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**Township of Nutley
Planning Board
Meeting Minutes
Wednesday, July 12, 2017**

A meeting of the Planning Board of the Township of Nutley was held on the third floor of the Township of Nutley Municipal Building, One Kennedy Drive, Commission Chambers. Adequate notification was published in the Nutley Sun on July 6, 2017.

Roll Call:

Ms. Tangorra - Vice Chairperson - present
Mr. Greengrove - present
Mr. Arcuti, Secretary - excused
Mr. Algieri - present
Mr. Del Tufo - present
Mr. Contella - present
Mr. Malfitano - present
Ms. Kucinski - excused
Mr. Kozyra - present
Commissioner Evans - present
Mayor Scarpelli - present
Mr. McGovern - Chairperson - excused

Meeting Minutes:

Meeting Minutes for June 28, 2017 were approved by the Board.

Invoices:

An invoice for Debra Fontana for attendance and preparation of the June 28, 2017 Meeting Minutes was approved by the Board.

An invoice for Barry Kozyra for attendance at the June 28, 2017 meeting was approved by the Board.

The proceedings in this matter were voice recorded. The recital of facts in the Minutes is not intended to be all-inclusive, but is a summary and highlight of the complete record made before the Planning Board.

Site Plan Application (Continuation)
(Parking at Seton Hall Medical School)

Kevin J. Coakley Esq., Attorney for Applicant

Mr. Coakley addressed the Board on behalf of the Applicant, Kingsland Street Urban Renewal LLC, and acknowledged that Allyson Kassetta, Esq. is also in attendance. A hearing was conducted two weeks ago, and many witnesses testified at that time. During the hearing today, Leonard Savino, Civil Engineer from Langan Engineering will be recalled as a witness to answer follow up questions from the Board during the June 28, 2017 hearing, and Paul Ricci, the Township Planner will be cross-examined regarding his June 27, 2017 report. Mr. Coakley advised the Board that his Planner Paul Phillips, who worked with David Roberts to prepare the Redevelopment Plan, was unable to attend the hearing. Mr. Phillips' testimony may not be needed, but that decision will be made at the end of the hearing tonight.

During Mr. Coakley's testimony, Mr. Kozyra addressed the Board that he and Mr. Coakley met earlier in the week, and agreed on some of the issues that were addressed by the Board at the June 28, 2017 hearing.

The Applicant has agreed to the following stipulations:

New Jersey Transit Access to the Entire Campus

Mr. Kozyra stated that there has been an effort by the developer, Prism Capital Partners to obtain access to the campus for the New Jersey Transit bus line. New Jersey Transit would be able to enter the campus, make a loop and exit the campus. Mr. Kozyra also stated that in discussions with Mr. Coakley, he believes that the Applicant is in favor of that kind of access by New Jersey Transit into the campus. Mr. Coakley indicated the Applicant was in agreement.

Interconnection

Mr. Coakley indicated that the Applicant would cooperate in any way possible to having the interconnection with Passaic Valley/Jersey City discussed at the last meeting be done in a way that Nutley would accept. Mr. Coakley did indicate that he was not making any financial commitments for the Applicant, because it is not in his jurisdiction to do so, but did say that the Applicant would cooperate. Mr. Coakley stated that the Applicant's ability to proceed with the project would not be dependent upon any solution with respect to the interconnection.

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Testimony Before the Board:

Mr. Coakley stated the campus is somewhat of a hodgepodge in the way that it was built, and left by Roche. It is likely that the parking spaces, whatever they turn out to be, will be introduced in a series of parking spaces. He asked the Board to keep that sequencing in mind as to the parking spaces, and the occupancy of the building. Mr. Coakley stated that by way of example, the parking space count is one parking space per researcher, and there are plans for four hundred researchers. So, when fifty researchers are ready to move in, the Applicant would need to have fifty parking spaces for them. When they are ready to move in 100 students, with a .7% parking space per student, the Applicant would need seventy spaces for them. He stated the Applicant would the staging of the occupancy versus seeking the parking spaces at one time, and would like to coordinate that staging with the Township.

Public Comments:

No Public Comments.

**Leonard Savino, P.E.
Civil Engineering/Phase I Premises
Langan Engineering & Environmental Services**

Mr. Savino addressed the Board stating he researched the existing building and believes it has adequate fire protection from the Passaic Valley Water Commission supply connection. The site has a fire pump system that services the entire campus, and the pump house is in the south east corner of Building 123A. The campus has a domestic fire supply with a hydrant located right outside of the pump house. Mr. Savino confirmed with Fire Chief Paul Cafone that the fire department can pump from that hydrant to their truck and feed the entire system. He met with the Clifton and Nutley Fire Departments to discuss their comments, and is in agreement with the changes that need to be incorporated. Mr. Savino stated that with the changes that need to be made, the site will lose approximately twenty parking spaces along Prism Way on the north side of the building.

Mr. Savino was also requested to review the impervious coverage in the four lots located in Nutley. The overall impervious coverage limit in the Redevelopment Plan is 85%, and the impervious coverage percentage in Nutley is 69.3%. In addition, this percentage is also a reduction from Roche's previous impervious coverage percentage of 72.2%.

Public Comments:

No Public Comments.

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Stephen Powers, P.E.
Civil Engineering/Roadway Design
Greenberg Farrow

Mr. Powers addressed the Board that the current water source for the property is Passaic Valley Water Commission. He stated that Jersey City also supplies the water for the property. As stated in his previous testimony, the site has the option of turning off the water supply from Passaic Valley, and then turning the water supply on from Jersey City, but the main source of water supply would be Passaic Valley.

Public Comments:

No Public Comments.

Paul Ricci, Township Board Planner

During cross examination, Mr. Ricci stated that the Board approved the subdivision of the four lots approximately one year ago. Mr. Ricci did not recall if the subdivision application was granted before or after the Redevelopment Agreement was adopted. Mr. Ricci believed the Redevelopment Plan adoption date to be irrelevant because how the lots were to be utilized is fundamentally flawed. Mr. Ricci did not recall a provision about accessory use parking, or a paragraph in the Redevelopment Plan which mentions surface parking.

Mr. Ricci stated when preparing his report, he did not consult with Mr. Roberts or Mr. Phillips, but did speak with Mr. Kozyra. Mr. Ricci felt that the Applicant should have provided the number of employees and students occupying the building in Nutley versus Clifton. As that information was not provided, he used an approximation of parking spaces between each town allowing Nutley had 40.2% of the building and Clifton had 59.8%. He believes that the application was incomplete as it did not provide the necessary information on a town by town basis. If the Applicant has more information regarding the number of employees and students, a more accurate number might be possible. Mr. Ricci found that the permanency of all of the parking in Nutley to be inconsistent, as it was always anticipated that there would be a parking structure in Clifton.

Mr. Ricci confirmed being generally familiar with the Redevelopment Plan between Nutley and the Applicant and relied largely on that Plan. He confirmed that in neither the Redevelopment Plan, nor the Redevelopment Agreement, was there anything setting forth what parking spaces would be required in Nutley at the site plan hearing. Mr. Ricci also stated that he did not review anything in the Redevelopment Agreement that established the appropriate number of parking spaces at 1387, which is what the Applicant was requesting. Mr. Ricci also stated that he did not review anything in the Redevelopment Agreement as to the maximum

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number of parking spaces that would be in Nutley or in Clifton. The number of parking spaces should be based upon the number of students and employees if the information is available. Mr. Ricci believed the application rare as there is a building with municipal property lines dividing the property in two different counties.

Mr. Ricci stated that he was hired to work for the Planning Board, and not to work for the Commissioners. He stated that Nutley prefers to keep a separation between the Planning Board and the Commissioners. Mr. Ricci confirmed that he was not by any Commissioners about any of the issues that Mr. Coakley addressed during his cross examination, and is addressing these issues now because it is part of the application for site plan approval.

Public Comments:

Rory Moore addressed the Board with his comments.

James Placek, Esq., Kaufman, Semeraro & Leibman, LLP, who is Special Redevelopment Counsel for the City of Clifton addressed the Board with his comments.

John Inglesino, Esq., Redevelopment Counsel for the Township of Nutley, addressed the Board with his comments.

Kevin J. Coakley Esq., Attorney for Applicant

Mr. Coakley asked the Board for a five-minute recess and stated that he had a short letter that he would like to give to the Board to read during the recess.

The meeting was adjourned for a five-minute recess.

James Greengrove was excused from the meeting at 8:25 p.m.

After the hearing resumed, Mr. Coakley readdressed the Board

Summation by Kevin J. Coakley Esq., Attorney for Applicant

Mr. Coakley thanked the Board members, Board counsel and the Vice Chairwoman for their courtesy, and stated that he hoped the hearing would be a final positive step in the dealings between Seton Hall, Hackensack and Nutley. Approximately two and half years ago, the parties had a dialogue with Nutley about the campus. At that time, there were issues with a contract with Roche and how that would work out. There were numerous environmental issues that needed to be resolved and complicated dealings with Prism. Ultimately some the issues were resolved by Nutley's subdivision of the subject property into four lots. Clifton, too, adopted a subdivision plan dividing the property in Clifton into three lots. He stated that there is a

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Redevelopment Agreement with Nutley that was entered into in September 2016, which specifically stated that surface parking could be developed on the three lots which did not involve the medical school's building. He believed this to be a significant provision agreed to by Nutley.

Mr. Coakley addressed Mr. Ricci's latest report, and the various concepts raised by Mr. Ricci in that report. Mr. Coakley believes the report is "replete" with omissions and deficiencies, and it is a report that the Board cannot possibly rely on. The report did not mention that permanent surface parking could be allowed throughout the entire redevelopment plan area which includes both Nutley and Clifton, and the entire area of the campus. Mr. Coakley stated that all buildings have accessory parking including this one and your local supermarket. Parking is the most common and normally accepted accessory use, but Mr. Ricci has stated that the Applicant is not entitled to have an accessory use which is absurd. Mr. Coakley stated that the only provision in the Redevelopment Plan that deals with temporary parking is the provision dealing with parking as a principal use, such as a supermarket as a principal use, and a gas station as a principal use. This parking is not the principal use. There would be no parking at the site unless it was related to the medical school. Mr. Coakley also stated that the action by the Commissioners last January, when they were presented with a concept redevelopment scheme site plan that was nearly identical to what is being presented to the Board, was approved by the planner, and by the governing body. There was never any allusion to having temporary parking, and not once in the total presentation was temporary parking ever discussed.

Mr. Coakley warned that it would be unwise for the Board to do what it is thinking of doing, which may have consequences that the Board does not intend, and that no one can expect. He said that in the hope that the Board does not do something harmful to the Applicant by moving 400 parking spaces and making them temporary, as the approval would not be conforming to the Applicant's plan, and will not give the Applicant something it can rely on.

Mr. Coakley then stated the Applicant would reduce the total parking spaces to the number required pursuant to the ordinance, which is 1162, provided that all spaces were permanent parking spaces. He called it a significant reduction, and would allow the Applicant to go forward and requested the Board to approve the project as proposed, except for the parking spaces being reduced in Nutley so as to be 1162 total spaces.

Board Discussion

The Board on resolution by Mayor Scarpelli, seconded by Mr. Algieri and recommended by a vote of 7-0 that the application will be continued to the next meeting scheduled on August 16, 2017 and that Mr. Kozyra, Board Counsel, prepare a resolution to include the stipulations agreed by the Applicant with a total of 1162 parking spaces and 465 permanent surface parking spaces and 261 temporary parking spaces in Nutley. At the next meeting, the Board will review, discuss and, if appropriate, vote on the resolution.

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Mr. Coakley agreed to waive any time constraints with respect to the next meeting date of August 16, 2017.

Public Comments:

No Public Comments.

The meeting concluded at 8:58 p.m.

The next meeting is scheduled for Wednesday, August 16, 2017 at 7:00 p.m.

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