

**DRAFT
MINUTES
TOWNSHIP OF WEST ORANGE
PLANNING BOARD MEETING
April 2, 2025 7:30 P.M.**

The Township of West Orange Planning Board held its regular meeting on April 2, 2025 at 7:30 P.M. via virtual ZOOM videoconference.

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.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENTS

- The next Planning Board special meeting will be held **Wednesday, April 9, 2025 at 7:00 P.M via Zoom.**
- The next Planning Board regular meeting will be held **Wednesday, May 7, 2025 at 7:30 P.M via Zoom.**

ROLL CALL

PRESENT: Dr. Robert Bagoff; Mr. Jerry Guarino; Mr. Ken Alper; Mr. John Cardoza; Mr. Lee Klein; Mayor Susan McCartney; Councilwoman Susan Scarpa; Ms. Lori Kapferer

ABSENT: Mr. Christopher Morgan, Sr.; Mr. Peter Smeraldo; Mr. William Wilkes;

ALSO PRESENT: Diana P. McGovern, Esq., Planning Board Attorney;
Gerry Haizel, Consulting Town Planner;
Mr. Phil Scott, Board Engineer;
Zayibeth Carballo, Town Engineer
Jamilet Baquerizo Vite, Planning Board Secretary

SWEARING IN

- The Township Professional(s) sworn in.

APPLICATIONS

- **PB-24-14 172-174 Main Street LLC**

Block: 83 Lot: 1&5.01 Zone: B-1

172-174 Main Street

The applicant, 172-174 Main Street, LLC, proposes to construct a 3rd floor addition to an existing 2- story building and convert the building to a mixed-use building. The proposed mixed-use building will contain 2,824-SF of office space on the 1st floor and a total of seven (7) residential units on the 2nd and 3rd floor. Additionally, twenty-six (26) existing on-site parking spaces will also be provided.

PRESENTATION

- The attorney, Mr. Tyler Zeberl, on behalf of the applicant, stated that the application is adding a single story, converting this 2-story building to a 3-story.
- Mr. Zeberl stated Donna Bullock is here to clarify a few points that were raised in the review letters that they received earlier today.
- The engineer, Donna Bullock, entered on the record, she was sworn under oath and her credentials were accepted by the board. She testified to the following:
- Ms. Bullock had the opportunity to review the review letters they received earlier today from the township engineer and planner.
- Ms. Bullock referred to a letter dated August 13th, 2024 with an addendum on April 1st, 2025. It is an engineering review and will discuss item 2.17 on page 2 of 3. This letter was provided by Matrix New World.
- Within in this item 2.17, they are referring to Items 36 and 37, which are requesting that they show the sanitary sewer laterals on the plan and where their locations are.
- They have provided calculations for the existing flows vs the proposed flows and the memo does say there will be an increase to the proposed flows to the sanitary sewer system.
- They also noted in the last testimony Ms. Bullock is providing is that they will show those connection points and the existing sewer laterals. They will also provide calculations to show that the lateral they are tying into can handle the increase in the sanitary sewer flows.
- Ms. Bullock has had the chance to address the concern raised in the last meeting regarding her initial engineering plan where they had a smaller detail of the site triangle plan.
- What Ms. Bullock has done is superimposed the site plan onto a Google Earth aerial and presented it to the board as Exhibit A1.
- Exhibit A1 is an aerial display of the site triangle easement plan and it is their site over aerial and has shown the full extents of the site triangles that are required for egressing a site.
- Ms. Bullock explains that if you are pulling out and want to make a right hand turn, you will be looking left for 390 feet. If you are pulling out to make a left turn, you will be looking towards the right 335 feet and you can see the dash lines are the point of eye observation, setback 14.4 feet from the access point out to the road
- Ms. Bullock also explains that looking both directions you can see that the site triangle does clip their corner of their property by 2.2 feet. In front of the property there are some trees that are shown in the aerial view but as you look down the road there is nothing else that appears to be in the way that would block the view up and down the street for exiting this property.
- The ingress and egress of the property are pre-existing. The access drive has been there

since the development of the property. The point of exit is the same point that has been there in the past.

BOARD QUESTIONS

- Mr. Klein asked Ms. Bullock why the distance in one direction is 335 and the other direction is 390, why is it not the same in both directions. Ms. Bullock said when you are looking to turn out in one direction, you are looking at the oncoming traffic on the same side of the road. When you are looking to make a left turn, you look right and you are looking across the street down a distance. There is a highway standard book that provides this distance and is based on the speed limit on the street which is 35 miles here.
- Mr. Klein asked Ms. Bullock what is the speed the 335 feet is based on? Ms. Bullock said 35 miles per hour.
- Mr. Klein asked Ms. Bullock what is the speed the 390 feet is based on? Ms. Bullock said 35 miles per hour.
- Mr. Klein asked Ms. Bullock how far are you measuring back, where is the driver's eye? Ms. Bullock said it is 14.4 feet from the white line where the person would park the closest to the road, where they will then set to look either right or left to pull out.
- Ms. Kapferer asked Ms. Bullock if they need to be concerned about the on street parking on Main Street due to cars that would be parked within the site triangle, how should they be looking at that. Ms. Bullock said there is parking but there are height restrictions that allow blockage up to a certain height. She doesn't know the exact height requirement and cannot answer the question at this time.

PROFESSIONALS COMMENT

- Mr. Scott said with regard to the site triangle if they are looking at the site triangle turning left out of the parking lot you can see that a small amount of the site triangle would eclipse the adjacent properties on Lot 3 and 4. This is a response to the comment that there is nothing in the site triangle, there is a small area that is blocking the site triangle but Mr. Scott doesn't see that as being a major issue as the site triangle is very long and gives adequate site distance for people exiting out of the property.

PUBLIC QUESTIONS

- Jamie C. at 11 Edgehill Road asked Ms. Bullock if they were able to find out if there needs to be restriping in the parking lot and if there is restriping would you meet the requirement for having the appropriate amount of parking. Ms. Bullock said they are proposing 22 standard parking stalls but at the last meeting they were asked to eliminate the parking stall that was located to the front east side of the building so there will be ample turn around for people who need to do a K turn to come out. Ms. McGovern added there was a condition that the board suggested that if the matter is approved then a fire official will go look at it and indicate where the striping will be.
- Stanley Shapiro at 12 Edgehill Road asked Ms. Bullock was any consideration given to the obstruction from the site lines from high or large vehicles such as tow trucks that will be parking or double parking on the right side of the property and how that might bear on the site line requirements. Ms. Bullock said they are not required to consider that. When they are looking at the site triangles, they are looking at fixed fixture such as oversized trees, huge mailbox posts and fixtures, retaining walls that might extend out into the site triangle easement.
- Stanley Shapiro asked Ms. Bullock if she did any observational testing as to how long, at different times of the day, on average a vehicle trying to exit the parking area that will

have to wait for an opening given the traffic patterns during the day on Main Street. Ms. Bullock said he will have to wait for the traffic engineer on what studies he may have performed in that regard.

- Jason Hunter at 17 Linwood Way asked Ms. Bullock, can you take a left out of the parking area if there is a double line when coming out. Ms. Bullock said as far as she knows it's a history of the accessibility on and off the site, yes. Ms. McGovern added the law doesn't prohibit it.

PRESENTATION

- The traffic engineer, Patrick Downey, entered on the record, he was sworn under oath and his credentials were accepted by the board. He testified to the following:
- Mr. Downey will go through the key finding of the traffic impact of parking assessment prepared by his office on February 18th, 2025. It pertains to both the traffic generation and the parking demands of these particular proposals.
- Starting with the traffic impact portion, they looked at the industry standard trip generation rates which are published by the Institute of Transportation Engineer.
- Based on their projections for this changing use, there is a net reduction in traffic for this project. The reason being that while a story is being added, floor 2 is being converted from what is presently an office to residential which has a lesser traffic impact.
- Even if they put this aside and look at this as a brand-new project, the trip generation would still be nominal. Peak hour trip generation would be 10 trips or less during the week. To put this in perspective, New Jersey DOT would identify 100 peak hour trips as a threshold of what you would consider significant.
- Therefore, it is their professional opinion that there will not be a perceptible traffic impact from this project.
- In terms of parking, a total of 25 parking spaces are required with a combination of office and residential components of the project.
- The proposed parking supply is 25 spaces, in consideration of the extra credit for the permission of EV parking spaces.
- Additionally, to add some context throughout the area of the site, there are numerous transits stops and mass transit available. It is a fairly pedestrian conducive environment with good sidewalk connectivity that makes residential and office opportunities.
- All factors that produce automobile dependency will be from employees from the office space and for residential portion which in turn has the capacity to reduce the trip generation and parking demand.
- Regarding the site triangles, when you look at the driveway it has a couple of benefits. The first is it's an existing condition; it is not being modified in any way. There is also going to be less traffic in the driveway so that is an improvement.
- Geometrically, the site is a bit steep so the driver approaching the road from the driveway is actually set pretty high relative to the road. That gives them better visibility and the ability to potentially even see over some potential obstructions or parked vehicles in the area.
- Some of these site triangles that were discussed before, those are intersection site distance. Essentially, it's a little bit more than what's actually required for just a safe operation. That minimum is known as stopping site distance, which is only about 250 feet for a design speed of 35 miles per hour. Mr. Downey would say the site triangles shown on the plan are conservative in a number of ways.
- Overall, there is little to no traffic impact as a result of this project. Compliant on parking, it's a fairly great project from a traffic perspective.

- In connection with the site triangles, the distances come from a book. The industry standard ones are those published by AASHTO. Those are the ones that were referenced before. And as mentioned before, the ones shown on the plan, Mr. Downey would say, are even a little bit conservative compared to what is actually required for safe operation.
- The only requirements for putting a site triangle on a plan is referencing the book, and then you place the triangle at the correct distances. You want to make sure it's free of fixed obstructions.
- In urban environments, it's essentially an impractical requirement to prohibit parking within them, because it would effectively prohibit parking throughout every urban area, everywhere, where driveways are permitted for not just their use, but every other driveway. And considering the grade of the applicant's driveway, Mr. Downey would say this driveway is better equipped to handle the presence of parked vehicles than most would be.

BOARD QUESTIONS

- Mr. Klein asked Mr. Downey the parking requirement of 25 spaces, does that include the residential and office at the same time. Mr. Downey said yes, that is the sum of the 2.
- Mr. Klein asked Mr. Downey could explain how the parking spaces will be managed. Mr. Downing said this project provides enough parking to satisfy both of the uses requirements directly added to each other. Mr. Downey also added that he will defer to their site engineer as far as if there's any plan to actually sign or manage those spaces. He is not aware of any interaction of that nature, but given the available parking supply, he doesn't think it's required for a functional operation for this use.
- Mr. Klein asked Mr. Downey about visitor parking, people were asking what would happen if somebody's going to come visit somebody in one of these apartments. Is there enough parking for that? Mr. Downey said yes, that visitor parking component's actually built into the parking requirement for residential. Those requirements are set forth by the RSIS, the Residential Site Improvement Standards, and those rates, 1.8 spaces per unit or two spaces per unit, et cetera, they actually have a component built in there that accounts for visitor parking of half a space per unit.

PROFESSIONAL QUESTIONS

- Mr. Scott asked Mr. Downey to clarify whether or not cars can make the left turn out of that parking lot, being that it is a double line? Mr. Downey said yes, they can both in the existing and proposed conditions. When you have a straight center line, you are permitted to make left turns toward private driveways. It's the opposite case for a public street intersection. So, if you see an intersection with a solid double yellow, it's actually not permitted in that case, but for driveways, it is.

PUBLIC QUESTIONS

- Stanley Shapiro at 12 Edgehill Road asked Mr. Downey about basing his testimony about the traffic use from a book, from estimates or averages in a book between residential and conservative, not from the actual experience at that site. Mr. Downey said correct, it was based on IT trip generation projections for office and residential uses.
- Stanley Shapiro asked Mr. Downey what is going to be the impact of this additional variance that this applicant is seeking. Mr. Downey said first, they compared it to the existing use using the IT numbers. The second component they mentioned is even if they consider the existing use as being completely vacant, the trip generation would still be

extremely nominal at a peak generation of 10 trips in a peak hour, whereas DOT would consider significant to be 100.

- Stanley Shapiro asked Mr. Downey if there were any studies or surveys conducted to tell what is the actual volume being used right now. Mr. Downey said they did not perform a traffic count for the existing use.
- Sophie Buckley at 8 Edge Hill Court asked Mr. Downey in his report, did he use a parking requirement of one space for each 250 square feet of floor area for the first floor. Mr. Downey said yes, that's correct.
- Sophie Buckley asked Mr. Downey where did he get that requirement. Mr. Downey said that's within the municipal ordinance.
- Sophie Buckley asked Mr. Downey are there any medical offices being proposed on half of the first floor. Mr. Downey said he is not certain the exact breakdown of what would be general versus medical.
- Sophie Buckley asked Mr. Downey following the conversation that the medical offices are open on Saturdays, would a variance still be required given that most people don't work on Saturdays and the residents would be home. Mr. Downey said as far as whether the operation on Saturday triggers any variances, none that he is aware of, but he would defer to the others as part of the project team to actually confirm if that triggers the variance.
- Sophie Buckley asked Mr. Downey is there any consideration for residents that work from home full-time. Mr. Downey said yes, he believes the calculation that they landed on, not only are they compliant, they are over-parked compared to what is required. Even if all those residents never left, hypothetically, there would be more than sufficient parking.
- Sophie Buckley asked Mr. Downey if he is familiar with the site plan review resolution of Essex County and does that regulation discourage vehicles maneuvering out of parking spaces within 20 feet of the right-of-way. Mr. Downey said he is familiar with it but he is not certain of that specific requirement.
- Donna R at 14 Edge Hill Road asked Mr. Downey how wide is the entrance and exit to the property, room for two cars or just one car. Mr. Downey said the aisle that goes through the site and all the way to the driveway is 30 feet. The narrowest is wider from there. It is more than enough for two vehicles running each direction.
- Donna R asked Mr. Downey what are the assumptions made of. Where do they come from that it is assumed people are going to leave for work? Mr. Downey said the parking requirements come from two places. The residential component comes from the state standard, which is the residential site improvement standards. And the office component comes from the municipal ordinance. Based on where they landed with the parking calculation, there's actually more spaces provided than what would be required for the residential and office to both have their peak parking at the same time, hypothetically.
- Donna R asked Mr. Downey how many cars are allowed per apartment. Mr. Downey said if there's a restriction, he is not aware of any restriction on the number of parking spaces or how that's managed specifically at an operational level. Maurice Cox added that when they rent the apartment, they specifically state one parking per unit in the rental agreement.
- Eric Buckley at 8 Edge Hill Court asked Mr. Downey to clarify based on the civil drawings stating that 1.8 spaces per unit are required for one-bedroom efficiency apartment and then 2 spaces are required for a two-bedroom, but there is mention of the 1 spot per unit. Mr. Downey said the requirement is the 1.8 for the one-bedrooms and two

for the two-bedrooms, but at an operational level, there is actually going to be a requirement that each space only gets one space.

- Eric Buckley asked Mr. Downey that only one handicapped spot is shown and that's required, for the office spaces, but are you accounting for the residential portions. Mr. Downey said there's one ADA space required for a lot of this number of spaces.
- Eric Buckley asked Mr. Downey what happens when, during the day, someone takes that spot because they're going to a medical facility. Mr. Downey said in that scenario, they would need to use a different parking space. Again, they meet the requirement.
- Eric Buckley asked Mr. Downey if they are accounting for any handicapped residents. Mr. Downey said it is accounted for in the requirement that is satisfied.
- Eric Buckley asked is there anything besides just that one parking spot and what happens if someone with a handicap would like to rent a space, rent a unit within the residential portion. Mr. Zeberl said that's really an operational issue for Mr. Cox to address if and when the situation arises.

PRESENTATION

- The professional planner, John McDonough, entered on the record, he was sworn under oath and his credentials were accepted by the board. He testified to the following:
- Mr. McDonough presented Planning Exhibit for 172-174 Main Street. It's a single tax lot. It's block 89, lot number 6. It's about 15,176 square feet, and the first photograph that is being presented is what he saw in February on a cold day.
- Mr. McDonough walked the area, and there is the two-story building that exists now and the parking in the front.
- That basic development pattern is not changing. The applicant is going to keep the parking in the front and keep the building pad where it is.
- The application before the board is to add a level to go up to a third story, which is what's triggering the relief in terms of the number of stories, but is not triggering any relief in terms of the overall height of the structure below that 35-foot mark.
- There's some framing behind the building, taller trees, taller structures, which does provide some framing, some mitigation of this building on the adjacent residential uses.
- There's also a mitigated measure in terms of the land form. This is a site that fronts on Main Street, which is lower than the Llewellyn Park neighborhood behind the site.
- The grade rises up from this vantage point up, so they do have some mitigated measures, not only in terms of the vegetation and the trees, but also in terms of the terrain and the topography.
- The change here will have impact on the residential uses, but it's also going to have a change on Main Street, a very positive change consistent with what has happened in the rest of the corridor in terms of the repurposing of the Edison Lofts, which is a multi-story building much higher than the subject.
- As we work our way further, panning more to the south on Main Street, you can see three-story buildings. They have an applicant proposing a three-story building opposite three-story buildings, so there is a nice framing effect of the corridor on Main Street.
- The 4th page of the exhibit shows an aerial photograph in 1979 that shows the basic form of development with the building in the back and the parking in the front.
- It's been a part of the local landscape for 46 years now. It is a building that has been there for a long time.
- It is showing some age, and the applicant is here ready, willing, and able to invest in a site that could use some help along Main Street, which the master plan has numerous

references over and over and over again about revitalizing Main Street and bringing life to Main Street and creating a fresh new look.

- The other point that Mr. McDonough made was with respect to this particular photograph is that a building can be a buffer. We often associate trees with a buffer, but a building can be a buffer as well, and that's what that building achieves here.
- The active land use is the parking lot, which is separated from the residential use by the building, by the mass that's there now.
- The building takes on more of a passive approach in terms of generation of noise, generation of lights, generation of odors. This is a zone that can allow multiple uses here, including bars, restaurants, and office buildings.
- This site could be completely redeveloped with the building closer to the street and the service court taken to the back where they have the trash and the loading.
- Again, we see this form of development as it exists now and working with the land as it is now being a better zoning alternative, better integration with the neighborhood than what could be under a zone-conforming plan.
- Again, a bar could go here, as well a 35-foot-high business school or vocational school, retail stores, or a restaurant. As a conditional use, this could be repurposed as a microbrewery, fast-food restaurants, and private clubs are permitted in this zone as well.
- Mr. McDonough shows Page 5 of the Exhibit which is a view frame number five, looking more towards the south down Main Street, and they did this to give a sense of the way the terrain drops down.
- Looking at the building being the buffer from the active land use and the separation from the activity on Main Street, this being a commercial corridor, the positive transformation that is seen, the sheer mass of the building that is across the street, and how they're creating a building that is not going to be dwarfed by that which is around it on Main Street.
- On Page 6 of the Exhibit is a view frame number six, which takes us back to those residential properties and looks at the subject, which is this parking lot that can be seen in the center of the photograph.
- The building is in the middle as well. Mr. McDonough has spoken about some vegetation that's in place now on the neighboring properties. This photo on Page 6 was taken on a February day during the winter when the leaves are all down, so what is shown on the photo is perhaps a worst-case scenario.
- Trees do not fall down in the winter, the leaves do, but they do provide an obscuring element. They may not completely screen or camouflage, but they do provide some obscuring of views, and that is a planning benefit. When the leaves come back, we do get some full screening effect as well.
- Frame number 7, looking to the east to our skyline, which in no way is this building going to block views of the skyline from the lower level. This photo on Page 7 is taken from 100 feet up in the air. There are no buildings on the Llewellyn side that have windows up this high, so no blocking of scenic views of the beautiful skyline or any of the landforms that you see beyond the subject site.
- There are larger buildings right across the street, which to the extent we're talking about scenic views, they would be blocking those views as well, so the building is not rising up any higher than those buildings that are immediately across the street.
- Lastly, frame number eight is an aerial view directly over the building and parking lot. This is what is seen from the photo back in 1979.
- It hasn't changed with the parking in the front and the building set back in the back.

- It does offer some planning benefits in terms of integration of this site with its surroundings. There are some evergreens on the neighboring properties, which do provide a screening element.
- There are perhaps some opportunities on that adjacent land as well if the neighbors so choose to screen from any use of this commercially zoned land.
- All of that said, we're looking again at a site that is surrounded by Main Street, which is transforming with new development.
- There are detached dwellings around as well, and they're trying to maintain the sensitivity as well and looking at the project as a whole.
- The proposal here is to construct a third-story addition. They're going to renovate this building. Mr. McDonough thinks that's an important component of the application, and convert to mixed use, which is something the master plan also makes numerous references to as well.
- Relatively boutique scale development here, we're talking about seven dwelling units on two floors over commercial space, which given the colloquy earlier, any combination of the use of this commercial space would not trigger a parking variance. To the extent it does, this applicant comes back to the board.
- If a medical use went in here and it combined with a retail, the applicant did the calculations, you would see there would not be a parking variance here given that exception.
- If there were some combination of uses that did trigger a parking variance, that would get flagged by the zoning officer and come back here in front of the board.
- In terms of the relief that the applicant is asking the board to move on, the board's planner, Mr. Hazel, has given the board a list of the relief that the applicant is seeking. It's relatively short and a very thorough, comprehensive review that gives the board things to think about with respect to this application.
- In terms of the zone that we're in, we are in the B1 Retail Business District, which as we know was rezoned. This area was rezoned to B1 in 2020 in the interest of revitalizing downtown and Main Street with new uses.
- There are many references in the 2019 master plan about Main Street as a precursor to the ordinance that Mr. McDonough just spoke about. And bearing in mind, it was previously an office zone.
- B1 is an office and retail zone and residential in that it allows mixed use as well.
- In terms of the zone conformance, all of the heavier zoning controls are met here. The project fully conforms with the use requirements of the zone.
- The board has a good list of mixed-use conditions under the conditional use provision of the board's ordinance under 25-24.2, and the applicant complies with every single one of them.
- The project also substantially complies with all of the board's bulk requirements. The height complies; parking complies.
- There's no density relief being sought here for the seven-unit development.
- In terms of the relief, again, turning back to Mr. Hazel's report, it's threefold here. Number one is the number of stories. 2.5 would be allowed here if we had a half story on top, they would not need this relief. They're looking for three stories, but the overall height is going to be less than 35 feet.
- Also they have three stories directly across the street in direct orientation with the subject site, not to mention the five story building as well. Therefore, there's good neighborhood harmony in that regard.

- The rear setback is existing 6.54. The ordinance is looking for a minimum of 30 feet.
- This is not a new build per se, but they're working with the land and the structures that are lawfully existing. Mr. McDonough believes that's a legitimate hardship based on the existing condition. There's some case law on that point known as the Hawrylo case.
- Along the same lines, we look at lot coverage where 84.2% is what is there, what has been there, and what the applicant is looking to continue, not worsen, where 75% is the maximum that's allowed. That's the same as what was said for the setback.
- It's a hardship related to the land and the structures that are lawfully existing there on.
- In terms of the legal justification, there's a basis under hardship, but primarily Mr. McDonough is going to focus on what is called the C2 balancing test, whereby the benefits of the application as a whole would substantially outweigh the detriments.
- Again, we look at the application holistically, the impact on main street, the impact on the neighborhood, the impact on the community at large.
- The project as a whole will promote multiple purposes of the land use law at NJSA 40:55 D-2, including purpose A, the promotion of the general welfare, which is advanced with renovation, repurposing, and revitalization of this long-standing building.
- This locally familiar building in the downtown that will add new housing for people to live in, new businesses for people to work and shop and provide business offerings to the public.
- Purpose G, the promotion for a variety of uses in appropriate locations because the site is in a civic center and it is good planning to concentrate people in downtown settings with easy access to civic and public amenities.
- The walk score here is very good. 78 out of 100, that's considered a very walkable area where most errands can be accomplished on foot. That is good for the public in terms of its efficiency.
- This walk score has been recognized by authorities such as the National Institute of Health as a reliable and valuable source for considering the walkability of an area. That's why Mr. McDonough thinks it's a good thing to put people here where we have lessened reliance on the automobile.
- Additionally, purpose I, the promotion of a desirable visual environment. This is going to give a site that's been here almost five decades now, a fresh new look, bring it more into harmony with the transformation of the area.
- Accolades to the community and to the downtown alliance for the great transformation that's taking place on Main Street and this is going to be a nice continuum in that regard.
- Lastly, purpose M, which is their planning goal to take what's there, repurpose and reuse it. That's called efficient use of land. The applicant is working with that which is there.
- That certainly has much less impact on a neighborhood than a complete demolition here, a complete rebuild. Again, this is putting a cap on the building that's there and essentially keeping the rest in place.
- That's as efficient as it gets from a planning standpoint. It's called adaptive reuse, renovation and conversion of what's there.
- Taking all of those public benefits, we now consider the potential impacts associated with the relief seeking.
- Based on all of the testimony from witnesses before, licensed professionals and their operators sworn under oath, none of the relief based on the record will cause impacts of a substantially adverse nature.

- The upgrades to the building will actually improve its relationship to Main Street and to those homes around it. Visually, this is going to have a much better, more attractive facade than that which exists.
- The added story does not equate to height relief or parking relief. Visually and functionally, the degree of departure from that which is contemplated in the zone plan is not substantial. As it's been said, the site is sunk relative to the homes behind it. That lessens the impact and we talked about trees and terrain mitigating potentially adverse impacts.
- Any development has impact. What the board needs to consider is the extreme weight of those positives and what McDonough believes is very little weight in terms of the negatives on the adjacent properties.
- Yes, there'll be impact, but will it be substantial is the question.
- The setback is an existing condition. Going up will not impede the privacy, the use or enjoyment or have a greater effect on the surrounding neighborhood than a permitted use could have, even if it were set further back from those homes.
- There's a mitigated measure in terms of terrain and trees. There's going to be an improved facade. There will be no negative shadow effects here or blocking of scenic views and not generating a population density that will exceed the carrying capacity of the land.
- Indicators of carrying capacity, parking demand, water demand, sewer demand, waste generation are all within the carrying capacity of the land given the relatively modest population density here.
- The coverage, again, it's in a longstanding existing condition. It's not worsening and based on the aerial photos; the coverage has been this way since 1979 and can continue this way for perpetuity.
- It's been there for 46 years and can continue this way forever.
- In conclusion, the application is simply to expand vertically what's there now. It's not going outward, it's going upward.
- No height relief is required, no use relief is required, no density relief is required, no parking relief is required. In essence, this is going to give this building a nice facelift. It's a longstanding building on Main Street.
- It'll give it a fresh new look that will complement the positive change with good sensitivity to the area.
- McDonough believes the statutory tests for all the relief are met and approval is warranted here.
- Before McDonough closes, he did want to put a couple of snippets before the board to consider with respect to the Hawrylo case that he spoke about, which he thinks is on point with the case before the board.
- Mr. McDonough quotes from this land use treatise by Mr. Cox, which planners turn to. It's a 900-page treatise. The courts have recognized it as an authority on land use and let's see what that says in the 2025 edition on page 427.
- It reads, subsection C under C-1 speaks of an “extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon. This language recognizes that hardship can be created not only by the physical characteristics of the land, but by the existence or by the reason of the existence of a structure already located on it, which may create an exceptional situation sufficient to justify a zoning variance.”
- On page 48 of the same book in Hawrylo, “a C variance was granted to rebuild the upper portion of a barn, which was closer to the road than the current regulation allowed. In upholding the variance, the appellate division found that the foundation was a unique

feature of the land, causing practical difficulty in that denial of the variance would result in the foundation and a well being wasted.” Mr. McDonough states we could talk about similar ways here of taking down a building with good bones that's already there and certainly able to accommodate that addition.

- Page 429 in Hawrylo, “the barn had been built before there was a zoning ordinance and so was a prior nonconforming structure. A neighbor objecting to the grant of the variance argued that the phrase lawfully existing was meant to preclude a nonconforming structure. The appellate court disagreed, relying on a Davis case where Justice Stein in this case said, the existence of a nonconforming structure may justify a variance for a maximum land coverage requirement.” Mr. McDonough adds that we have that here. He continues quoting, “the fact that the barn had been a nonconforming use did not make the remaining structure unlawful. Also justifiable under this provision would be variances to permit extensions to an existing building, which is nonconforming by way of example as to side yard requirements. Continuing the existing line of the building so that no further side yard encroachment would occur and the proposed addition could not be reasonably located so as to conform to the ordinance because of the arrangement of the building.”
- Mr. McDonough wanted to give the board some deference to in terms of what the case law says about a similar case.
- The last thing Mr. McDonough will leave the board with are a couple of snippets from their own master plan and how this advances their master plan.
- 2019 West Orange master plan on page 30 recommended “the rezoning from the OB to the B1 zone here on the merit of consistent with existing land uses and desired future land uses.” This is mixed use, which on page 30 also says “review and modify standards for mixed use development, particularly in the downtown setting.”
- Page 30, it talks about focus areas and talk about downtown Main Street as a focus area.
- Page 36 says “support existing businesses and residential uses, promote additional residential uses in the downtown.” That's what the applicant is doing.
- Economic development on page 41 talks about the corridor, the downtown West Orange Alliance focusing on building improvements. The applicant is doing that.
- On page 42 recommendations for a balance of land uses. The application is doing that. Appropriate housing types, sizes, supporting local businesses with a resident population.
- In terms of general housing obligations, West Orange remains committed to addressing its fair share of regional affordable housing obligations, as well as providing a range of housing opportunities. The extent affordable housing is required here; applicant is not asking any relief in that regard as well. So the applicant will comply with the ordinances.
- All said, Mr. McDonough thinks this is a good application and with that said, he thinks this application merits the board's approval.
- Mr. McDonough added why no additional landscaping is provided which is the dimensional requirements would preclude adding additional landscaping, certainly in the front of the site. There are constraints in the back of the site. Again, given that this is a built site and there is limited capacity for vegetation. And there is good supplemental vegetation on the adjacent properties, which Mr. McDonough thinks meet the planning intent.

BOARD QUESTIONS

- Mr. Guarino asked Mr. McDonough has he ever done a project in another community like this project? Mr. McDonough said he sees a lot of different land use applications

retrofit of an existing building base with a tower or another element on top of it is not unusual and not something he has not seen.

- Mr. Guarino asked Mr. McDonough if he has done projects like this, has he gone back after the project was done and did, he see any negatives or positives based upon his presentation. Mr. McDonough said he always like to go back and as he is driving around, look and see how things came out. But in terms of going in somebody's backyard or seeing what the impact would be, he doesn't do that.
- Mayor McCartney asked Mr. McDonough based on the picture she observed that the parking lot has been rented out to commercial vehicles, so moving forward with residential and a new use, medical use, is there an explanation on the commercial vehicles in the parking lot? Mr. McDonough said he doesn't know. Maurice Cox added that's paid parking and the agreements are currently month to month.
- Chairman Bagoff asked Mr. McDonough will the fence in the front be renovated, upgraded, and the fence in the back, and the debris in the back of the building be renovated, upgraded, cleaned up. Mr. McDonough said he will yield to the testimony on the record and he is sure the applicant would stipulate to work with the board's professionals in that regard if it hasn't already been officially denoted on the plan. Mr. Cox added yes, they noted it in the last meeting that the debris and everything will be cleaned up. The site will be brand new.
- Chairman Bagoff asked will there be any exterior lights on the back of the building. Mr. Cox said no exterior lights on the back of the building.
- Chairman Bagoff asked where will the HVAC be. Mr. Cox said he only spoke about moving them on the front just to eliminate a lot of noise.
- Chairman Bagoff asked will there be an ADA compliant ramp or access to the building. Mr. Cox said yes, there'll be a mobile elevator.

NO PROFESSIONAL QUESTIONS

PUBLIC QUESTIONS

- Jonathan Barton at 10 Edgehill Court asked Mr. McDonough if he is familiar with the provisions of the B1 zone in West Orange. Mr. McDonough said yes.
- Jonathan Barton asked Mr. McDonough what are the maximum amount of dwelling units permitted with the square footage of 15,176 square feet because based on the land use regulations and calculations for 15,176 square feet, the maximum allowable units would be four. Mr. McDonough said that where Mr. Barton is reading from does not apply because they have a separate conditional use standard under section 25-24.2 for mixed use development.
- Jonathan Barton asked McDonough if the paid parking was a principal use, was there an approval for that. Mr. McDonough said he doesn't know.
- Stanley Shapiro at 12 Edge Hill Road asked Mr. McDonough could the medical office be there without adding seven residential units in another story. Mr. McDonough said he doesn't know.
- Stanley Shapiro asked Mr. McDonough has there been consideration in the traffic congestion impact or was there a traffic impact study that has been performed. Mr. McDonough said Mr. Downey, gave sworn testimony under oath as a licensed traffic engineer that this project will not cause a substantial degradation in the level of service of the adjacent roadway.

- Stanley Shapiro asked what consideration was given and what study has actually been done as to the impact on the wastewater capacity. Mr. Zeberl said he doesn't know if any studies have been done.
- Stanley Shapiro asked Mr. McDonough if he considered in terms of whether this was the benefit and the detriment impact on the community of where these existing commercial vehicles will have to relocate if we have this increased use here. Mr. McDonough said that was not part of his analysis.
- Rita DiMatteo at 11 Rocky Way asked Mr. McDonough if he could expand on what he said about looking at the site holistically and sensitivity to the area and if he considered that the neighborhood behind this building, which is a historic district, might figure into his thinking about the site holistically? Mr. McDonough presented a photograph from the Barton residence and explains that this is what Llewellyn Park sees of the building now. Right now you see exposed mechanical equipment, which is contrary to what the zoning ordinance wants. Raising the building up will hide these mechanical structures and there's going to be a three-foot parapet so these nuisance uses are going away as part of this development proposal.
- Rita DiMatteo asked Mr. McDonough wouldn't the added height have an impact on privacy. Mr. McDonough said there are 4 windows that right now have a direct line of sight into these backyards.
- Gerard Anthony at 18 Wildwood Avenue asked Mr. McDonough that he said there was an impact to the residents and that impact is negative because he proposed mitigating factors like the vegetation. Mr. McDonough said no, that those factors are there to mitigate any impact with that additional story.
- Gerard Anthony asked Mr. McDonough is there a negative impact to going up another story to the property that's directly behind the proposed structure. Mr. McDonough said all development; all change has some impact.
- Gerard Anthony asked Mr. McDonough was there any study in terms of the impact of sunlight or shade going up another story to the residents that are directly behind the structure. Mr. McDonough said no, because the 35-foot height is permitted in the zone.
- Larisa at 11 Edge Hill Road asked Mr. McDonough how many affordable housing units will there be in this building. Mr. McDonough, he doesn't know the exact number. Mr. Haizel added that the town ordinance requires 20 % of the total number of units, in this case it will be 1.4 which would be 1 unit.
- Larisa asked Mr. McDonough if he has any experience with helping areas make plans for the effects the community positively in which to avoid empty spaces which can create a negative impact. Mr. McDonough said he did not consider that as part of his analysis.
- Larisa asked Mr. McDonough is it standard practice for a landscape architect to say the landscaping factor behind the building is going to be up to the residents who live there. Mr. McDonough said the landscape architect works within the confine of the space that it has. The space is not there.
- Larisa asked Mr. McDonough, has he seen the photographs of the shade impact into the resident that is against the building. Mr. McDonough said he has not seen them.
- Larisa asked Mr. McDonough in terms of landscape, what would he suggest that people grow considering that there's shade. Mr. McDonough said evergreen.
- Larisa asked Mr. McDonough if he has walked into Llewellyn Park along Edge Hill Road. Mr. McDonough said yes, he has been in Llewellyn Park.
- Larisa asked Mr. McDonough if he has noticed that where he is speaking about, it is not as elevated as he seems to project it to be? Mr. McDonough said the grade of this site is lower than the home behind it.

- Lenny Carr at 83 Mountain Ave asked Mr. McDonough what building style is this new application is in. Mr. McDonough said he doesn't know.
- Lenny Carr asked Mr. McDonough if he would you say it's historic in nature. Mr. McDonough said he doesn't know.
- Lenny Carr asked Mr. McDonough did he see any other three-story homes on that side of the street where this is being proposed or are they all two and a half story in height. Mr. McDonough said he doesn't know if they are all two and a half story.
- Lenny Carr asked Mr. McDonough to present Planning Exhibit for 172-174 Main Street page 4 and asked are those three stories or are those two and a half stories. Mr. McDonough said they're lower.
- Lenny Carr asked Mr. McDonough does this have any visual impact on that side of the street if you go to a third story. Mr. McDonough said adding 12 feet to that building does not create a substantially negative impact on the historic character of the area.
- Lenny Carr asked Mr. McDonough, was he looking at no shadow and light impact from what the Main Street perspective or on the historic nature of the Llewellyn Park community. Mr. McDonough said the sun rises in the east and that would be on the opposite side of Main Street, travels across the sky in an arc to the south. So that would be shadow effects in the morning time on the Llewellyn Park neighborhood.
- Lenny Carr asked if you go an extra height, will there be a larger shadow cast on the Llewellyn Park side? Mr. McDonough said yes, there will be more than the current condition.
- Amanda Barton at 10 Edge Hill Court asked Mr. McDonough if the B1 district is non-residential. Mr. McDonough said it is a zone that allows for non-residential uses and mixed use.
- Amanda Barton asked Mr. McDonough separately from the rear setback requirement, which was already established this is not in compliance with, is there not also a buffer standard that applies to the property in question? Mr. McDonough said yes.
- Amanda Barton asked what is that in feet? Mr. McDonough said 20 feet.
- Amanda Barton asked since this required by the West Orange Ordinance, the buffer standard is in addition to the building setback, so neither of these things is being met. Mr. McDonough said correct, but it's not cumulative. In other words, it's not applied as 20 feet plus 30 feet.
- Amanda Barton asked the proposal essentially needs relief or variance for both the buffer standard and the rear yard setback. Mr. McDonough said yes.
- Amanda Barton asked in addition to what you see here of windows looking out onto their yard, that there would be an even further invasion of privacy with another row of residential units. Mr. McDonough said not more than if this lower space that you're looking at were converted to a bar.

***The application has been carried to the May 7, 2025, Planning Board regular meeting without further notice. ***

Meeting adjourned at 10:55 PM.

ADOPTED:

Jamilet Baquerizo Vite
Planning Board Secretary