chambers Bridge Road and Rutgers University Ave Block 1609, Lots 20 & 21  
Minor Subdivision to create two lots

*A review letter prepared by Remington, Vernick & Vena Engineers dated November 14, 2017 was entered as an exhibit.*

Ms. Morris said this is Township owned property which they will be selling to a food bank.

Mr. Abraham Penzer, Esq. said no variances are being requested. This property consists of 134 acres where they are taking 9 acres off for office, warehouse and a food bank. The applicant agrees to all of the comments in the engineer's report.

Mr. Brian Flannery, P.E., P.P. was sworn. The engineer's report states that the building needs to be set back outside of the corner lot so there is more than a 300 ft width. When the applicant comes back, they will comply with that. No variances are associated with this application.

Mr. Herzl opened to the public, seeing no one come forward, he closed to the public.

A motion was made and seconded to approve the application.  
All were in favor.

- 11. SD 2143 Kikar Shabbos, LLC**  
305 & 383 Monmouth Ave Block 160, Lots 1.01 & 1.02  
Extension of Minor Subdivision to create two lots

Mr. Adam Pfeffer, Esq. requested a one year extension.

A motion was made and seconded to approve a one year extension.  
All were in favor.

- 8. PUBLIC PORTION**
- 9. APPROVAL OF MINUTES**
- 10. APPROVAL OF BILLS**
- 11. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted,  
Sarah L. Forsyth  
Planning Board Recording Secretary