

**TOWNSHIP OF WEST ORANGE
PLANNING BOARD
MEETING MINUTES
August 3, 2016**

The Township of West Orange Planning Board held a regular meeting on August 3, 2016 at 7:30 P.M. in the Council Chamber, 66 Main Street, West Orange, New Jersey.

Vice Chairman Bagoff called the meeting to order at approximately 7:30 P.M. He announced that notification of the meeting was given to the Township Clerk, and posted on the Township Bulletin Board, sent to the West Orange Chronicle and the Star Ledger, and posted on the Township's website calendar. This meeting has been properly noticed to the public in accordance with the Open Public Meetings Act. No new matters will start after 10:30 P.M.

PRESENT: Vice Chairman Robert Bagoff, Jerome Eben, Gerald Gurland, Lee Klein, Councilwoman Susan McCartney Gary B. Wegner, William Wilkes II

ABSENT: Joanne Carlucci, Tekeste Ghebremicael, Jason Lester, Chairman Ron Weston

ALSO PRESENT: Patrick J. Dwyer, Esq., Board Attorney, Paul Grygiel, AICP, PP, Township Planner, Robin Miller, Board Secretary, Jeffrey L. Janota, AICP, PP, H2M Associates, Inc., Harvey Grossman, Esq., Public Advocate

PLEDGE OF ALLEGIANCE

Vice Chairman Bagoff requested all persons stand for the Pledge of Allegiance.

ROLL CALL

Vice Chairman Robert Bagoff, Joanne Carlucci, Jerome Eben, Tekeste Ghebremicael, Gerald Gurland, Lee Klein, Jason Lester, Council President Susan McCartney, Gary Wegner, Chairman Ron Weston, William Wilkes II

ANNOUNCEMENTS

The next Planning Board regular meeting will be September 7, 2016 in the Council Chamber at 7:30 P.M.

SWEARING IN

Paul Grygiel, AICP, PP, Township Planner
Jeffrey L. Janota, AICP, PP, H2M Associates, Inc.

RESOLUTIONS

PB-16-10/Falcon Associates for South Mountain Realty Associates, LLC

Block: 168; Lot: 27.02; Zone: B-2

563 Northfield Avenue

Amended Site Plan with "C" variances.

DISCUSSION

Mr. Dwyer advised there was one minor revision regarding designated parking spaces.

The Board voted on the Resolution as follows:

Motion: Vice Chairman Bagoff

Second: Mr. Wegner

Bagoff: Yes	Carlucci: Absent	Eben: Yes	Ghebremicael: Absent
Gurland: -	Klein: Yes	Lester: -	McCartney: -
Wegner: Yes	Wilkes: Yes	Weston: Absent	

PB-16-11C/County of Essex/Turtle Back Zoo/Condor Exhibit

Block: 163; Lot: 1; Zone: R-1

560 Northfield Avenue

Courtesy Review Application for new Condor Exhibit.

DISCUSSION

None.

The Board voted on the Resolution as follows:

Motion: Vice Chairman Bagoff

Second: Mr. Wilkes

Bagoff: Yes	Carlucci: -	Eben: Yes	Ghebremicael: Absent
Gurland: -	Klein: Yes	Lester: -	McCartney: -
Wegner: Yes	Wilkes: Yes	Weston: Absent	

APPLICATION(S)

PB-16-13C/County of Essex/Turtle Back Zoo/Lion & Hyena Exhibit

Block: 163; Lot: 1; Zone: R-1

560 Northfield Avenue

Courtesy Review Application.

EXHIBIT(S)

- A-1:** Preliminary Conceptual Plan, prepared by French & Parrello Associates, dated 6/9/2016;
- A-2:** Schematic Floor Plans (Sheet SK-1), prepared by Comito Associates PC Architecture, dated 6/28/2016;
- A-3:** Schematic Exterior Elevations (Sheet SK-2), prepared by Comito Associates PC Architecture, dated 6/28/2016;
- A-4:** Color Rendering of Schematic Exterior Elevations (Sheet SK-2), prepared by Comito Associates PC Architecture, dated 6/28/2016.

DISCUSSION

Mark L. Fleder, Esq., Connell Foley LLP, legal counsel to Essex County , introduced the Application for a new Lion and Hyena exhibit to be located to the east of the Giraffe exhibit; he said the lions and hyenas would occupy a new building structure with a separation wall and a new outdoor area.

Michael J. Piga, LLA, French & Parrello Associates PA, was sworn in, stated his credentials, and was accepted by the Board to be an expert in landscape architecture. Referring to the aerial view submitted as part of the application, Mr. Piga identified the location of existing exhibits and the area of the proposed new exhibit. The exhibit would be located to the far south area of the zoo, just east of the Giraffe exhibit. Referring to Exhibit A-1, he said the animal holding facility would be approximately 2,500 sq. ft. The height of the front of the building would be approximately 18 feet (12 ft. with 6 ft. parapet); the average height of the entire building was approximately 12 ft. The building would look like the Dutch Colonial architecture seen in Africa's urban landscape. Referring to Exhibit A-3, Mr. Piga said the building material would be CMU (concrete masonry unit) and cultured stone. Referring to Exhibit A-4, Mr. Piga described the building access points and functions. He said there would be a new maintenance road located to the north side of exhibit to access the rear of the facility. Within the exhibit, there would be a gunite pool, two rustic viewing stations, stamped concrete walkways, exhibit lighting and landscaping. The two separate exhibit yards would be enclosed by an 18' high hot-wired fencing and black oxidized chain-link fence system each yard would be approximately 10,000 sq. ft.

In response to questions from the Board, Mr. Piga said the total area of exhibit would be approximating two acres; the fenced-in area would be approximately one-half acre. The mechanical equipment would be located to the rear of the facility; none would be located on the roof. Mr. Piga identified himself as the landscape architect/engineer who had partially designed the plans; the building architect from Comito Associates PC was not present due to a medical emergency. Mr. Piga confirmed the project was an entirely new exhibit; there was not an existing exhibit for African lions.

In response to inquiry from Mr. Grygiel regarding drainage for slopes; Mr. Piga confirmed the project engineers had provided a drainage report to HEPSCD; he said the water going down the hill would be collected in a swale behind the building and redirected to piping leading to retention basin.

There were no questions from the Public Advocate.

Robert Rashkes, 35 Oakcrest Road, asked if trees would be removed for the exhibit and how many, and if the project would be submitted to the HEPSCD. Mr. Piga said approximately one-hundred trees would be removed; he confirmed the project would be submitted to HEPSCD.

There were no further questions for Mr. Piga.

Mr. Fleder introduced Brint Spencer, Director, Turtle Back Zoo. Mr. Spencer advised the Board of his credentials and was accepted by the Board to be an expert witness, Director of Turtle Back Zoo. He confirmed he was familiar with the proposed exhibit.

In response to questions from the Mr. Gurland, Mr. Spencer said he had not visited Africa.

Mr. Eben stated he was concerned with the physical area outside of the zoo; he acknowledged the new directional/informational signage. He asked if there could be improvements to the existing signage that was used to direct visitors to the overflow parking areas. He asked if Mr. Spencer had been involved with the recent improvements at the intersection of Northfield Avenue/Pleasant Valley Way/Cherry Lane. He stated there were no pedestrian connections to the western part of the SMRC along Northfield Avenue; he opined the County should be “lobbied” for a western pedestrian connection.

Messrs. Spencer and Fleder said they would advise the County of Mr. Eben’s concerns. Mr. Fleder said the timing of the traffic light at the intersection had been adjusted; it should help alleviate some of the traffic issues. Other improvements to the intersection were almost complete. Mr. Fleder said he would advise the County of the Board’s opinion that pedestrian connectivity to the western part of the property and the overflow parking areas would be a great improvement. Mr. Eben requested that Mr. Dwyer be copied on any correspondence; Vice Chairman Bagoff asked that Chairman Weston also be included. Chairman Bagoff reminded the Board that questions should be limited to the application presented; however, he did suggest the Board to include in its approval the recommendation to create pedestrian access from the property further to the west.

Councilwoman McCartney stated the Township and the County had both adopted a “Complete Streets” policy; she reiterated the Board’s opinion that sidewalks were important.

The Public Advocate had no questions for Mr. Spencer.

Robert Raskhes, 35 Oakcrest Road, asked if entertaining for “Brew at the Zoo” take place at the new exhibit; would “Pokémon-Go” characters be located in the exhibit. Mr. Spencer answered in the negative for both; he did offer that the zoo would be holding a “Pokémon-Go” event, but all activity would be in public spaces.

The applicant had no further testimony; the Board deliberated on the Application.

Mr. Klein opined the temporary parking signage was necessary at times; Mr. Fleder agreed it was necessary; he offered he drove by the area regularly and thought the signage aesthetic could be improved.

Vice Chairman Bagoff stated he had recently visited the site; he stated the County had done much to enhance the area.

Public Comment:

Robert Rashkes, 35 Oakcrest Road.

In response to inquiry from Vice Chairman Bagoff, Mr. Fleder stated the exhibit would not create more amplified sounds to the surrounding area.

Conditions:

1. The County replace the current temporary directional signage for additional parking;

2. The County create pedestrian connectivity from the Zoo property to the west and the overflow parking areas;
3. The Board to be copied on correspondence between the Applicant's attorney and the County.

The Board voted on the Application as follows:

Motion: Vice Chairman Bagoff

Second: Mr. Wilkes

Bagoff:	Yes	Carlucci:	Absent	Eben:	Yes	Ghebremicael:	Absent
Gurland:	Yes	Klein:	Yes	Lester:	Absent	McCartney:	Yes
Wegner:	Yes	Wilkes:	Absent	Weston:	Absent		

PRESENTATION

Area in Need of Redevelopment & Area in Need of Rehabilitation

Preliminary Investigation Report – Eagle Rock Commercial Area

H2M Associates, Inc.

Carried from the July 6, 2016 Planning Board regular meeting.

DISCUSSION

Vice Chairman Bagoff announced the presentation for the Eagle Rock Commercial Area in Need of Redevelopment & Area in Need of Rehabilitation had been carried from the July 6, 2016 Planning Board regular meeting. He asked Mr. Janota to identify himself to the Public; he said Mr. Janota had completed his PowerPoint presentation at the June 1, 2016 regular meeting; the presentation was available for review on the Township's website.

Mr. Janota said he had brought a hard copy of the presentation; he said he finished the PowerPoint presentation in June, the hearing concluded at the point of Public questions and comments. Vice Chairman Bagoff said the hearing would start with questions from the Board.

Mr. Klein asked if a piece of property became in need of redevelopment because it had not been maintained, or its use became obsolete; why would a property owner not want redevelopment. What would stop a property owner from selling their property for a change in use development without having the area designated. What would be the benefit to the Township; what if the project generated children. Mr. Janota answered that without the designation, the property owner would be required to present an application with variances to either Planning Board or Zoning Board of Adjustment. The main advantage to designation was typically financial - payment in lieu of taxes (PILOT); and the associated incentives; with a designated area, the tax breakdown would be 95% to the municipality; 5% to the County, 0% to BOE. The advantage for the municipality would be increased funding – 95% from existing 60%. Typically, a municipality would use the increased revenue for infrastructure improvements. The potential impact of children would have to be discussed in the next step of the process; the redevelopment plan and agreement with developer; the developer would have to provide proof that there would be no negative impact to the community; an EIS (Environmental Impact Study) or fiscal impact study would be required.

Councilwoman McCartney stated that at the conclusion of the previous hearing in June, she was still unclear of the designation process; at the last hearing she had asked several times if the area would be re-zoned and Mr. Janota had answered no. However, she stated that any designation would have to discuss re-zoning; the area could become an overlay zone; there would have to be a decision regarding the criteria for an overlay zone. Mr. Janota answered that when there is a designation; that area could become an overlay zone or a completely new zone. If the area was entirely re-zoned, the property owner would be required to submit a new development application that either adhered to the new zoning criteria or request variance relief. If an overlay zone were adopted, the underlying pre-existing zone would remain; the property owner would retain their right to develop based on the underlying zone criteria. An overlay zone would essentially create two zones for the area. If the area were determined to be a redevelopment area, the next step in the process would include stakeholders (Council, Planning Board, property owners, developers and Public), have hearings to determine a redevelopment plan.

Mr. Wilkes asked if Mr. Janota would be making any zoning recommendations for either an overlay or entirely new zone; Mr. Janota said he would not be making recommendations; it was for the municipality to determine.

For the benefit of the Public, Vice Chairman Bagoff gave a brief recapitulation of the redevelopment study, which included eighteen non-contiguous properties in the same area of the Township. Of the original eighteen properties, the study had determined that seven properties met one or more of the statutory criterion for redevelopment. Subsequent to study, one of the properties had been approved for new development by the Zoning Board and was currently under construction. He gave a brief description of each criterion (a, b, c, d, e). He stated the presentation included buildings that were currently in use; all but one were in heavy use. He opined that the current condition some sites may or may not result in increased police activity; he noted some sites did have poor drive isles; however, none of the sites was a tax burden to the Township. He stated he had been previously heard the study for Downtown redevelopment, which did indeed have many issues and met the criteria. He stated he would need more information before making a determination; the Board should be able to send a detailed recommendation to the Council.

Mr. Klein asked for clarification regarding the non-contiguous properties; could a group of area property owners submit their own redevelopment plan. Mr. Janota said the properties would still be required to meet the redevelopment criteria.

Councilwoman McCartney stated that since the last hearing she had spoken with Verizon engineers who had indicated that although there was a significant decrease in on-site personnel, there had been significant upgrades in equipment, the property was highly utilized. Mr. Janota said the Verizon property met Section 3 criteria; it was included because of its location. He said that when writing the report, he had reviewed the Township's Master plan and thought to capitalize on the park (Crystal Lake property). Should the business close or move, the municipality could acquire the parcel. Councilwoman McCartney asked if the Board could update the 2010 Master Plan to include an overlay zone for the area instead of going through the process of adopting a redevelopment plan. Mr. Grygiel answered in the affirmative, the Board could update the Master Plan at any time; however, the current hearing was for the Board to evaluate if the area was in need of redevelopment; did the seven properties meet the criteria. The Council had charged the Board with determining if the area was in need of redevelopment; if there was to be a redevelopment plan, it

would be the next step in the process, after the Board made a determination. Mr. Janota stated a redevelopment plan would be more comprehensive than changing the Master Plan.

Mr. Eben stated he did not think designating the properties an area in need of redevelopment would correct the problems discussed in the report; the Township should address the zoning and property maintenance issues rather than deem the properties an area in need of redevelopment. He said there were many dilapidated properties throughout the Township that were not under consideration. He said the gas station at the corner was a viable business; he was concerned the property owner would be forced to redevelop his site. Mr. Janota said a property owner would not be forced to redevelopment if an overlay zone was adopted. Mr. Eben said the report indicated several of the properties were in arrears; the Township should be addressing the matter. He said that if the area was not designated, the Township should enforce the current ordinances as they related to the properties. He said he was not in favor of designating the area in need of redevelopment; he would like to see the Township use the report findings to make the property owners take care of their properties. Mr. Janota opined that having the area designated would provide the property owners incentive to address the issues in a timely manner.

Councilwoman McCartney opined that the Township should be addressing violations; any new applications before the Board could address existing issues such as parking; she did not see the area in need of redevelopment; she would like to see a vision for the area before making a determination. Mr. Janota said a designation would be a pro-active approach to addressing the existing deficiencies of some of the sites.

Mr. Wegner opined a better action might be for the Township to address the existing violations rather than adopt a redevelopment plan for the area.

Mr. Klein asked if the Township had a Tree Fund to address the properties he described as “a sea of asphalt”; Mr. Grygiel said he was unsure if there was a fund; he said he would investigate the matter. Mr. Janota said that there were other infrastructure improvements to be considered such as curbing; sanitary water conditions; and water mains.

The Public Advocate had no questions or comments.

Vice Chairman Bagoff asked if any members of the Public had questions for Mr. Janota.

Kevin Malanga, Ridge Road, asked Mr. Janota to confirm that he had previously testified visiting each property between five and ten times; Mr. Janota answered in the affirmative. Mr. Malanga asked how many times had he had visited Mayfair Farms; had he ever observed the roof leaking or the basement flooding. Mr. Janota said he made one interior inspection and two exterior; he never observed the roof leaking or basement flooding, however, he did observe high water mark of approximately 5 inches. Mr. Malanga asked if Mr. Horn, owner of Mayfair Farms, appeared to be in favor of the redevelopment; Mr. Janota answered in the affirmative. Mr. Malanga asked if Mayfair Farms was designated, would the value of the property be enhanced; Mr. Janota said it would depend on the use; he said the financial incentives (PILOT) would enhance the value of the property. Mr. Malanga asked who determined which properties include in the study, did Mr. Janota or someone else decide; Mr. Janota said it was a combination, there had been an initial drive through the area, then Mr. Janota made an initial recommendation. Mr. Malanga asked if Mayfair Farms had been included in his initial recommendation; Mr. Janota said no; he explained that

initially he was not aware the property was part of the commercial district. He stated that from the exterior, the Mayfair Farms property looked like a viable business. Mr. Malanga asked if the inclusion of the Mayfair Farms property had been encouraged by a member of the Township administration; Mr. Janota said yes, the property was in the B-2 commercial district; he visited the site and subsequently included the property in the study. Mr. Malanga asked who in the administration had requested the property be included in the study. Vice Chairman Bagoff stated that before Mr. Janota answer, he would like Mr. Dwyer to determine if the question was germane to the discussion. Mr. Dwyer advised that the Board should keep in mind that Mr. Grygiel had testified the scope of the report was to determine if the properties included in the study met the criteria for an area in need of redevelopment or rehabilitation. He opined the question of exactly how the properties had been included was not relevant; the Board was to consider the facts of the study. Chairman Bagoff stated the rules and regulations governing the Planning Board charged the Board to look at municipal land use law; a licensed planner had prepared the report; how the properties were initially determined for inclusion was not germane to the hearing. Mr. Malanga replied the question was relevant because the study had been presented to the Board with certain assertions that those properties were in need of redevelopment. He opined that how they became part of the report, and how they would be designated was germane. He said that how the property became part of the study questioned the integrity of the report. Mr. Janota voiced his offense. Vice Chairman Bagoff reiterated that the Board would make its recommendation to Council based on the facts of the report and the statutory criteria for designation; he advised Mr. Janota to answer if he so wished. Mr. Janota opined the question was not germane; he said there were properties in the area that he had not included, he based the report on his professional opinion; and the Board had the opportunity to question his findings. Vice Chairman Bagoff directed Mr. Malanga to move on from the line of questioning; the Board would determine if the properties met the criteria regardless of how they became part of the study.

Mr. Eben stated he did not understand why a redevelopment study had been the prepared for the Eagle Rock commercial area. He said the report erroneously stated the Planning Board had conducted a preliminary investigation and prepared the preliminary report; in fact, the Board had never discussed the study, they had no knowledge of the study until they had received the completed report. Vice Chairman Bagoff replied the Council had initiated the report; and that Mr. Janota had previously testified to the fact at the previous hearing; he requested the final report reflect the correction.

Mr. Malanga asked Mr. Janota confirm that in his report, he had described the Mayfair Farms property as unhealthful. Mr. Janota said he had identified the flooding basement as an unhealthful condition. He did not know if a flooded basement was a current condition, he did not know if the condition had been reported to the Health Department. Mr. Malanga had no further questions.

Public Comment:

Kevin Malanga, Ridge Road, stated the taxpayer should not be paying for improvements to the area; he did not believe the properties were areas in need of redevelopment. He opined the reason for the study was to benefit a developer, not to enhance the quality of life for the community.

Joanne Szibdat, 481 Eagle Rock Avenue, stated she was General Manager, Mayfair Farms. She voiced concern that the controversy had a great impact on the facility's ability to do business. She requested the Board consider all facts when making its determination; and that the Township

enforce all relevant codes, policies and sewer maintenance. She opined a designation would result in a significant change to the Township. She asked the Board to consider making the right changes for the right reasons; she asked the Board to consult other entities such as the Health Department before making its decision.

Rosary Morelli, Ralph Road, stated she was not convinced that the properties were an area in need of redevelopment; she opined aesthetics, lack of property maintenance enforcement and code compliance were the issues to address.

Cary Heller, 56 Byron Road, Short Hills, stated he was the owner of the bowling alley property within the study area. He opined the designation of the seven properties would give the Township the opportunity to “connect the dots” and create a new uses such as recreation, transit connectivity, Complete Streets implementation, and senior centers.

The Board deliberated; Councilwoman McCartney asked for clarification regarding the seven properties identified as meeting the criteria for redevelopment, would all the properties need to be designated; Mr. Dwyer said the Board could recommend all, some, or none of the seven properties as meeting the criteria. Councilwoman McCartney said she concerned about changing the existing zoning without an overlay zone; she was concerned it would be to the detriment of the existing property owners. Mr. Wilkes said he did not understand why there was a need for redevelopment in the area; he said he would prefer a vision plan for the area before making a positive determination for redevelopment. Mr. Gurland asked if there were any time constraints on making a determination; Mr. Dwyer advised that MLUL did not specify a time limit; a determination could be tabled to a later date. Mr. Janota cautioned that if the Board tabled a determination, those properties might further deteriorate. Mr. Eben stated he was unsure how the Township had determined the study area; he would like the Township to prepare a “RUDT”, a Regional Urban Design Team, to prepare a clear vision for the future of the area; he opined the Township needed a full-time planner. Vice Chairman Bagoff opined the Board was given a request without a vision; the report had identified eighteen properties for review; by law, the Board could have chosen other properties for the study and request the Council amend its request. He acknowledged the concerns of the Public. He stated the Board had three options; vote yes, vote no, or recommend that the Township find a solution that would benefit the Township and the Public. He did not want the resources used for the preparation of the study wasted; he made a motion the Board recommend the Council table any action on the properties and revisit the study in one year; and have the Township, stakeholders and Public, submit additional relevant information for the Board to make its determination. Mr. Eben suggested that in the interim, the Township direct the Zoning Department work with the property owners to resolve outstanding violation issues. Mr. Gurland asked for clarification regarding the proposed motion; would a redevelopment entity present a plan within the one-year period; Vice Chairman Bagoff said it would be for the Council would make that determination. Mr. Grygiel gave a brief description of the local redevelopment and housing law process; he stated the Council could accept, reject, or not take action on any recommendation made by the Board.

Vice Chairman called for a vote on his motion to recommend including Mr. Eben’s request that during the interim period, the Township work with property owners to address outstanding property issues.

The Board voted on the motion as follows:

Motion: Vice Chairman Bagoff

Second: Mr. Klein

Bagoff: Yes	Carlucci: Absent	Eben: Yes	Ghebremicael: Absent
Gurland: Yes	Klein: Yes	Lester: Absent	McCartney: Yes
Wegner: Yes	Wilkes: -	Weston: Absent	

MEETING ADJOURNED at approximately 9:40 P.M.

Minutes adopted September 7, 2016.



Robin Miller, Secretary
Township of West Orange Planning Board

**THE NEXT REGULAR MEETING OF THE PLANNING BOARD WILL BE
WEDNESDAY OCTOBER 5, 2016 AT 7:30 P.M. IN THE COUNCIL CHAMBER.**