

**TOWNSHIP OF EGG HARBOR
PLANNING BOARD**

August 18, 2014

Planning Board Professional(s):

Solicitor: Christopher Brown, Esq. (Ted Strickland, Esq., in attendance)

Engineer: James A. Mott, P.E., of Mott Associates: (Greg Schneider, in attendance)

Planner: Vincent Polistina, P.P., of Polistina and Associates: (Gary Auer, in attendance)

A regular meeting of the Planning Board of Egg Harbor Township was held on the above date, 5:00 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 Follow(s):

Manuel E. Aponte, V-Chairperson, present
Committeeman John Carman, present
Milas Cook, Alt. #I, present
Charles Eykyn, present
James Garth, Sr., Chairperson, present
Frank Kearns, another engage.

Robert Levy, present
Mayor James J. McCullough, Jr., another engage.
Peter Miller, Township Administrator, present
Paul Rosenberg, 2nd V-Chairperson, present
MD Shamsuddin, Alt. #II, another engage.

OTHER MATTER(S):

1. **SP 19-13**
Deeper Life Deliverance Ministry

Minor Site Plan
1501/11
6024 Black Horse Pike

Discussion: on March 10, 2014, applicant was granted an extension of time until August 10, 2014, for the completion of site improvements. Applicant is now seeking an additional extension of time in order to complete site improvements.

James Frances Dooner, Egg Harbor Township, sworn in: Mr. Dooner advised the church had a deadline of August, 2014 for paving and concrete installation. He indicated the congregation has not had all the funds available and their pastor has been ill. He advised the church does not want to begin a project and it only be done halfway and it sit all winter. He stated they're seeking an extension until June, 2015 so everything can be completed.

Board Member Aponte asked how Mr. Dooner was related to the church organization. Mr. Dooner advised he is an elder with the church and he was asked to speak for the church. Township Administrator Miller stated he is concerned with the installation of the improvements. He indicated originally they were to be completed by Easter, however, it could not be done. He advised the applicant then asked for an extension until August, 2014 for the improvement installation. Now the applicant is seeking an additional ten (10) months for their installation.

Township Administrator Miller advised when he recently went past the church there were at least 20 cars parked in non-defined spaces. He indicated he does not feel comfortable giving an extension past the fall of this year considering the church began this process over two (2) years ago. Mr. Donner advised they are a small church and do not have a consistent membership. He stated they do have

money coming in but again they are not a big congregation and many members provide the help from their own pockets.

Township Committeeman Carman stated he would normally agree with Township Administrator Miller, however, churches are the moral fiber of the community. Board Member Rosenberg asked how far the church is for the funding of the improvements with a 100% consideration. Mr. Dooner advised they have 15% to 20% of the funding associated with the improvements. Township Committeeman Carman stated the alternative would be not to allow the extension which would shut down the church and the congregation would not have a place to worship and then there will be another vacant building.

Mr. Dooner advised when the pastor was hospitalized the congregation had to stand back on some of the proposed projects. Mr. Dooner indicated the pastor and the congregation are committed to keep moving forward. Board Member Eykyn advised he agrees with Township Committeeman Carman.

Motion Carman/Rosenberg to grant requested extension of time for the completion of improvements until June 1, 2015. Vote 7 Yes: Aponte, Carman, Cook, Eykyn, Levy, Rosenberg, Garth. **1 No:** Miller

PUBLIC HEARING(S):

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| 1. SD 01-14
Dustin Widas
Zone: RG-1, sewer/water,
Applicant is proposing to subdivide lot 6 block 5953 | Preliminary/Final Major Subdivision
5953/6, 16-20
Cottage Road & Wilson Avenue
Waiver of Time – Granted |
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along With lots 16-20. The five (5) lot subdivision will have frontage on Cottage Road and Wilson and the applicant is requesting Wilson Avenue to be vacated. The proposed is an expansion to existing of lots and will add additional area to Lot(s) 16, 17, 18, 19 and 20, which all contain an existing single-family detached dwelling. No further develop at this time is proposed. Pinelands c/f #: 2001-0297.004 dated: 04/14/14.

Checklist Waiver(s):

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| 1. Item #1c: | Digital copy of plans |
| 2. Item #3: | Key map showing land uses within 200' |
| 3. Item #6: | Adjacent owners list updated |
| 4. Item #10: | Acreage of tract to be subdivided to nearest one tenth of an acre |
| 5. Item #11: | Existing topography at 1' ft. intervals |
| 6. Item #12: | Location of all existing and proposed structures showing existing and proposed front, rear, and side yard setback distances. |
| 7. Item #14: | Plans, grades and details of all proposed streets including curbing, sidewalks, storm drains, and drainage structures |
| 8. Item #17: | Site characteristics map |
| 9. Item #21: | Stormwater management plan |
| 10. Item #26: | Open Space/Recreation Plan |
| 11. Item #31: | Photograph of site |
| 12. Item #34: | Location of wells and septic systems |
| 13. Item #37: | Landscaping plan |

Variance(s):

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| 1. §225-7: | Lot area: Block 5953/Lot 20: Prop. 13,625; Req.: 17,200* (*PDC's purchase) |
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James Boney, PLS, 13 Stone Mill Court, Egg Harbor Township, New Jersey Licensed Surveyor, sworn in, advising that Mr. Widas is also present.

*** May the record reflect:** Gary Auer announced his firm Polistina and Associates is conflicted from this application, therefore, he is stepping down and the Board Engineering firm Mott Associates, has done both the engineering and the planning review.

Surveyor Boney advised the property in question block 5953 lot 6 was purchased by five (5) different property owners. He advised this lot corresponds with each property owners existing parcel so each owner will receive a share of this parcel when subdivided. Surveyor Boney advised this subdivision is similar to another that was done by a group of property owners along Cottage Drive.

Township Administrator Miller stated in theory this is not a major subdivision in the sense that they're creating lots that will be built upon. He advised there are a number of waivers sought because of this. Township Administrator Miller stated because the property in question is being subdivided into five (5) lots it has be considered a major subdivision. He explained the property in question was purchased by the individual owners from the Township.

Surveyor Boney explained there will be a portion of Wilson Avenue, which is a paper street that will be vacated. He indicated it will be from Tremont Avenue to this parcel. He indicated by subdividing lot 6 it will allow the individual lot owners to add to their properties in order to have larger parcels. Township Administrator Miller advised by vacating the paper street the property owners will not be able to access the rear of their properties. Surveyor Boney stated by vacating Wilson it will not place a burden on abutting property owners because there is another paper street call Dutch Avenue that they may gain access through.

Surveyor Boney advised there is a variance requested for an undersized lot more specifically block 5953 lot 20. Township Administrator Miller indicated when the original subdivision for Cottage Road was approved the zoning was RG-3 now the zoning is RG-1. The lot area does not meet the minimum requirements of today, which is 17,200 sq. ft., therefore, the Pinelands Commission is requiring the purchase of a Pinelands Development Credit even though this subdivision is not creating any building lots.

Township Administrator Miller advised the Township owns another parcel to the west of lot 6. He indicated several abutting properties owners would also like to purchase that parcel and prepare a subdivision similar to this one. Township Administrator Miller explained when those property owners do so the undersized lot involved with this one will also be included. He indicated the undersized lot would then gain additional property with the next subdivision and more than likely be conforming, however, as it exist with this subdivision it requires variance relief and the purchase of a Pinelands Development Credit.

Motion Rosenberg/Carman to open public portion. Vote 8 Yes.

May the record reflect no one came forward.

Motion Carman/Rosenberg to close public portion. Vote 8 Yes.

Motion Carman/Eykyn to grant requested checklist waiver(s). Vote 8 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Garth

Motion Carman/Miller to grant requested variance relief. Vote 8 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Garth

Motion Carman/Aponte to grant conditional preliminary/final major subdivision approval. Vote 8 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Garth

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| 2. SPPF 18-13
Primax Properties – “Advance Auto”
Zone: HB, 4.92 acres, sewer/water, applicant proposing to construct a 9,909 sq. ft. | Preliminary/Final Major Site Plan
1611/16
6011 Black Horse Pike
Waiver of Time – Not Granted |
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- auto supply facility. Other improvements will include 34 parking spaces, storm water management and landscaping. Pinelands c/f (Inconsistent): #1983-6261.003, dated 06-03-2014.

Checklist Waiver(s):

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| 1. Item #3: | Key map |
| 2. Item #20: | Traffic Report |
| 3. Item #21: | Fiscal impact report |
| 4. Item #35: | Architectural plans |

Design Waiver(s):

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| 1. §94-22C: | Landscaping within buffer area |
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Variance(s):

- | | |
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| 1. §225-7: | Lot Width: 159.90’ ft. proposed; 200’ ft. required |
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Damian DelDuca, Esq., introduced himself as representative of the applicant, Primax Properties. He indicated also present are Chris Neil, John Pettit, Herman Zell, and David Parker. He advised the property in question is known as 6101 Black Horse Pike and is almost five (5) acres in size.

Attorney DelDuca presented the Board a hand out containing smaller versions of the exhibits he will be referring to this evening. They are as follows: A1: Ariel photograph of parcel in question and surrounding area, Exhibit A2: site plan prepared by the Pettit Group and submitted to the Planning Board, Exhibit A3: concept plan alternate design, and Exhibits A4: concept plan alternate design.

Attorney DelDuca advised Primax Properties develops “Advance Auto” stores. He indicated the proposed facility for this site will be both a retail supply facility and a facility that will supply other stores in the area. He indicated the applicant is seeking variance relief associated with the existing lot width. Attorney DelDuca referred to Exhibit A2: advising the current lot width of the property in question is 159’ ft., however, years ago the adjacent parcel was actually carved out from this property for the construction of the Fire Tower.

Attorney DelDuca advised this application was filed last November (2013) and the applicant has met with the Technical Review Committee multiple times in order to present this plan. He stated the plan originally submitted was different from the one being presented this evening. He advised the store was

in a different location, its orientation was different and additional variances were requested. Again, he advised that after a number of meetings the store was placed perpendicular to the site and the variance relief originally proposed was eliminated.

Attorney DelDuca advised design waivers are requested including lighting. He advised the applicant is seeking a waiver from section 94-23 (H) of the lighting standards. Attorney DelDuca advised the applicant is seeking lighting of 5 foot candles on the interior site of the facility along the property line of the fire tower lot. He indicated the applicant will meet the requirements along the adjacent property lines of with the mobile home community. He indicated the applicant will not impact the mobile home community based upon this request.

Attorney DelDuca further noted the Township Ordinance requires the applicant to provide test pits for storm water management. He indicated the applicant has provided borings because of the wooded nature of the site. He advised these borings were witnessed by the Board Engineer.

Attorney DelDuca advised during the course of the application one other issue had been brought to the applicant's attention. He indicated there is a large oak tree on this parcel. He then referred to Exhibit A2: showing the location of the oak tree. He stated on the plans submitted it states the tree was dead. He advised the applicants landscape engineer thought it was dead based upon a field inspection, however, it bloomed later than expected and it is alive.

Attorney DelDuca advised when they realized the tree was not dead the applicant tried to come up with ways to develop the site without removing the tree including landscaping, possible access easements to the Township and deed restrictions. Attorney DelDuca advised he does not believe this oak tree is a specimen tree as designated within the Township Ordinance. Attorney DelDuca then read into the record section 94-32 (A) of the Township Ordinance.

Attorney DelDuca advised they have researched, as provided within section 94-32 (A), with the specimen tree list provided by the Department of Environmental Protection. He indicated this information was also provided to the Board Professionals. Attorney DelDuca explained that based upon the list the largest oak tree referenced has a dbh of 13' ft. Attorney DelDuca advised the tree on site is large, however, it is smaller than the largest known referenced on the Department of Environmental Protection list.

Attorney DelDuca further noted that section 94-32 (A) also references that a tree can be considered if the Township Environmental Commission designates it as a specimen tree. Attorney DelDuca advised at the time when this application was filed the Environmental Commission had not defined this oak tree as a specimen tree, therefore, he believes the Department of Environmental Protection standards reign concerning this tree.

Attorney DelDuca advised the applicant tried to place the building within the north east corner of the site, however, this did not work based upon the parking. He indicated the oak tree could not be a worse position on site in order to retain it. Attorney DelDuca advised the applicant cannot keep the tree.

Attorney DelDuca referred to Exhibit A1: Ariel advising the parcel in question is substantially wooded. He further noted the Technical Review Committee discussed deed restricting a portion of this parcel,

which is outside the development area. He indicated the restricted area will be over 2 ½ acres of natural vegetation.

Attorney DeDuca referred to Exhibit A2: advising the applicant will meet the buffering requirements, even though the adjacent uses are not permitted uses within the High Business zoning district (HB). He indicated the buffering will help minimize the impact of Tower Homes. Attorney DeDuca advised they have met with the Tower's Home staff, specifically Ms. Darrah. He advised she is present this evening, as well as, other residents from the development. Attorney DeDuca advised they have discussed placing a PVC fence along the eastern property line with Tower and they have agreed to match building color from the rear of the building to the front.

Attorney DeDuca advised the applicant has received the review letters from the Board Professionals and the applicant will address comments and concerns. He stated, however, the comments contained within the reports concerning the oak tree need to be discussed.

Board Member Levy asked where the easement would be placed in order to provide access to the Township. Attorney DeDuca advised the applicant may consider granting an easement in order to drive across their parcel to gain access to the Black Horse Pike.

Chairman Garth asked how old the oak tree is. Attorney DeDuca advised it is 150 years old. Board Member Eykyn asked why the proposed fence along the property line with the mobile home park is not being extended past the trash enclosure and the delivery area. Attorney DeDuca stated when he had spoken with Ms. Darrah this is where they had asked it to be placed. He stated they did not want to cause any issues with visibility to the Tower property. He indicated the applicant is open to any recommendations the Board may have.

Board Member Aponte asked if this Advance Auto store will be similar to the one existing in the City of Pleasantville. Attorney DeDuca explained the proposed is both a retail store and a hub store, which supplies other Advance Auto stores in the area with merchandise. Township Administrator Miller advised this site will be a larger facility than Pleasantville and Somers Point.

Board Solicitor Strickland asked if the applicant is considering the access easement or if they will be granting the access easement to the Township. Attorney DeDuca advised the applicant will be considering the easement in the future. He stated the applicant is concerned especially since they do not know what will be developed or how it will be developed.

Board Member Aponte stated the applicant wants the Board to consider the easement as a condition of removing the tree, however, the applicant is fully committed to granting the easement, therefore, it really has no value. Attorney DeDuca stated he does not believe the easement is worthless, however, it is not a black and white easement that can be granted. He indicated Advance Auto is concerned with granting an easement. Board Member Aponte stated he can only speak for himself but he is not placing any merit in any decision concerning the easement.

Attorney DeDuca advised the Township Ordinance does not protect the existing oak tree as a specimen tree and the applicant is maintaining 2 ½ acres of trees which is better than one (1) tree. Chairman Garth stated the Board has considered requiring applicants to maintain a 15" growth tree regardless of what is being kept.

Chris Neil, 11 East Morehead Road, Charlotte, North Carolina, Primax Properties, John Pettit, P.E., New Jersey Licensed Engineer, David Parker, 6 Meadow Drive, Egg Harbor Township, sworn in:

Mr. Neil advised Primax Properties develop Advance Auto stores. He indicated they have developed 40 stores in New Jersey over the last 20 years. Mr. Neil explained the proposed store is considered a hub store. He advised a normal size store is around 6,800 sq. ft. He indicated the two (2) existing Advance Auto stores in this area (Pleasantville and Somers Point) are both 7,000 sq. ft., however, the proposed will be larger than those. He further noted deliveries will be made via a small pick-up truck from this facility to the others.

Mr. Neil advised the store will be open from 8:00 a.m. to 9:00 p.m. and they will have 18 full and part time employees. He indicated the floor plan proposed for this site will be same as the other stores but will have additional area in the rear for storage. He indicated they do offer customers a battery removal program and they will have a tank on wheels. He indicated customers can place oil within the tank and Advance Auto will remove. He did not the proposed store does not offer any repair work to vehicles.

Mr. Neil indicated when deliveries are made to this site it will be by the largest tractor trailer available. He indicated Auto Zone is not a high volume user. Mr. Neil explained when these trucks are on site it usually takes between an hour to an hour and a half for the store employees to unload them. He further noted that on any given Saturday they anticipate 200 to 250 customers at this facility.

Attorney DelDuca asked Mr. Neil if the building itself could be moved back in order to assist in keeping the oak tree. Mr. Neil advised he has discussed the situation with Advance Auto. He explained they are placing over 2 million dollars into this site and will operate the facility as a normal retail operation. He advised they have played around with the location of the building, but where it is proposed currently works for their operation needs. Mr. Neil stated this is why the deed restriction is being offered, as well as, a possible easement.

Chairman Garth asked why the building cannot be moved back another 75' ft. Mr. Neil stated the proposed is a retail building and Advance Auto wants visibility. Board Member Aponte asked what if the Board were to grant a larger sign for Advance Auto along the frontage. Would Advance consider moving the building further toward the rear away from the tree. Mr. Neil advised Advance Auto would like the building as close to the street as possible, again, referencing the applicant will deed restrict the 2 ½ acres of existing vegetation in the rear. He advised Advance Auto is a good neighbor and they are making a 2 million dollar investment.

Township Committeeman Carman stated he is concerned with tying the hands of future Board's by deed restricting property as a mitigation to the tree in the front. Township Administrator Miller asked how far is the proposed building is located from the Black Horse Pike. Mr. Neil indicated the building will be 65' ft. from the fire tower property and 115' ft. from the Black Horse Pike. Township Administrator Miller asked if the extra square footage proposed is mostly the retail or supply area. He stated if the extra 3,000 sq. ft. were removed then the building could be pushed back and the applicant could call the site White Oak Plaza. Township Administrator Miller advised the Board may even consider granting additional square footage to a free standing sign.

Township Administrator Miller stated by proposing what he is suggesting people will know where Advance Auto is. Township Administrator Miller stated keeping the tree is a significant consideration and options must be presented. Mr. Neil advised Advance Auto wants a retail presence in this area. Township Administrator Miller referred to Exhibit A1 advising it shows the Home Depot not far from this facility. He indicated they also do not have frontage on the Black Horse Pike and because of this Home Depot was approved for a larger sign. Township Administrator Miller stated everyone knows where Home Depot is.

Mr. Neil indicated Advance Auto has a 2 million investment with this site and they want to have the building along the front of their site. Board Member Levy advised he cannot understand why moving facility back is a problem. He stated the building for the Nissan dealership is also further back. Mr. Neil explained Advance Auto is a traded company and they require visibility. He stated Advance Auto is not proposing to move the building back. Attorney DelDuca stated the applicant is proposing façade signs. He explained they will have a free standing sign, however, the sign company will be making an application on the applicant's behalf for its placement at a later date.

Attorney DelDuca stated the applicant is saving 2 ½ acres of property which is not required. He advised this is being proposed in order to eliminate one (1) large oak tree. Attorney DelDuca stated if he resided next to this site he would rather have the 2 ½ acres of trees.

John Pettit, P.E., New Jersey Licensed Civil Engineer, also licensed in the States of Pennsylvania, Delaware, and Massachusetts, served on various boards, sworn in: Engineer Pettit advised he has been involved with project since the beginning. He explained the applicant is proposing a 9,900 sq. ft. store along the Black Horse Pike. Engineer Pettit advised the applicant is proposing one (1) access onto the Black Horse Pike. He stated there will be some minor changes made to the radius of the access if the applicant is successful in receiving approval.

Engineer Pettit stated the applicant is required by ordinance to provide 25 parking spaces, however, they are providing 34 spaces. Engineer Pettit advised there is a loading area in the rear of site and has been designed to handle the largest tractor trailer currently made. Engineer Pettit advised the trash enclosure will be in rear of the proposed facility with buffering.

Engineer Pettit stated the site has residential development on both sides and there will be 25' ft. buffer on each side to accommodate the neighbors. He indicated the applicant has met all the zoning requirements for the HB zoning district with the exception of the existing lot width which is due to lot 17 being carved out for the fire tower.

Engineer Pettit advised the applicant is proposing public water and they will have a pump station connect to a force main for the sewer along the Black Horse Pike. Engineer Pettit stated the property grades toward the rear so the basin has been designed for the rear of the site. He indicated the basin has been designed to infiltrate a 100 year storm.

Attorney DelDuca referred to Exhibit A3 asking Engineer Pettit if he has looked at moving the facility further back on site in order to keep the tree. Engineer Pettit stated Exhibit A3 shows the building in the western corner maintaining a 50' buffer around the white oak tree. He explained based upon this design the parking is further away from the store and typically no retailer would accept this parking design.

Engineer Pettit then referred to Exhibit A4 showing the building along the property line and placement of a 50' ft. buffering around the tree. He indicated parking would have to be broken up and again this would create an issue with any retailer developing the site.

Engineer Pettit stated if you review Exhibit A2 by placing the 50' ft. buffer around the tree the building and the parking would be pushed back. He advised the building would actually be moved back another 130' ft. off the Black Horse Pike. He indicated this would mean the proposed building would be a total of 245' ft. from the Black Horse Pike and the site would be entered along the property line on the western side moving the applicant into the residential buffer.

Attorney DeDuca asked if Engineer Pettit reviewed the Department of Environmental Protection listing for specimen trees. Engineer Pettit stated he had and he found the largest white oak listed in 2013 and 2014. Engineer Pettit advised it was considered a champion tree and its circumference is 23' ft. He indicated the tree on this site is roughly 13' ft.

Attorney DeDuca advised the applicant is seeking a waiver for lighting associated with the fire tower lot. Engineer Pettit stated this is correct. He indicated the ordinance requires we meet the light standards at the property corners. He stated the applicant is seeking a waiver of this provision for illumination with the fire tower lot. He indicated the applicant will maintain the standards with the residential neighbors.

Board Member Rosenberg asked if the existing and proposed vegetation shield the residential properties from truck and car headlights in the evening. Engineer Pettit referred to Exhibit A2 advising all areas colored green is the buffering which will provide screening to the residents. Board Member Eykyn asked if the applicant can limit deliveries past 6 p.m. or 7 p.m. Mr. Neil advised the applicant tries to have deliveries in the morning after the facility is open or at 3 p.m. He stated the applicant would be unable to limit due to issues out of their control such as weather or accidents. Board Member Eykyn advised he would like a reasonable hour for trash pick-up. Mr. Neil stated if they can they will. Township Administrator Miller stated the Board has limited trash pick-up between the hours of 8 a.m. and 5 p.m. Mr. Neil stated he agrees with the Township Administrator concerning trash pick-up. Board Member Aponte stated he wants the deliveries of goods to occur during the hours of operation of the facility. Mr. Neil stated the facility will open at 8:00 a.m. so deliveries will occur during operating hours since the employees must unload the trucks.

Township Committeeman Carman asked if there are any other large trees on site which could create an issue with sliding the building back more. Board Member Rosenberg stated he would like to discuss the tree with an arborist.

Board Solicitor Strickland asked the Board to adjourn into an executive session.

Motion Aponte/Carman to adjourn to executive session to discuss potential litigation. Vote 8 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Garth.

May the record reflect the Board entered into executive session.

Motion Levy/Miller to reconvene meeting to public session at 7:45 p.m. Vote 8 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Garth.

David Parker, Certified Tree Expert, Treeworks, Egg Harbor Township, New Jersey, sworn in: Township Administrator Miller asked how Mr. Parker became a certified tree expert. Mr. Parker explained the State of New Jersey issues an exam. He advised it is based on both field work and class participation. He advised the license is issued through the Department of Environmental Protection. Mr. Parker advised he was also on the Township's Environmental Commission for five (5) to six (6) years as their tree expert and a non-voting member.

Mr. Parker stated he has inspected the tree in question and it is in good health. He then referred to Exhibit A5: Department of Environmental Protection listing concerning largest known trees within the State of New Jersey. Attorney DelDuca asked if Mr. Parker had reviewed Exhibit A5: Mr. Parker stated yes. He advised the largest known white oak is located within Freehold and it has 23' ft. circumference.

Attorney DelDuca asked Mr. Parker if the tree located on site would require a buffer in order to live. Mr. Parker stated he would suggest a 75' ft. buffer around the tree in question because of its age. He indicated the tree must be clear of the building and pavement construction equipment. He advised the tree should be fenced off. He explained other factors including drainage must be taken into consideration for the health of tree. He advised nothing should be placed near the tree or else it will die.

Attorney DelDuca asked if the tree would die even if the recommended protocol were to be addressed. Mr. Parker stated yes, however, it would not be right away. Mr. Parker stated he would recommend removal of the tree and restricting the 2 ½ acres behind the building. Mr. Parker stated this may go against what some people may think, however, he has lived in the Township for 39 years and would rather see the 2 ½ acres restricted.

Board Member Rosenberg stated Mr. Parker is recommending a 75' rather than 50', however, he is saying that anything by the tree would kill it. Mr. Parker stated if you compact the root system or it is cut/severed during construction it will kill the tree. Board Member Rosenberg stated if the developer were to provide a 75' buffer, as preferred by Mr. Parker, they may not have room for a driveway. He stated this does change the dynamics.

Chairman Garth asked if Mr. Parker did any borings on the white oak. Mr. Parker stated no. Attorney DelDuca asked Mr. Parker how old does he believe the tree is. Mr. Parker stated he believes it is 150 to 175 years of age. He advised he did not core the tree to determine the exact age. Engineer Pettit stated he did review the impact a 75' ft. buffer would have around the tree. He indicated he reviewed based on Exhibits A3 and A4. Engineer Pettit stated with a 75' ft. buffer the improvements come within 5' ft. of the property line with the existing residential development and within 15' ft. of the property line of the fire tower parcel. Engineer Pettit stated a 75' buffer does not leave a drive aisle for access

Motion Aponte/Carman to open public portion. Vote 8 yes.

Christine Darrah, Tower Mobile Home Park, sworn in: Ms. Darrah stated there are a number of tenants present this evening. She advised the applicant has covered issues concerning lighting, sounds and noise pollution. She advised the applicant did discuss the fence, however, she advised she did not just want the fence to the building she advised it should extend to the forested area on each side of the facility.

Township Administrator Miller stated the fence should be from the fire tower property going down the side of the property to the basin, extend down the basin to the north side of the property and be brought along the parking area that is paved and then stop.

Ms. Darrah stated she would like to discuss the tree. Mrs. Darrah provided photographs of the tree. She indicated she does not believe keeping the vegetation in the rear is a trade-off. She indicated it is not as much of a gift as it appears. Township Administrator Miller stated this site is zoning commercial. He indicated there could be multiple uses on this parcel. He advised by restricting rear it is precluding further development.

Vincent Albino, tenant of Tower Mobile Homes, sworn in: Mr. Albino stated he is head of maintenance and familiar with both sides of property. Mr. Albino stated it has been mentioned the existing oak tree is not the biggest tree, however, he advised it is a substantial tree. Mr. Albino advised the proposed will have no access to the west bound lane and this is a concern. Mr. Albino added that right before the applicants property going east bound there is a bus stop. He indicated he is concerned with trucks going into site with the bus stop being there. Mr. Albino advised there have been two (2) deaths in front of the bus stop and this should be looked into.

Mr. Albino stated the proposed will be hub for the other stores. He indicated there will be larger trucks coming to this site and they will have forklifts banging around. Mr. Albino stated this will impact the quality of life for the residents of the adult parks. Mr. Albino also stated it was mentioned that lighting will be at a minimum along the property line of the residential and the vegetated buffers will help. He indicated he can see clear through this parcel at least nine (9) to ten (10) months of the year.

Board Member Rosenberg asked Mr. Albino if fencing along the property line would help with the visibility. Mr. Albino stated yes. Board Member Rosenberg asked Mr. Albino if he was present during the derecho and other storms and if many trees came down on the proposed site. Mr. Albino stated there were a lot of trees that had come down on the applicant's property.

Alice Garlich, Tower Mobile Home Park, sworn in: Ms. Garlich stated she likes the woods behind her. She advised she does hear a lot of noise from the Home Depot. She also advise traffic in this area will be worse with the proposed. Ms. Garlich stated there are many other commercial properties for sale in this area. She asked why the applicant is going in between two (2) residential sites.

Township Administrator Miller stated the Board cannot say to the applicant that they cannot develop property if it is zoned commercial. He stated they have received a permit from the State Department of Transportation concerning their entrance. He indicated the Board can place conditions on the application to protect the adjacent property owners with respect to buffers. Ms. Garlich advised she believes there will be a lot of accidents because of this facility.

Donald Sheenan, Tower Mobile Home Park, sworn in: Mr. Sheenan stated he has been living in the mobile home park for 20 years. He indicated the tree should be preserved. He stated it is at least 150 years old and for everyone to realize the acorn was dropped during the civil war for this tree to grow.

Donna McGrath, Tower Mobile Home Park, sworn in: Ms. McGrath stated she would like to speak about the issue of the traffic. She indicated it is unbelievable trying to get out onto the Black Horse Pike when traffic comes down in the morning and the afternoon. She indicated this proposal will bring even more

traffic to an area that is already between two (2) malls. She advised this property has been for sale for years. She indicated it was so hard to sell because of the traffic coming out of the site. Ms. McGrath stated the applicant should save the tree. She indicated the tree will be famous and they will not need a sign.

Kim Johnston, Chairwoman, Egg Harbor Township Environmental Commission, sworn in: Chairwoman Johnston stated she and Commission Member Christopher Kriegner have examined the tree. She indicated it is healthy. She stated based on a web site application found by Commission Member Kriegner they placed information into the app's site and they believe the tree is 245 years old. She indicated based upon its history it goes beyond being a big tree. She stated this tree may be one of the largest within the Township.

Chairwoman Johnston stated deed restricting is wonderful, however, without doing an assessment of the parcel based upon an Environmental Impact Statement the commission does not know the value of the restriction and this should be a consideration. She indicated using the tree as a land mark and show piece would be great. She further noted in order for the tree to stay healthy, based upon its canopy it would require a 50' to 60' ft. buffer. Chairwoman Johnston stated the commission has not done a complete survey of the overall site, therefore, she is not sure of the visibility of the site with respect to the buffers.

Township Administrator Miller stated the Township Ordinance goes by the State List. Chairwoman Johnston stated the Commission does have a tree list, but it has not been completed at this point. Township Committeeman Carman stated there is a white oak on English Lane that was referenced on a list, however, it is dead. Chairwoman Johnson stated it may not be dead. She indicated they lose leaves and appear that way, however, it may be alive.

Mr. Parker advised it depends on growing conditions. He stated a lot of champion trees have a better quality of life are at least 50 miles north of us. He indicated in this area there is poor earth soil. Township Administrator Miller stated Mr. Parker's recommendation is a 75' ft. buffer around the tree leaving a 20' ft. access to the site and this does not provide a guarantee. Mr. Parker stated even if you follow his guideline there is no guarantee the tree will survive. Township Administrator Miller asked if an oak has a surface root or a tap root. Mr. Parker stated the tree has roots and they could be more than 100' ft. away. He indicated the oak tree in question could have a full acre of property for its root system.

Mr. Parker stated he would like to see the 2 ½ acres deed restricted. Chairwoman Johnston stated the tree is more than just a tree in itself and a lot of people are concerned. She stated she does not believe 2 ½ acres is enough to make up for the removal of the oak tree.

Motion Carman/Manny to close public portion. Vote 8 Yes.

Attorney DeDuca advised the applicant meets all the requirements other than lot width because of the fire tower. He indicated one of the questions concerns whether this is a specimen tree. He indicated even if the Board were to believe it is a specimen tree the Municipal Land Use Law gives the Board to the ability to grant approval.

Attorney DelDuca advised the applicant is seeking a waiver with respect to the illumination level with respect to the fire tower. He stated the applicant can do test pits versus borings for the drainage. He indicated the applicant has no objection placing a solid vinyl fence in for buffering the adjacent property owners. Attorney DelDuca stated the applicant has significantly buffered the area where the fence is proposed and asked the Board to consider less landscaping in this area since the fence will now be placed in. He asked if they may work with the Board Planner concerning this issue.

Board Engineer Representative Schneider stated his office will work with the applicant's engineer concerning the test pits while the applicant is under construction. Board Member Aponte stated the applicant should work with the Planner to come up with a landscaping plan for the area that will be fenced.

Township Administrator Miller stated the Board must decide if it is their desire to save the tree at all cost or accept the decision to compromise with respect to the tree and consider the trade-off. He stated one of his concerns is that the Board require the applicant to save the tree and five (5) to seven (7) years down the road the tree dies. Township Administrator Miller stated the tree does not meet the requirements of the State.

Township Administrator Miller referred to the Walmart application and the sites trees. He indicated with that site many trees have died, however there was a trade-off concerning planting trees in public places. Township Administrator Miller stated he would like to see another 50 or 60 trees planted elsewhere plus restricting the back portion of this property from any trees coming down. Township Committeeman Carman stated he would rather not see a deed restriction for the rear. He indicated this may cause a problem for future Boards.

Township Administrator Miller stated when Board has required placement of trees they are typically a 6" diameter tree to be planted. He indicated the Township has had success with their growth and the public appreciates them. Township Administrator Miller stated he does not believe the Board could sustain a legal challenge concerning the tree. He indicated by requiring applicant to plant additional trees at another location the residents can appreciate them.

Board Member Aponte stated based upon the Exhibits presented the placement of building and parking it is not practical. He stated the Board can make trade-off. Attorney DelDuca stated the applicant is trying to be reasonable and address this issue. They do not want to cut down tree, however, they cannot make it work.

Township Administrator Miller stated 50 trees should be considered for planting. Attorney DelDuca spoke with his client and they are willing to make a \$20,000.00 contribution for the planting of trees versus them having their landscaping install on public property. Township Administrator Miller stated he cannot plant 50 trees with the amount referenced. Township Committeeman Carman stated the corporation is trying and the Township should accept the contribution offered. Board Member Rosenberg stated he also agreed. Board Member Levy stated he believes a substantial amount can be planted with \$20,000.00.

Attorney DelDuca advised the applicant's professionals will work with the Board Planner concerning the reduction in landscaping where the fencing is proposed. Chairman Garth stated he agreed that by placing the fencing in the applicant will not need all the landscaping. Township Administrator Miller

asked the Board Engineer that there will be no disposal of storm water management in the parking lot. He asked if it will go into the basin. Board Engineer Schneider stated this is correct. He did, however, state they have recommended solid pipes be placed in parking area. Engineer Pettit stated the infiltration into the basin is fine. He stated the applicant is not reducing volume with their proposal.

Board Engineer Schneider stated his office usually does not recommend placement of the piping proposed by the applicant because they are hard to repair if something goes wrong. Attorney DelDuca advised the applicant will provide the manufacturing data showing the piping does have maintenance. Engineer Pettit stated pinelands has accepted the proposed pipe. Township Administrator Miller stated he is concerned by the Board Engineers reluctance. Township Committeeman Carman asked what is the specific issue concerning the pipe. Board Engineer Schneider stated whether it is structurally sound. Township Committeeman Carman stated it really is not an issue. He indicated it will be up to the applicant to maintain their system.

Board Solicitor Strickland stated the following will be conditions of the approval. Trash will be scheduled for pick up during the hours of 8:00 a.m. through 5:00 p.m., fencing will be placed in the rear of the property for the trash enclosure and along the east and west property lines to the end of the pavement for buffering of adjacent residential uses, applicant will provide an in lieu contribution of \$20,000.00 for the planting of trees on public property, and the applicant will discuss with the Planning Board Planner the removal of some landscaping inside the proposed fence line

Township Committeeman Carman stated he does not believe a deed restriction is required for the balance of the property nor an easement. He indicated it will tie the hands of this Board or subsequent Board's in the future. Township Administrator Miller suggested the applicant provide an easement but cap on car movements. Mr. Neil stated Advance Auto has not given him the authority to accept any offers concerning an easement. Township Administrator Miller stated the applicant's resolution will not be adopted until next month. He suggested Mr. Neil speak with Advance Auto concerning what has been discussed and share with the Board if they would consider a cap on car movements and what would be acceptable.

Motion Aponte/Carman to grant requested checklist waiver(s). Vote 8 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Garth

Motion Aponte/Carman to grant requested design waiver(s). Vote 8 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Garth

Motion Aponte/Carman to grant requested variance relief. Vote 8 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Garth

Motion Eykyn/Carman to grant conditional preliminary and final major site plan approval. Vote 8 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Garth

SUMMARY MATTER(S):

SECTION I:

Discussions of matters pertaining to the Board:

SECTION II:

a. **General public discussion: Motion Carman/Eykyn to open public portion. Vote 8 Yes.**

May the record reflect no one came forward.

Motion Carman/Eykyn to close public portion. Vote 8 Yes.

Motion Eykyn/Carman to approve May 19, 2014 planning board minutes. Vote 7 Yes: Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Shamsuddin, Garth

Motion Carman/Levy to adjourn at 8:20 P.M. Vote 8 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Garth

Respectfully submitted by,

Theresa Wilbert
Secretary

**Township of Egg Harbor
Regular Planning Board Meeting
Executive Session**

August 18, 2014

Board Solicitor Strickland asked if the Board to adjourn into an executive session.

Motion Aponte/Carman to adjourn to executive session. Vote 8 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Garth.

Solicitor: Christopher Brown, Esq. (Ted Strickland, Esq., in attendance)

Engineer: James A. Mott, P.E., of Mott Associates: (Greg Schneider, in attendance)

Planner: Vincent Polistina, P.P., of Polistina and Associates: (Gary Auer, in attendance)

PLANNING BOARD MEMBERS PRESENT DURING CLOSE SESSION: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Garth

PLANNING BOARD PROFESSIONALS IN ATTENDANCE: Board Solicitor Representative, Ted Strickland, Esq., Board Engineer Representative Schneider, Board Planner Representative, Auer

Close Session Discussion: Primax Properties – “Advance Auto”

Board Solicitor Strickland advised the Board that they may be subject to a lawsuit if they rule against the proposed. He advised the Board’s main focus concerns the exiting white oak tree on site. Board Solicitor Strickland then advised the legality of the tree associated with the Township Ordinance(s). He indicated the Township Ordinance does not provide a specific definition concerning a specimen tree and refers to the State requirements. He indicated the tree in question does not meet the State’s definition and therefore it is not a champion tree.

Board Solicitor Strickland stated he has researched this situation and the applicant’s professionals inferred they also have. He indicated there is no legal basis the Board has to mandate the tree remain or to deny the application because the tree will be removed.

There being no further business

Motion Levy/Miller to reconvene meeting to public session at 7:45 p.m. Vote 8 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Garth.

Respectfully submitted by,

Theresa Wilbert
Secretary

