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**Township of Nutley  
Planning Board  
Meeting Minutes  
Wednesday, September 6, 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 official newspapers of The Herald News, the Star Ledger and the Nutley Sun on December 1, 2016.

**Roll Call:**

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

**Meeting Minutes:**

Meeting Minutes for August 16, 2017 were approved by the Board.

**Invoices:**

An invoice for Debra Fontana for attendance and preparation of the August 16, 2017 Meeting Minutes was approved by the Board.

An invoice for Pennoni Associates, Inc. regarding the Arbor Hills Apartments Site Plan Review dated June 25, 2017 was approved by the Board.

An invoice for Pennoni Associates, Inc. for Seton Hall Medical School Traffic Impact Statement Review dated June 25, 2017 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.

An invoice for North American Eagle Construction, LLC for reimbursement of the balance of the escrow fees for 134-136 Franklin Avenue was approved by the Board.

**Correspondence:**

Correspondence from Phil McGovern, Esq. addressed to Mayor Joseph Scarpelli dated August 21, 2017 stating that he will be resigning as the Chairman of the Planning Board was reviewed by the Board.

The Board expressed that Mr. McGovern will be greatly missed, and has been a great Chairman, friend, professional and resource for the community.

**Site Plan Application**  
**Parking, Streets and Roads at Seton Hall Medical School**  
**Review and Discussion of the Proposed Resolution**

Mr. Kozyra addressed the Board stating that the Applicant's testimony and presentation of evidence was completed at the last hearing date. At that time, the Board closed the record and began a very brief discussion of the application. Mayor Scarpelli suggested preparing a draft of the proposed Resolution for discussion by the Board.

When preparing the Resolution, Mr. Kozyra said he listed the numerous documents that have been reviewed by the Board with respect to the property, the subdivision and the site plan application, and circulated the draft to the Board. He stated the Resolution is only a draft, not a final version, because the Resolution must be reviewed and each aspect decided by each of the members of the Board.

Mr. Kozyra stated he circulated the draft Resolution to the Applicant's attorney, and received some requested changes but the Applicant's attorney declined to reopen the record after requesting the Board reopen the record in letters submitted. The Resolution will be edited to reflect some of the Applicant's requested changes, and a revised Resolution which will be presented at the next meeting for the Board's consideration. Mr. Kozyra asked that all members participate in the discussion tonight, and that the Mayor will take the lead on the discussion so there be an expressed consensus from the Board on a revised version of the Resolution for a vote this evening.

The Mayor read the Resolution to the Board, Board members commented and asked questions or sought clarification and Mr. Kozyra agreed to include requested additions, comments or changes in a final version of the Resolution for discussion, review and possible adoption at the next meeting.

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The Mayor provided the following descriptions of certain paragraphs in the Resolution and thereafter sought comments on each:

- Paragraph One - gives the property location.
- Paragraph Two – identifies the property owners.
- Paragraph Three - refers to the Board Planner Paul Ricci's October 2015 Consistency Review Letter.
- Paragraph Four – indicates the Applicant did not provide a parking study as part of the site plan application.
- Paragraph Five - references the Final Subdivision Approval on October 21, 2015.
- Paragraph Six - references the Nutley Redevelopment Agreement dated September 29, 2016, and the Nutley Redevelopment Plan adopted July 19, 2016.
- Paragraph Seven - refers to surface parking as a transitional use for a temporary period.
- Paragraph Eight - identifies and addresses transitional/temporary parking and the time period.
- Paragraph Nine - references the Clifton Redevelopment Agreement.
- Paragraph Ten - references the Nutley Redevelopment Agreement, Nutley Redevelopment Plan, Clifton Redevelopment Agreement and the Clifton Redevelopment Plan.
- Paragraph Eleven – references the appearance of the City of Clifton's attorney, James Placek, and his testimony.
- Paragraph Twelve – references the Applicant's letter dated June 20, 2017 to John Inglesino, Redevelopment Counsel to the Township.
- Paragraph Thirteen – references Chief Financial Officer of Hackensack University Medical Center Robert Glenning, and his testimony.
- Paragraph Fourteen - references the 1387 parking spaces that were sought by the Applicant in both Clifton and Nutley.
- Paragraph Fifteen - references the 1162 parking spaces that are required.
- Paragraph Sixteen - references the 951 proposed surface parking spaces Applicant sought in Nutley (based on 1387 requested spaces).
- Paragraph Seventeen – references the appearance of Erik Lillquist of Seton Hall University and his testimony.
- Paragraph Eighteen - the Applicant stipulated to limited use of any approved parking.
- Paragraph Nineteen - references the deviation the Applicant sought allowing less than 5% landscaping in all parking areas.
- Paragraph Twenty - references the waivers to the site plan application sought.

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- Paragraph Twenty-One - the Applicant stipulated to communicating with and assisting Prism Capital Partners, LLC to allow New Jersey Transit to have access to the Applicant's property for bus service.
- Paragraph Twenty-Two - the Applicant stipulated to cooperating, communicating with and assisting the Township of Nutley securing an Interconnection with either Jersey City or the Passaic Valley Water Commission.
- Paragraph Twenty-Three - references the Board Planner Paul Ricci's appearance and testimony.
- Paragraph Twenty-Four - references the Applicant seeking to develop and use some of the approved surface parking spaces in stages.
- Paragraph Twenty-Five - the application for site plan approval that was heard on June 28, 2017, July 12, 2017 and September 6, 2017 before the Board.

Mr. Kozyra addressed the Board that there will be an amendment to the stipulation portion of the Resolution, that it be limited to Mr. Hay's June 28, 2017 letter and not earlier letters. Mr. Kozyra related that he spoke to Mr. Hay, and Mr. Hay has received a response from the Applicant's professionals addressing the items that were in his letter. Mr. Hay stated that he expected the Applicant to be in substantial compliance with his recommendations.

Upon questioning by the Board, Mr. Kozyra stated that Mr. Ricci and Mr. Hay testified that if you applied Clifton and Nutley parking ordinances to the site, that 1162 spaces were what the Applicant needed according to those two ordinances. He stated there was no testimony from the Applicant concerning the differences between the 1387 spaces and 1162 spaces, other than the Applicant stating in its application that it wanted 1387 spaces. While the Applicant previously requested a total of 1387 spaces, there was a suggestion that they would accept 1162 spaces if all other requested conditions were accepted by the Board. The Applicant requested 951 spaces in Nutley (based on 1387 spaces), but when the number of spaces allowed was reduced to 1162, and the Nutley share of 40.06% was applied to 1162, the total permanent spaces would be 467.

The Mayor resumed reading the Resolution, and dictated only the numbers of each paragraph for the Board to review and give their comments or changes.

### **Discussion and Comments by the Board**

Commissioner Evans observed that whether it is 1387 or 1162, it is not clear in the resolution that the Applicant's request on the Nutley side remains at 951. In the Resolution, whether it is 1387 or 1162, 951 spaces are being requested in Nutley, and some portion of those spaces would be designated temporary by the Board. If the number is 951 and the ending number is 467, the difference is more than 259, and that part that was confusing when read. The

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Board should be clearer when a final Resolution is prepared. More clarification of the numbers is needed because the Resolution becomes a voted document.

Commissioner Evans suggested strengthening the language with the Code Enforcement Office as to transition parking spaces. Mr. Kozyra explained that when the Applicant was talking about “staging” the parking, they wanted to start using the building as quickly as they can without building all the parking. Before the Applicant can use part of the building, they wanted to stage the parking but were unsure how many stages. Mr. Kozyra said the Applicant would have to ask for a Certificate of Occupancy for stage one parking, stage two parking, stage three parking, and as they filled the building they would complete and use more of the parking.

Mr. Kozyra stated that in the Applicant’s letter, Mr. Coakley requested that it is not just the parking that has to be staged, it is the use of the building as well. Mr. Kozyra stated the Board had not expressed a problem with that request. For example, if the Applicant’s goal is to use the building in quarters, as they use the first quarter, they would get the first quarter parking approved, the second quarter of the building, the second quarter of the parking approved, etc. until they fully occupy the building, and have all the parking. There will be language in the Resolution that the Code Enforcement Department will be managing those stages. The staging will be coordinated by Code Enforcement with the Applicant and the Applicant’s use of the building and their needs. The idea is that the Code Enforcement Department will work with them to meet their needs with the parking in stages so they will not need all the parking at once. Mr. Kozyra said he will revise the Resolution, and identify not just the parking as being done in stages, but also the use of the building in stages.

The plans will be revised and updated to reflect Mr. Hay’s recommendation, but the revision cannot be completed until the Applicant has a Resolution. The revised plans will be completed before anything happens on the site, and the Applicant is already way ahead on getting that done.

Mr. Kozyra stated that the Applicant has agreed to cooperate with the developer in allowing New Jersey Transit to have access to the property. The condition that the Applicant has requested associated with New Jersey Transit having access to the site is that the Applicant does not bear any expenses. Mr. Kozyra will revise the Resolution accordingly.

The Board observed that when the Applicant gets approval for New Jersey Transit access as drafted, that the approval does not allow other bus services into the site. Mr. Kozyra stated that the Board must take into consideration that a bus going to and from the tunnels or bridges, requires a place to park a bus in New York at the Port Authority. What is likely to happen is that an existing slot will be selected, rerouted and figured out how long it will take the bus to go through the campus and pick up and drop off the people.

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When asked about Mr. Coakley's September 6, 2017 letter (which had not been submitted to the Board as it was received so late in the day), Mr. Kozyra stated some of the Applicant's requests in the letter are not what the Board had discussed, particularly the numbers that are in the proposed Resolution. The Applicant does not agree with the concept of transitional or temporary parking at all. The Applicant's position is that all parking should be permanent parking, there be no transitional and/or temporary parking, and that the Applicant disagrees with that whole aspect of the proposed Resolution.

Mr. Kozyra also stated that there was no parking study presented with the application which is also a requirement of the site plan. He observed that the Board could reject the application as parking study was provided. As the Applicant did not comply, the Board could turn down the application and require the Applicant to start all over again. Mr. Kozyra stated that the Board's discussions reflected that it would not be a good practical solution to deny the site plan application, and that it was not in the best interest of the Applicant or the Township to do so.

Since no parking study was submitted, Mr. Kozyra stated that the Board was left with a deficiency in the application to figure out how to address. He stated that Paul Ricci prepared a parking study with the information that is available. In fact, Mr. Kozyra stated that if you wanted to do a real parking study it could not be done because the Applicant did not provide sufficient information to do a parking study. The Board's experts studied the problem, and came up with a solution based on the law, facts and information, rather than reject the application.

Mayor Scarpelli made a motion to move the Resolution forward, and make the appropriate changes considering the comments made tonight for a vote at the next meeting, seconded by Commissioner Evans and granted by the Board with a vote of 7-0. Mr. Kozyra indicated that he would prepare another draft resolution for discussion and consideration at the next meeting.

#### **Nominations and Election of Chairperson and Vice-Chairperson**

Mr. Arcuti addressed the Board and stated that Mr. McGovern is a friend, and when Mr. Arcuti came on the Board in 2004, Mr. McGovern was very welcoming and helpful in making him a productive member of the Board.

In moving forward, Mr. Arcuti recommended Carol Tangorra be nominated as the Chairperson of the Board. Mayor Scarpelli seconded the nomination, and the Board approved the nomination unanimously.

Mayor Scarpelli addressed the Board that he would recommend Mr. Arcuti be nominated as the Vice Chairperson of the Board, seconded by Commissioner Evans. The Board approved the nomination unanimously.

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**Public Comment:**

Richard Schlesinger addressed the Board with his comments as to the notices he received as to the Seton Hall site plan application.

The meeting concluded at 8:17 p.m.

The next meeting is scheduled for Wednesday, September 20, 2017 at 7:00 p.m.

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