

See Drainage Reference on last page



JOHN F. McKEON
Mayor

SUSAN BORG A.I.A.
Planning Director

TOWNSHIP OF WEST ORANGE

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PLANNING AND DEVELOPMENT

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September 16, 1998

Stephen Geffner, Esq.
Gallo, Geffner, Fenster, PC
411 Hackensack Avenue
Hackensack, NJ 07601

RE: PB-98-11 / Highview at West Orange
Prospect Avenue

Dear Mr. Geffner:

Enclosed please find a copy of the resolution that was adopted at the September 2, 1998 West Orange Planning Board meeting. In addition, please submit eight (8) sets of plans for signature. Signed site plans are required prior to the issuance of Building Permits.

If you have any questions, please let me know.

Yours truly,

Migdalia Wagner
Planning Board Secretary

Enclosure

cc: Mayor John McKeon
Police Chief James Abbott
Fire Director John Ryan
Thomas Biondi, Construction Official
Director Leonard Lepore, Municipal Engineer
Kim Ragoni, Zoning Officer
Kevin Dillon, Tax Assessor

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DUPLICATE

**RESOLUTION of the
PLANNING BOARD**

**TOWNSHIP OF WEST ORANGE, NEW JERSEY for
Approval of a Major Subdivision Submitted by
Highview at West Orange, L.L.C. for Vacant Land
Known as Lots 2, 3, and 4 in Block 107.**

WHEREAS, an application for preliminary and final site plan approval and requested variances and for major subdivision approval has been made to the Planning Board of the Township of West Orange ("Board") by Highview at West Orange, L.L.C. ("Applicant") on lands known and designated as Block 107, Lots 2, 3 & 4 as depicted on the Tax Maps of the Township of West Orange; and

WHEREAS, a public hearing was held before this Board on June 3, 1998 with regard to this Application; and

WHEREAS, the Board heard and considered testimony by the Applicant; and

WHEREAS, the Applicant, appearing by its attorney, Gallo Geffner Fenster, P.C. (Stephen A. Geffner, Esq., appearing), has complied with statutory requirements of publication and service of notice and has submitted proof that there are no taxes due or delinquent with respect to the subject premises; and

WHEREAS, complete application has been filed, the fees required by ordinance have been paid, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised.

NOW, THEREFORE, does the Planning Board of the Township of West Orange make the following findings of facts and conclusions of law with regard to the Application:

1. The Applicant provided adequate notice of the Application and hearing in accordance with the statute.

2. The application for preliminary and final site plan approval and for major subdivision approval as set forth in Application No. PB-98-11 dated March 3, 1998. The application is also depicted on plans entitled "Highview at West Orange, L.L.C., Prospect

Avenue, West Orange, New Jersey" prepared by Langan Engineering and Environmental Services, Inc., dated March 23, 1998. The following documents, submitted with the aforesaid application (collectively "Reports"), were also considered by the Board:

- a. Environmental Impact Statement dated March 23, 1998 prepared by EcolSciences, Inc.; and
- b. Traffic Study dated March 23, 1998, prepared by Langan Engineering and Environmental Services, Inc.
- c. Report of Lake Management contained within the Environmental Impact Statement dated March 23, 1998 prepared by EcolSciences, Inc.
- d. Ordinance adopted amending and supplementing Chapter 25 of the Revised General Ordinances of the Township of West Orange dated October 7, 1997.
- e. Developer's Agreement between the Applicant and the Township of West Orange dated November 25, 1997.
- f. Prior Resolutions of the Planning Board of West Orange depicting the earlier history of the site.
- g. Brochure depicting the history of Crystal Lake prepared by John M. DiMarzo, RE, dated April 22, 1996.
- h. Steep Slope Analysis prepared by William Lothian, P.E., dated March 23, 1998.

- i. Written comments of Susan Borg, Planning Director, in correspondence of April 29, 1998.

3. The Board considered the following exhibits (collectively "Exhibits") which were marked into evidence at the hearings:

A1	Townhouse Courtyard
A2	Court Elevation
A3	Clubhouse elevation
A4	Playhouse Floor Plan
A5	Playhouse Front Elevation
A6	Project I.D. Sign to Guardhouse
A6a	Alternate Project I.D. Sign to Guardhouse
A7	Right Side Court Elevation
A8a&b	Site Plan (03/23/98)
A8c	Site Plan
8d	Previously Approved Site Concept Plan
A9a&b	Close Up Site Plan
A10a&b	Grading Plan
A11a&b	Utility Plan
A12	Traffic Comparison
A13	Easement Plan
A14	Rezone Plan
A15	Original Subdivision Plan
A16	Townhouse Courtyard
A17	Office Building

The Application, Plans, Reports and Exhibits are incorporated as findings of fact of this Board as set forth at length herein.

4. In accordance with the provisions of the Developer's Agreement, Ordinance No. 1462-97 was adopted by the West Orange Township Council creating both an OB-2 and RC zone for the Highview at West Orange, L.L.C. property. Pursuant to the Developer's

Agreement and the Ordinance, the Applicant's property is to be utilized for mixed purposes including 150 townhomes, a 100,000 sq.ft. office building and an amphitheater to be erected on land to be donated to the Township.

5. The Applicant's proposal was explained by Stephen A. Geffner, project attorney; William G. Lothian, licensed professional engineer and traffic engineer; Edward Blake, AIA and professional planner; Michael S. Friedman, registered ecologist; Joseph Gurkovich, P.E; and Marshall Tycher, one of the principals of the Applicant.

As To The Subdivision

6. Mr. Lothian testified and described the plans he prepared in connection with this application.

7. The Applicant intends to subdivide the property into three lots as more particularly set forth in the plans attached and as set forth in Exhibit A15.

8. The Applicant intends to construct one 100,000 sq.ft. office building on Lot 1.03. The Applicant intends to build a gated townhouse development, consisting of a total of 150 units in clusters on Lot 1.01 and 1.04. The Applicant intends to construct a playhouse/amphitheater to be known as The Oscar Schindler Center for the Performing Arts on Lot 1.02 to be donated to the Township.

As To The Site Plan

9. Mr. Lothian described the general concept of the project. He explained that the townhouse project will be a gated community allowing access to both the residents of that community and to the residents of Eagle Ridge way. In addition, there will be a club house and related amenities for use by the residents of the townhouse development.

10. Mr. Lothian testified with regard to the entire mixed use development, its internal roadways, its access routes to each of the subdivided lots and future hotel site. He described the removal of Eagle Ridge Drive, location of the wetlands and the restriction and hardships imposed upon the site by the wetlands, topography and the slopes.

11. Mr. Lothian also testified with respect to traffic impact emanating from the site. He described the location of the entry road and signalization. He testified that the application would have minimal traffic impact during both peak and off-peak hours particularly when compared to the previously approved application.

12. Mr. Lothian described the on-site parking and the potential for a future parking deck for the office building, which he thinks will be unnecessary, and the parking for both the office building and the performing arts center.

13. Mr. Blake, the licensed architect retained by the Applicant, described the architectural features of the office building. He further testified to the exterior appearance for both the front and rear elevations. He described the use of brick, stone and glass creating a beautiful facade which will compliment the adjoining townhouse community. He responded to the concerns of the Planning Director particularly with respect to the rear elevation which is somewhat skewed toward Prospect Avenue and Route 280. He described parking size and location of stalls and the location of the building in the lowest portion of the site and some 20 feet lower than the nearest townhouse. He further described that all roof mechanical equipment will be hidden from view in all directions by architectural screening. He also testified to the material to be used on the exterior of the townhouses as brick and vinyl and in keeping with a classical style of architecture.

14. Mr. Friedman testified both as to the constraints that the wetlands places upon the development and to his study and management proposal concerning Crystal Lake. He indicated that the townhomes had to be placed as set forth upon the site plan as a result of the significant wetlands on the property. He did, however, indicate that there would be substantial benefit to the development as a result of the existing green space and undisturbed foliage. He described in detail the Lake Management Proposal which is set forth in the Environmental Impact Study but which essentially calls for a maintenance program, aeration, annual draw down so as to clean the lake perimeter from foliage and debris. He also commented with respect to the Developer's Agreement to create a \$200,000.00 fund for the perpetual maintenance of Crystal Lake.

As To Landscaping

15. Mr. Gurkovich testified as to the extensive landscaping proposed by the Applicant. He stated that the Applicant proposes to plant numerous shade trees as well as ornamental and flowering trees and evergreens, shrubs and bushes throughout the site.

16. Mr. Gurkovich testified with particularity relative to the area adjacent to the office building parking and the nearest townhouse cluster. He stated the Applicant will plant

2 rows of trees on both sides of the zone line in order to provide a significant buffer to the neighbors. In response to the Directors request, the Applicant agreed to the review of the landscape plan with her and to provide for reasonable modification of the proposed plan throughout the site where necessary. Particular attention was paid to the rear elevation of the office building and the area surrounding the playhouse. He further testified that within the office building parking lot the lanes would be terraced as a result of the slope. There will be planters placed at the ends of the parking stalls containing large shade trees and grass and to permit for a two foot overhang from the stall into the landscaped area.

17. Mr. Gurkovich further testified with respect to the lighting throughout the site and recommended 175 watt metalhalide lights on fifteen foot high decorative poles. However, the Township Engineer, Mr. LaPore, had some concern about the type and style of lighting if the Township were required to replace them when damaged. It was, therefore, agreed upon by Mr. Gurkovich and Mr. LaPore that they would work together to provide for appropriate lighting on the site.

As To Planning

18. Mr. Gurkovich was qualified as a licensed planner and provided extensive testimony with respect to the several variances that are required in connection with this application. The requested variances are as follows:

<u>Section</u>	<u>Required</u>	<u>Proposed</u>
25-5.6B Parking Spaces in OB-2	500 parking spaces	400 spaces
25-5.5D Setback from Accessory Use in OB-2	75' buffer between zones (rear)	40'
25-5.5D Setback from Accessory Use in OB-2	75' buffer between zones (side)	17' min.
25-5.1 Impervious Coverage	50% max	53.73%
25-5.1 Building Height in R-C zone	35' max	38.5'
25-5.1 Front Setback in R-C zone	30'	10'8"
25-5.6A Parking Stall Size	9'x20' or 10'x18'	9'x18' w/overhang
25-5.6A Front Yard Parking	not permitted	front yard parking
25-5.9C2g Identification Sign	40' from property line	1' from property line

Mr. Gurkovich testified to each of the requested variances both generally as to all variances and with specificity as to some. He testified that because of the constraints upon the site of the wetlands and of the topography and as this was a mixed use application with all

of the requested variances on the interior of the site, that would, in effect, create a special reason due to the hardships imposed upon the applicant on this particular site and to allow for all of the uses which were requested. In addition, as a result of the adoption of the Developer's Agreement and the Ordinance, the lot sizes were fixed as was the density and location of each of the proposed uses.

With respect to the parking surrounding the office building, there were four (4) variances required. As to the number of parking spaces, Mr. Gurkovich testified that in his experience in a general office building, one parking space for every 250 feet of gross space would be more than sufficient. He indicated that the request complied with the ordinance in that the plans provide for an alternative of a parking deck if the same should become necessary. With respect to parking in the front of the building, because of the size and shape of the building, its proximity to the wetlands and the inability to provide parking on the southwest portion of the property because of the state's ownership of that area, a large portion of parking would have to be to the front of the building. He did, however, describe that the parking lot would be approximately 20 feet below the nearest townhouse, that there was extensive landscaping both at the border of the two uses and throughout the parking lot utilizing large and dense trees and providing adequate protection for all. With respect to the size of the parking stall proposed, which is going to be 9'x18', there would also be a two foot overhang from the front of the car into the landscape area and he again described this necessity as a result of the location and area permitted for parking and that would afford substantial protection to the surrounding areas and as a result of the overhang, allow for the vehicle to be appropriately situated within the parking stall. With respect to the impervious coverage for the office building, it is proposed that there be 53.73% wherein the ordinance allows 50% as a maximum. Mr. Gurkovich looked at the overall site and found that overall amongst all the uses there would be less than 50% impervious coverage and would fit within the statutory requirements. He further testified again as a result of the constraints upon the office parking and in order to achieve 400 parking spaces, there was a slight deviation above the ordinance maximum to that which is proposed.

With respect to all of the other variances that would be required he said that due to the constraints upon the site and that every effort had been made by the entire design team

to balance any negative impacts with a positive design decision in the creation of heavily landscaped areas, the placement of structures and parking features to minimize the visual impact as well as the architectural features to enhance the visual and functional environment to the residents and office employees.

He further testified that the variances requested will further the purpose of the Municipal Land Use Law (N.J.S.A. 40:55D-2). It is the intent and purpose of this act putting forth the applicable sections:

- a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals and general welfare;
- c. To provide adequate light, air and open space;
- e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;
- g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;
- i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;
- k. To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential,

commercial, industrial and recreational
development to the particular site;

Mr. Gurkovich opined with reasonable planning probability that the application may be granted without causing substantial detriment to the public good and without substantial detriment to the intent of the zone plan and scheme of the Township of West Orange.

19. The Board solicited comments from the public and there were none made and, therefore, the public portion of the meeting was closed.

NOW, THEREFORE, BE IT RESOLVED, having reviewed the proposed Application and considered the impact on the Township and residents to determine whether they are in furtherance of the Municipal Land Use Law and the land use and zoning ordinances of the Township of West Orange, and having considered whether the proposals are conducive to the orderly development of the site and the general area in which it is located, the Planning Board has concluded that good cause was shown to approve the Application of Highview at West Orange, L.L.C. for Major Subdivision Approval and Preliminary and Final Site Plan Approval and did vote on June 3, 1998 to approve said Application. In addition, the Board specifically approved the request for the granting of the variances listed above for all of the special reasons set forth in the testimony of Mr. Gurkovich as indicated above and with the understanding that the Applicant has proven both the positive and the negative criteria; subject to the following conditions:

General Conditions Precedent to Issuance of any Construction Permit:

1. This Resolution hereby incorporates by reference the Developer's Agreement, attached hereto and made a part hereof. The Applicant shall comply with all obligations under the Developer's Agreement.
2. Approval of the County Planning Board and compliance with all conditions of that approval including traffic recommendations of Harold Maltz if contained in the County Planning Board Approval.
3. Approval of the New Jersey Department of Transportation and Department of Environmental Protection for any matters within their jurisdiction.
4. Submission to the Board attorney of all permits and approvals required by the DEP.

5. Approval from the Hudson, Essex and Passaic Soil Erosion District of a soil erosion and sediment control plan.

6. If another governmental agency grants a waiver of variance of a regulation affecting this approval or the conditions attached to it then this Board shall have the right to review that issue as it relates to this approval and these conditions and modify or amend the same.

Specific Conditions

The Applicant shall:

- a. Report back to the Planning Board 1 year after full occupancy of the office building to determine whether there shall be any necessity to construct a parking deck.
- b. Meet with and coordinate with the Planning Director concerning landscaping particularly in the vicinity of the rear elevation of the office building and around the performing arts center.
- c. The Applicant shall execute, prior to the issuance of a Certificate of Occupancy, an Affidavit of Compliance certifying they have fulfilled all conditions set forth which shall be to the satisfaction of the Township Planner, Engineering Department and Building Department of the Township of West Orange, who shall be furnished with a copy of this resolution. No Certificate of Occupancy shall be issued until receipt of an executed Affidavit of Compliance approved and signed by the Zoning Official.
- d. Comply with the requirements of the West Orange Fire Department but it shall not be required to leave Eagle Ridge Drive open. It will, however, continue to maintain and allow access to the water service currently located in or near Eagle Rock Drive.
- e. Solicit suggestions from the traffic consultant, Harold Maltz, concerning protection against thru traffic on Harrington Terrace.
- f. Comply with Exhibit A6 for the size and Style of the Project Identification Sign.
- g. Consult with the Township Engineer concerning the type and style of the proposed lighting within the townhouse community.
- h. Comply with the requirements of the Residential Site Impact Standards.
- i. Provide protection for runoff or drainage into Llewellyn Park.