

**Township of Egg Harbor
Planning Board**

November 21, 2011

Solicitor: Christopher Brown, Esq.(Ted Strickland, Esq., in attendance for Solicitor Brown)
Engineer: James Mott, P.E. (Mott and Associates) James Mott, P.E., in attendance
Planner: Vincent Polistina P.P. (Polistina and Associates), Craig Hurless, P.P., in attendance

A regular meeting of the Planning Board of Egg Harbor Township was held on the above date, 6:30 p.m., prevailing time, Egg Harbor Township hall, Egg Harbor Township, New Jersey. The Chairperson opened the meeting by reading the statement in compliance with the Open Public Meetings Act.

Roll call taken as follows:

Manuel E. Aponte, Vice-Chair., present	Joseph Lisa, 2 nd Vice-Chair., present
Committeeman John Carman, present	Mayor James McCullough, Jr., pres. left @ 7:10p.m.
Charles Eykyn, present	Peter Miller, Twp. Administrator, present
James Garth, Sr., Chairman, on vacation	Paul Rosenberg, Alt. #II, present
Frank Kearns, Alt. #I, pres., left. @ 6:35 p.m.	Dorothy Saslav, resigned from Board
Robert Levy, present	

****May the record reflect:** Chairman Garth was not in attendance, therefore, Vice-Chairman Aponte is presiding over the meeting.

****May the record reflect:** Mayor James J. McCullough, Jr., step out of the courtroom while Township Committeeman Cafero entered the courtroom in order to address the first item of business, which is as follows:

CORRECTION OF MEMORIALIZED RESOLUTION:

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| 1. <u>SPPF 07-09</u> | Preliminary/Final Major Site Plan |
| Egg Harbor Associates, LLC, an affiliate of | 2118/1 and 16-21 |
| Wolfson Verrichia Group, Inc. as authorized | 7801 Black Horse Pike |
| agent for Wal-Mart Real Estate Business Trust | 6820 Old Egg Harbor Road |
| “Oak Tree Plaza” | Fire Road |

The applicant’s resolution was memorialized by the Planning Board during the Regular Planning Board meeting of June 20, 2011. The resolution was signed and thereafter, forwarded to all applicable parties and agencies. However, upon further review of this resolution a typographical error has been found on Page 50 of the resolution.

Currently, Page 50 reflects a motion to grant *“conditional Preliminary Major Site Plan Approval for the Wal-Mart building and retail buildings A and B as shown on the Site Plan”*, which is incorrect. This motion should reflect *“Conditional Preliminary and **Final** Major Site Plan approval for the Wal-Mart building and retail buildings A and B as shown on the Site Plan”*.

Applicant is seeking Board allowance to correct the typographical error on Page 50, of the original resolution, to correctly reflect the applicant received both conditional preliminary and final major site plan approval for the Wal-Mart building and retail buildings A and B.

Motion Miller/Eykyn to correct typographical error on Page 50, of the original resolution, for SPPF 07-09, Egg Harbor Associates, LLC, an affiliate of Wolfson Verrichia Group, Inc., as authorized agent for Wal-Mart Real Estate Business Trust - "Oak Tree Plaza" Block 2118 Lot(s) 1 and 16-21, to correctly reflect the applicant received "conditional preliminary and final major site plan approval for the Wal-Mart building and retail buildings A and B". Vote 7 Yes: Aponte, Carman, Eykyn, Kearns, Cafero, Miller, Rosenberg.

**** May the record reflect:** After the vote was taken for the correction of the memorialized resolution Township Committeeman, Joseph Cafero left for the evening and Mayor James J. McCullough entered back into the Courtroom and was in attendance for the remaining portion of the evening.

PUBLIC HEARING(S):

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| <p>1. SPPF 12-11
 AtlantiCare Behavioral Health
 Zone: HB, 7.972 acre site, septic/well
 Applicant proposes to construct a new 12,405 sq. ft. building and a 4,351 sq. ft. addition on the existing frame and steel office building. The applicant is also proposing to configure the off-street parking and provide a total of 135 spaces. The applicant proposes to construct a 25 ft. wide driveway from Delilah Road to US Route 322/40. Sidewalk & curbing is proposed along the frontage of the Black Horse Pike including a newly configured entrance to the parking area. The applicant also proposes to construct a stormwater management and bio-retention swales. The 110 ft. wetlands buffer will be preserved except in areas necessary for grading and construction of the proposed access drive and areas of preservation are proposed to be deed restricted. A pump station is proposed and the site will be serviced by public water by the proposed water main extension. Pinelands</p> | <p>Major Site Plan
 1501, Lots 6 & 7
 6010 Black Horse Pike
 Waiver of Time- No indicated</p> |
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Checklist Waiver(s):

1. **Item #3: §198-15(D): Key map**
2. **Item #17: §198-15(D): Copy of existing and/or protective covenants**

Design Waiver(s):

1. **§94-8.H: Buffers**
2. **§94-9: Community Impact Statement**
3. **§94-14: Environmental Impact Statement**
4. **§94-37: Shade trees**
5. **§94-44.E(1)(i)(1): Basin Setback**

Variance Relief:

1. **§225-7: Side Yard Parking Setback:** Minimum side yard parking setback distance is ten (10') feet. Applicant is showing the connection road Delilah Road to the main parking lot within one (1) foot of the westerly property line due to wetlands buffer.
2. **§225-55.A. Driveways :** Drive entrances shall be located at 15' feet from any property line. The applicant is proposing to construct a drive entrance from Delilah Road which will be located one (1') foot from the side property line.

**** May the record reflect:** Vice-Chairman Aponte stepped down from this application. He advised he is a member of the AtlantiCare Board of Directors. This portion of the meeting was

conducted by 2nd Vice-Chairman Lisa

Jack Plackter, Esq, introduced himself as attorney for the applicant AtlantiCare Behavioral Health. He advised the application being presented is an expansion of the Behavioral Health systems. Attorney Plackter advised there are two (2) existing buildings on site that will be expanded, there will be one (1) new building, a bio-retention basin and a second means of ingress and egress.

Attorney Plackter advised this site is a behavioral health facility for both adult's and children, however, with the proposed expansion adult's will no longer be treated from this facility. This facility will specifically service children throughout Atlantic County.

Attorney Placker stated the site complies with the present zoning and the applicant is proposing a second means of ingress and egress, but with additional means the applicant's proposes to place it very close to the property line and it will require variance relief. He advised this is because of the wetlands on site, however, he indicated discussion will surround the belief that the applicant can justify the variance based upon it being an additional traffic access. Attorney Plackter explained the property is located in the HB (Highway Business Zone District), which is a commercial zone. He advised the taxes are current for this parcel and he stated AtlantiCare behavioral health has been at this particular location for a number of years.

David Scheidegg, P.E., New Jersey Licensed Engineer, Schaeffer, Nassar, and Scheidegg, Cantillon Blvd., Mays Landing, sworn in: Engineer Scheidegg advised he has reviewed Board Engineer Mott's report and Board Planner Polistina's report. He explained the site is a little under eight (8) acres in size and has frontage along both the Black Horse Pike and Delilah Road.

Engineer Scheidegg advised the building currently being used for the behavioral services is a converted house, he noted there is also a separate steel structure on site, as well as, 44 existing parking spaces. Engineer Scheidegg indicated the site currently has both a well and a septic system.

Engineer Scheidegg explained the adult behavioral health will be moved out to another location, thus only children will be coming to site. He advised with this proposal the existing structures will remain and small additions are proposed for both, however, there will be a new 12,405 sq. ft. building proposed. He indicated the children coming to the facility will be between nine (9) to eighteen (18) years of age. They will come after school and stay until 7:00 p.m, which is roughly a five (5) hour session. Engineer Scheidegg indicated that during the summer the facility will open at 8:00 a.m. He indicated staff members will be in and out the facility daily. He indicated there are staff members available at this facility who will work a crisis concerning children off-site.

Attorney Plackter asked if this use is considered inherently beneficial? Engineer Scheidegg stated yes, however, the use is a permitted one in the zone, regardless. Engineer Scheidegg explained to the Board that there is an existing entrance way on the Black Horse Pike and it will meet all Department of Transportation criteria. He further commented that the applicant is also proposing another access way from Delilah Road. Engineer Scheidegg indicated it is similar to the existing access way for the M. S. Produce facility which is two (2) properties down from this site.

Engineer Scheidegg advised the facility proposes to have 137 spaces and the applicant is

proposing landscaping along the access drive and will be maintaining buffer areas. He noted the applicant is also proposing curb and sidewalk along the Black Horse Pike frontage, as well as, the Delilah Road frontage and the applicant will be extending sewer and water to this site.

Engineer Scheidegg explained all the buildings both existing and proposed will have the same architectural theme throughout the site. Engineer Scheidegg advised this site was previously a gravel pit as was the adjacent lot which is the New Jersey Department of Transportation maintenance yard. Engineer Scheidegg indicated there is a 20' ft. elevation difference from Delilah Road to the pit area. He explained the Pinelands Commission feels the bottom of the manmade pit is wetlands and the applicant is required to maintain a buffer of 110' ft. from it. Engineer Scheidegg indicated a cultural study for Indian Artefacts was also required by Pinelands and the applicant did conduct the study.

Engineer Scheidegg advised because of the wetlands designation there is a limited area for where the secondary access can be placed. He explained since there is such a huge topographical change, wetlands and a wetlands buffer the secondary driveway is closer to an adjacent property line than what is permitted. Attorney Plackter asked if the applicant really needs a second driveway? Engineer Scheidegg stated he believes the secondary driveway is almost mandatory since it is another means of access to the site. He explained that having just one (1) access on the Black Horse Pike is not safe. Attorney Plackter asked if there were any detriments by granting variance relief for the setback of the secondary access? Engineer Scheidegg stated there is none whatsoever.

Engineer Scheidegg advised the ordinance requires a minimum of 10' ft. for the side yard setback. He indicated the applicant is actually proposing the secondary access 1' ft. off setback for about a length of 129' ft. He went on to further explain that a letter was sent to the Children's Hospital of Pennsylvania (C.H.O.P.), who is the adjacent property owner where this setback is proposed. This letter asked if an easement could be granted to AtlantiCare in order for them to plant trees and shrubs on the C.H.O.P.'s property. Engineer Scheidegg indicated this correspondence was sent over a month ago and they have yet to respond. Engineer Scheidegg indicated the applicant is seeking a waiver from providing a community impact statement. He advised the site is self contained and the applicant is taking care of Children's Behavioral Health. Attorney Plackter indicated all improvements will remain in the hands of the applicant.

Engineer Scheidegg advised the applicant is seeking a waiver from providing an Environmental Impact Statement. He indicated this is based upon what has been presented to the Pinelands Commission and their extensive review of this site from an environmental perspective.

Engineer Scheidegg advised the applicant is also seeking relief for the basin setback. He explained the applicant is using an area that has already been excavated for storm water management, but it will be reshaped. Engineer Scheidegg indicated the applicant will not be coming any closer to the property line it currently is 8' ft. which is a pre-existing non-conforming condition to the basin area, but the applicant must seek variance relief.

Attorney Plackter asked if Engineer Scheidegg believes the applicant should be granted preliminary and final major site plan approval? Engineer Scheidegg stated yes.

Board Planning Representative Hurlless stated he would like discussion concerning the shade trees. Engineer Scheidegg advised the applicant is seeking a waiver from providing them along Delilah Road. He explained the Technical Review Committee asked for curb and sidewalk

along Delilah and the applicant is doing so. However, rather than placing shade trees in the applicant would like to keep the existing trees. Engineer Scheidegg advised the applicant does not want to clear the bank area where the trees are. They do not want to remove trees in order to place trees in. Township Administrator Miller asked if the applicant will be placing the shade trees somewhere else in the Township if the waiver is granted? Engineer Scheidegg stated he has placed the shade trees the applicant is seeking not to place on Delilah Road in other area's of the site. Board Planning Representative Hurless indicated the applicant has provided all street trees and basin trees on site.

Board Engineer Mott advised he was in the planning office the day the individuals who own the irrigation facility were looking at the applicant's plans. Board Engineer Mott stated they would like a chain link fence along their property line which would be an extension of about 100' ft. due to people walking across their property in order to get to this site. Attorney Plackter advised the applicant will do so, however, he did remind the Board that adults will no longer be using this facility, it will be specifically for children. Board Engineer Mott advised they would also like water and sewer extended to their property. He further noted the Township would like to see the applicant work with these individuals in obtaining a cross access easement and he would also like to see one (1) proposed for the C.H.O.P. property. Attorney Plackter indicated he had no problem with working with the adjacent property owners in order to obtain these easements.

Township Administrator Miller asked if the 129' ft. in the rear of the site where the variance relief is sought a safe place to proposed a cross access easement? Board Engineer Mott stated the an easement may not be needed at all. He indicated there could be a three (3) way stop proposed along the applicant's driveway that would be incorporated with C.H.O.P. Again, he stated this is just a suggestion for the future. It may not happen.

Mayor McCullough asked if the county will allow curb and sidewalks along Delilah Road? Engineer Scheidegg indicated the County defers the requirement to the towns within their jurisdiction.

Board Member Lisa asked if there will be areas on this site that will be deed restricted? Engineer Scheidegg advised deed restrictions will include the wetlands, the wetlands buffer, and area's around the basin will also be restricted. Board Member Lisa advised reference of the restrictions should be in decision and resolution. Board Planning Representative Hurless stated the deed restrictions explained are referenced within his report as a requirement.

Motion Carman/Eykyn to open public portion. Vote 7 Yes:

May the record reflect no one came forward concerning this application

Close McCullough/Miller to close public portion. Vote 7 Yes

Township Administrator Miller advised he has no issue with granting a variance, due to the site constraints with respect to the wetlands and the secondary access off Delilah Road serves a purpose.

Engineer Scheidegg indicated he has a questions concerning page 4 of 5, paragraph II, with respect to sidewalk being required up to the Black Horse Pike. Board Engineer Mott indicated he wants sidewalk on both sides of walkway leading up to the Black Horse Pike. Attorney Plackter advised the applicant will provide. Engineer Scheidegg indicated also on page 5 of 5,

paragraph III, discusses inlets. He indicated there is one inlet proposed, however, Engineer Mott is seeking a double inlet. Engineer Mott advised in a heavier rain events he wants to make sure water goes into ground.

Frank Casper, representative with AtlantiCare, advised they will provide the double inlet as requested. Engineer Scheidegg stated there is an access drive to the basin. He indicated a 12' ft. grassed area is proposed rather than going to DGA. Township Administrator Miller stated the applicant is the owner and will not be giving basin to Township, therefore, it is not needed. Township Committeeman Carman indicated not needed because applicant must maintain.

Engineer Scheidegg also advised there will be a landscaped island that will be moved in order to maintain a 17" inch tree. He also advised the applicant will be adding street trees along the pike and would like to work with placement of the trees at 50' ft. on center. He indicated there is an sign and with the requirement of 50' ft. it presents a problem. Board Planning Representative Hurlless indicated he will work with the applicant concerning placement of the shade trees along the Black Horse Pike, which also concerns the location of the 7th tree, which causes the problem with respect to the sign.

Motion Eykyn/Carman to grant requested checklist waiver(s): Vote 7 Yes: Carman, Eykyn, Levy, Lisa, McCullough, Miller, Rosenberg

Motion Carman/Eykyn to grant requested design waiver(s): Vote 7 Yes: Carman, Eykyn, Levy, Lisa, McCullough, Miller, Rosenberg

Motion Miller/McCullough to grant requested variances(s) relief: Vote 7 Yes: Carman, Eykyn, Levy, Lisa, McCullough, Miller, Rosenberg

Motion Carman/Eykyn to grant requested conditional preliminary and final major site plan approval: Vote 7 Yes: Carman, Eykyn, Levy, Lisa, McCullough, Miller, Rosenberg

**** May the record reflect:** 2nd Vice-Chairman Lisa step down and Vice-Chairman Aponte conducted the remaining portion of the meeting.

MEMORIALIZATION OF RESOLUTION(S):

1. <u>SP 07-11</u>	Minor Site Plan
English Creek, LLC	1613/89 & 90
3089 English Creek Avenue	

Motion Miller/Eykyn to memorialize resolution granting requested checklist waiver(s), design waiver(s), variances(s) relief and conditional minor site plan approval: Vote 4 Yes: Aponte, Eykyn, Levy, Miller

SUMMARY MATTER(S):

1. Discussion of matters pertaining to the Board:
 - A. Discussion: NB Neighborhood Commercial District

Township Administrator Miller explained this discussion is coming about because the Township currently has three (3) NB zoning districts (neighborhood business). He indicated within these NB zoning districts at least two (2) area's have small shopping centers.

Township Administrator explained one (1) such zone is located at the intersection of Ocean Heights Avenue and English Creek Road. He advised a second (2nd) zoning area is where Harbor Village Square is located, which is the intersection of Zion Road and Ocean Heights Avenue.

Township Administrator Miller advised the NB zone allows for commercial uses, however, it does not reference shopping centers. He indicated there is not much that needs to be changed within the definition of the NB zoning district to allow for them. He indicated one item that will change will be the lot size requirements. He indicated in order to have a small shopping center within the NB zoning district you must have a parcel with a minimum lot area of three (3) acres.

Township Administrator Miller indicated the other changes proposed within the definition are small. He presented the shopping center can not have less than five (5) stores, wording with respect to restaurants and banks not being allowed will be struck, and "super" will be placed in front of "market" .

Township Administrator Miller advised this proposal is based upon staff recommendation to the Township Committee for proposal. He further advised this will allow the applicant who proposes to construct a center at Ocean Heights Avenue to be reviewed by the Planning Board. He indicated the planning/zoning office has had plans associated with this site for at least three (3) to four (4) years, the Township sold several parcels to the interested parties and an application was submitted to the Department of Environmental Protection for a CAFRA permit, which was approved when Bradley Campbell was the Director. He indicated the 92 mobile home units that were associated with the parcel on Ocean Heights Avenue were the subject of an application presented by Ralph Clayton, whom will be increasing his park by 92 units, however, this will not be accomplished until a site plan is approved for the subject parcel.

Motion Eykyn/Levy to support modification to the NB (neighborhood business) Zoning District and seek Township Committee to prepare a draft as an ordinance. Vote 8 Yes: Aponte, Carman, Eykyn, Levy, Lisa, McCullough, Miller, Rosenberg.

B. Discussion: Pre-existing; non-conforming *Improved* parcels

Township Administrator Miller advised during the 2002 Master Plan downsizing of several different zones occurred. He presented as an example that if someone lived within an RG-3 zone it was changed to RG-1 so rather than having a 70' ft. width there is now a required 100' ft. width, instead of having a 7,000 sq. ft. lot you will have a 10,000 sq. ft. lot and rather than having aggregated setbacks for a total of 15' ft. the setbacks became at least 10' and 10' on each side.

Township Administrator Miller indicated to have someone enclose their porch or place a small addition they must make an application to the Zoning Board and seek relief. Due to the requirements established we are finding people abandoning their projects because they do not want to make the application.

Township Administrator Miller advised he has received copies of ordinance(s) from Hamilton Township, Galloway Township, Absecon, and Linwood addressing this specific issue. He indicated in each of these communities, if someone has a pre-existing; non-conforming improved parcel, as long as they are able to conform to the setbacks then it is not required for them to go to the Zoning Board for relief.

Township Administrator Miller suggested the Township also include this wording in our ordinance, however, it should also include meeting the height and coverage requirements in order to handle these situations administratively. He indicated that by doing so Egg Harbor Township will be a little more user friendly. Township Administrator Miller advised the zoning officer, land use administrator and the construction officials are the individuals whom hear the backlash as to how the Township currently looks at pre-existing; non-conforming improved parcels.

Motion Eykyn/Levy to support modification and seek Township Committee to prepare a draft as an ordinance. Vote 7 Yes : Aponte, Carman, Eykyn, Levy, Lisa, Miller, Rosenberg.

2. **Motion Eykyn/Levy to approve the minutes of September 19, 2011 regular Planning Board Meeting. Vote 5 Yes:** Aponte, Carman, Eykyn, Levy, Rosenberg; **2 abstentions:** Lisa, Miller
3. **Motion Levy/Miller to approve the minutes of October 17, 2011 regular Planning Board Meeting. Vote 4 Yes:** Aponte, Eykyn, Levy, Miller; **3 Abstentions:** Carman, Lisa, Rosenberg

Motion Levy/Carman to adjourn at 7:20 P.M. Vote 7 Yes: Aponte, Carman, Eykyn, Levy, Lisa, Miller, Rosenberg .

Respectfully submitted by,

Theresa Wilbert, Secretary

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