



Township of Montclair

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MONTCLAIR PLANNING BOARD

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## MINUTES OF THE MONTCLAIR PLANNING BOARD MEETING June 12, 2017

**Call to Order.** Chair Wynn called the meeting to order at 7:35 pm and announced that the meeting has been properly noticed in accordance with the Open Public Meetings Act and that the meeting is being recorded and can be viewed on the Township website or on Channel 34.

**Roll Call.** Chair Wynn, Vice Chair DeSalvo, Councilor Schlager, Mr. Schwartz, Mr. Brandon, Ms. Willis, Mr. Rooney, Mr. Brodock, Mr. Ianuale and Ms. Loughman were present. Mr. Barr arrived at 7:45. Mr. Neiss and Ms. Talley were also present.

**Minutes.** The minutes from the May 8, 2017 Planning Board meeting were discussed. A motion to approve the minutes as amended was made by Vice Chair DeSalvo, seconded by Chair Wynn and approved unanimously.

**Resolution Application 2482: Montclair Acquisition Partners, LLC. Orange Road Parking Deck.** (Block 1404, Lot 18). The Board discussed the resolution. A motion to approve the resolution as amended was made by Mr. Schwartz, seconded by Chair Wynn and approved unanimously with Vice Chair DeSalvo abstaining. A copy of the resolution is attached.

**Resolution Application 2479: 44 Pleasant Avenue Associates. 44 Pleasant Avenue** (Block 2903, Lot 20). The Board discussed the resolution. A motion to approve the resolution as amended was made by Ms. Loughman, seconded by Mr. Rooney and approved unanimously with Vice Chair DeSalvo abstaining. A copy of the resolution is attached.

**Application 2339: Classics Reborn, LLC. 98 Watchung Avenue** (Block 2503, Lot 27).

Mr. Schwartz and Vice Chair DeSalvo recused themselves from discussion of this application. Cal Trevenen, Esq. appeared on behalf of the applicant. He stated that the applicant had received minor site plan approval in 2013, but was unable to complete the improvements for various reasons. The approval expires on June 30, 2017. The applicant requests a one year extension to complete the improvements. Chair Wynn stated that the Board had viewed this application favorably. Ms. Talley stated that the only change to the zoning since 2013 was that this property was designated as part of the Watchung Plaza historic district. She suggested that the Board require that if the applicant amends the site plan, they agree to submit the site plan to the Historic Preservation Commission for review. Mr. Trevenen agreed to this condition. A motion to approve the extension for one year, with the condition requiring review of any amendments to the site plan being reviewed by the HPC, was made by Ms. Willis, seconded by Chair Wynn and approved unanimously.

**Application 2483: BSREP II Wellmont Development JV, LLC. Bloomfield Avenue and Seymour Street.** (Block 3015, Lots 1, 2 and 9; Block 3016, Lot 17 and Block 3205, Lots 26 and 27).

Mr. Ianuale left the meeting as he has a conflict with the application.

Mr. Thomas Trautner, Esq. presented himself as the applicant's attorney. He presented his first witness, Mr. John Harter of Atlantic Traffic and Design. Mr. Harter provided his credentials as a Traffic Engineer and was accepted by the Board.

Mr. Harter addressed the comments in the report from NV5 and stated that the findings of his report are comparable with the redevelopment plan. He summarized his report. He noted that the study assumed a public transportation credit of 12 percent, which means that 12 percent of the trips to the site would utilize some form of public transportation and not require a personal vehicle.

Mr. Schwartz asked if it was possible to limit right-hand turns out of the residential building in the morning peak hour. Mr. Harter said this was not considered as part of his study but since the project trip generation anticipated only 24 trips in the morning peak hour in this direction, this limitation is possible.

Mr. Harter stated that he used Synchro software for his traffic study. He stated that he met with the County Engineer on April 10<sup>th</sup> to discuss the site plan. He noted that the Board's traffic consultant, NV5, is also working with the County on improvements to Bloomfield Avenue. He stated that the County has submitted a grant application to the North Jersey Transportation Planning Authority for the improvements to the intersections of Bloomfield Avenue at Fullerton Avenue and Willow Street. If the grant is approved, construction should begin in the summer of 2018 and will consist of new traffic lights that include phasing improvements and updated signal timing.

Mr. Harter noted that at the intersection of Bloomfield/Glenridge/Fullerton, a 3-1/2 percent increase in volume is anticipated additional traffic generated by this project. The applicant recommends removing the traffic signal at Glenridge Avenue and replacing it with a stop sign. He said that a split phase at Fullerton is proposed.

Mr. Harter stated that a fully operational signal at the pedestrian crosswalk at Seymour Street is proposed. He recommended an upgraded signal at the intersection of Bloomfield Avenue and Willow Street to create left turn lanes on Bloomfield Avenue with a left turn arrow in both directions.

Vice Chair DeSalvo stated that the redevelopment plan indicates that site plan approval is subject to a satisfactory traffic analysis. He stated that he is concerned that the traffic analysis is contingent upon all of these upgrades being done to the area roadways. He asked if the applicant is willing to make completion of these improvements a condition of site plan approval. He stated that there is no way that the Board can approve this site plan if the County does not complete the improvements.

Chair Wynn stated that he has the same concerns. He stated that the report does not have any recommendations for the situation in which these improvements are not made, and suggested that a "Plan B" be provided.

Mr. Trautner stated that the intersections being discussed are off-site intersections and they are presenting the condition of those intersections after the project is built, with

recommendations on how these intersections can be improved by the County working in concert with NV5, who is also the County's consultant.

Chair Wynn stated that in an urban setting, these intersections are critical to this project and that the project cannot move ahead without improvements to these intersections. Mr. Neiss stated that the Board may want to hear from Gordon Meth, the Board's traffic consultant, before making decisions on the applicant's proposal.

Ms. Willis stated that she is concerned about traffic on South Willow Street, especially since the street is so narrow. She asked if the street can be widened so that a left-turn lane can be added. Mr. Harter stated that widening South Willow Street will create a problem with alignment. He stated that a dedicated left turn lane will not work because the road does not line up with the North Willow Street.

Mr. Harter stated that the northbound evening traffic conditions at the intersection of North Willow and Glenridge is poor and recommends an all-way stop at this intersection.

Mr. Harter stated that the driveway at South Fullerton Avenue is too narrow and a much wider driveway is proposed. He also recommends painting the street and adding a "do not block the box" sign at this location. An electronic sign noting parking availability in the parking deck is also proposed at this location.

Mr. Schwartz stated that he is concerned that the proposed Midtown parking deck on Glenridge Avenue will create more traffic problems for Forest Street. He asked if prohibiting left turns from Forest to Glenridge Avenue will address this problem. Vice Chair DeSalvo stated that this would simply move the problem to the next block which is North Willow.

Chair Wynn asked if he had evaluated the traffic problems in this area on Sundays. Mr. Harter stated that he did not study Sunday traffic conditions.

Vice Chair DeSalvo stated that the traffic report indicates an additional 30 cars in the peak hour for Roosevelt Place. In his opinion, 30 cars per hour may have a significant impact to a residential street. He asked if there is anything to qualitatively evaluate the change this traffic increase will have on this street. Mr. Harter stated that the additional 30 cars are not caused by a corridor-wide or an area-wide diversion, but that it is caused by the closure of Seymour Street. The additional traffic volume is created by the office use. He stated that the proposed additional traffic will not change the level of service or character of Roosevelt Avenue.

Mr. Gordon Meth, the Board's traffic consultant, was introduced. He summarized his credentials and was sworn in. He summarized his letter dated May 31, 2017. He noted that the project will create 300 new vehicle trips distributed among three parking fields. He noted that the mix of uses, particularly office and residential uses, have opposing traffic directions. He took into consideration the redistribution effect from closing Seymour Street. He agreed with the 12 percent factor for transit usage, which in this area of Montclair will most likely be buses. He stated that this project will generate a fairly large number of pedestrians, and that pedestrian mobility is critical.

Mr. Meth stated that the office use will have about 1 employee per 300 square feet and is fairly predictable. He noted that retail uses are more difficult to predict, but with the

emphasis on arts and entertainment uses it will probably have peak traffic demand in the early evenings and on weekends.

Mr. Meth stated that he looked at how the increase in traffic impacts the roads surrounding the site. He looked at what the extra traffic means to Roosevelt Place and projected that traffic will increase from a peak of 80 cars per hour now to 150 cars per hour after the development is completed. He stated that according to the New Jersey Residential Site Improvement Standards, a residential street is defined as a street having less than 1,500 vehicles per day. He noted that the traffic volumes on Roosevelt Place will be between 1,500 and 1,800 vehicles per day after construction is completed, and as such can be generally defined as a residential road.

He noted that the only means of access to the office use is South Willow Street. Vice Chair DeSalvo asked if he had considered installing a tunnel under the plaza on Seymour Street. Mr. Meth stated that if this is a possibility, it may work. This is more a question of site design.

Chair Wynn stated that he is concerned that the traffic study is based on projections and estimates, not actual data reflecting local conditions. He asked why actual data is not used to develop the projections and estimates.

Mr. Meth stated that traffic analysis is based on modeling which builds on actual data reflecting existing conditions. Projections relied on traffic data from apartments in general, with adjustments to reflect conditions in Montclair that reflect actual transit usage. He noted that traffic generation data from a strip mall/shopping center is a fairly consistent source.

Chair Wynn stated that there is a deficiency in data for downtown areas. He asked if Mr. Meth agreed with the opinions from Mr. Harter.

Mr. Meth stated that he agrees with the findings of the traffic study from a technical standpoint. He stated that the lack of data on Sunday is a problem. Another problem is that the report assumes that the County will make the improvements. He agrees that a viable Plan B is needed. He stated that he helped the County prepare the grant application to the North Jersey Transportation Planning Authority and that the County may not receive the grant. The decision on funding will be made in the fall.

Mr. Meth noted that the existing infrastructure at the intersection of Fullerton/Glen Ridge/Church Street is very old and cannot be upgraded in terms of signal timing and phasing because of the age of the infrastructure. The signals must be replaced. He noted that a Plan B must be provided for the South Fullerton/Bloomfield intersection.

Mr. Schwartz stated that this is one of the worst intersections in the Township and asked if it is possible to double up northbound traffic on South Fullerton when both the Crescent deck and the South Fullerton deck empty to South Fullerton. Mr. Schwartz suggested that traffic can be reversed on the driveway serving the Crescent deck during special events.

Mr. Meth stated that South Willow can be widened to improve the intersection at South Willow and Bloomfield Avenue to correct the alignment issue and add a left turn lane. He noted that there is a problem with a high number of crash incidents at this location and that this intersection was included in the grant application to the North Jersey

## Planning Board Minutes of June 12, 2017

Transportation Planning Authority. He stated that Plan B can include striped turning lanes at both intersections and that this is a simple solution since it only involves painting the stripes. He further noted that a fair share analysis could be prepared to determine the cost associated with the improvements by the applicant.

Ms. Talley stated that the applicant should come back with drawings showing the Plan B alternatives for these intersections.

The Board agreed that the applicant should come back with a Plan B proposal, information on how to keep Roosevelt Place a residential street, Sunday traffic volumes, changes to the Fullerton Avenue driveway and provide drawings that indicate these additional mitigation measures.

The Board took a ten-minute break.

The public was invited to question the witness.

Lucy Fitzgerald stated that this project is fraught with problems. She appreciates that the Board is concerned about traffic from the project and the doubling of traffic on Roosevelt Place. She thinks people will start to use different streets in Montclair, as is evidenced by streets that are closed during construction. She asked if her questions regarding the integrity of the 12 foot high retaining wall on the South Willow lot has been addressed. She asked if the design of the arts plaza can show an image of the proposed parking garage. She stated the additional traffic on Bloomfield Avenue will add to the traffic problems in this area. By 2020 there will be several thousand additional cars on Bloomfield Avenue, which is the busiest road in Essex County.

William Scott of 23 Cedar Avenue stated that the traffic study should look at every street that intersects with Bloomfield Avenue. He asked why not use Montclair data in making the projections. Mr. Harter stated that local data is used to provide the background traffic data and volume for the roads and that no data is available for the site itself. Applicants must rely on data collected for similar land uses to make projections, and conservative estimates are being used. Generally, applicants look at intersections where 100 or more new vehicle trips are proposed.

Dana Morgan of North Willow Street stated that there are multiple projects coming on line in the next few years. He asked what impact those projects have on this project. Mr. Harter stated that a map showing approved and planned projects was provided by the Township's Planning Department to correctly incorporate these projects into its estimates. Mr. Morgan stated that he is particularly concerned about the impacts to North Willow Street. Mr. Harter stated that he studied Glenridge Avenue and that the four-way stop at the corner of North Willow and Glenridge Avenue will help.

Beth Calamia-Scheckel asked how many more meetings will be devoted to this application. Chair Wynn stated that the number of meetings will be as needed to appropriately address each of the witnesses and issues. Mr. Trautner stated that he has only one more witness who will address parking issues and that he anticipates only one more meeting. Ms. Calamia-Scheckel asked if the applicant will evaluate traffic conditions on a Saturday night during a Wellmont event. Mr. Trautner stated that the Wellmont is an existing use and he will look into traffic counts at the next Wellmont Show.

Billy Gleisner of Cloverhill Place asked how far from a site does a Board consider traffic impacts. Mr. Meth stated that based on the Dunkin Donuts decision which involved North Brunswick, the Board cannot deny an application because of off-site traffic issues. He pointed out that there is no restriction for a municipality to assign a fair share obligation for traffic improvements to impacted intersections, based on the volume of new traffic. He noted that development of this location was already decided in the Master Plan.

Andrew O'Toole, son of Adrianna O'Toole and a licensed landscape architect who lives in Verona, asked if the split phase lights can be overridden by the police to clear out traffic at specific times. He noted that the "do not block the box" will affect other intersections on South Fullerton. He stated that the sidewalks on Bloomfield Avenue are too narrow and should be 12 feet wide.

Rita Singer of 5 Roosevelt Place asked how narrow streets can accommodate moving trucks and garbage trucks. Mr. Harter stated that this will not change with this application.

Kurt Kozart of 26 The Crescent stated that the traffic study does not catch the nail salons and other personal service uses, churches and Wellmont events which add to the traffic in the area. Mr. Harter stated that there was limited data available about existing traffic generators. He stated that he will look at the impact to The Crescent.

Adrianna O'Toole asked that if you create a left turn lane on South Fullerton, on-street parking will have to be eliminated. She asked if this plan has County approval. She also questioned relying on federal funding for these improvements. She stated that too many apartments are being built and that Seymour Street should not be closed. She stated that traffic is already impossible.

Sandra Hoyer of Watchung Avenue stated that she is concerned about all the additional traffic considering that these intersections are high crash sites. Mr. Meth stated that high crash data is what justifies the use of federal funding for the improvements. Ms. Hoyer stated that additional traffic should not be encouraged knowing that these are high accident areas. She stated that the light at the corner of Glenridge Avenue and Bloomfield Avenue should not be removed. She is concerned about pedestrian crossings, particularly at the library. The Board should consider one-way traffic routes on surrounding streets which are narrow.

Ms. Willis asked about the width of Roosevelt Place. Mr. Harter stated that it is a 30 feet wide cartway. Ms. Willis asked about the width of South Willow Street. Mr. Harter stated it varies between 26 and 30 feet.

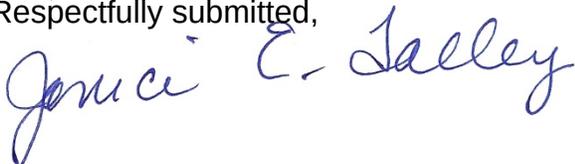
Mr. Trautner stated that the next Saturday Wellmont show is July 7<sup>th</sup> and that the meeting will have to be after that date so that traffic data can be collected.

The public hearing was continued to a special meeting date of Monday, July 17.

A motion to pay the bills was made by Mr. Brodock, seconded by Councilor Schlager approved unanimously.

The meeting was adjourned at 11:30 pm.

Respectfully submitted,



Janice Talley, P.P., AICP  
Planning Board Secretary

RESOLUTION  
MONTCLAIR PLANNING BOARD

MONTCLAIR ACQUISITION PARTNERS, LLC  
Existing Structure South of Bloomfield Avenue on  
Orange Road (East Side)  
Block 1404, Lot 18

June 12, 2017  
MPB Appl. # 2482

WHEREAS, MONTCLAIR ACQUISITION PARTNERS, LLC, with principal place of business located at 363 Bloomfield Avenue, Suite 2A, Montclair, NJ 07042 (the “Applicant”) submitted an application dated October 20, 2016 to the Montclair Township Planning Board (the “Board”) seeking amended site plan approval with respect to a certain existing structure commonly known as the Orange Road Parking Deck (the “Structure”); and

WHEREAS, on March 19, 2002, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12-1, *et seq.* (“LRHL”), the Township of Montclair (the “Township”) adopted the Orange Road Redevelopment Plan; and

WHEREAS, on August 18, 2009, pursuant to the LRHL, the Township declared certain parcels in Block 1404, including the Structure property, an “area in need of redevelopment”; and

WHEREAS, pursuant to Ordinance No. 0-11-60 adopted on September 6, 2011, the Township adopted the Montclair Center Gateway Redevelopment Plan – Phase I to replace the Orange Road Redevelopment Plan (the former hereafter referred to as the “Plan”); and

WHEREAS, the Plan, as amended, and the ordinances giving effect to the Plan and its amendments are incorporated into and made part of this Resolution; and

Planning Board Minutes of June 12, 2017

WHEREAS, by Resolution adopted on July 9, 2012, the Board granted to the Applicant preliminary and final site plan approval (with certain deviations) for a construction project (three buildings and the Structure); and

WHEREAS, in developing the Structure in accordance with the prior approval, the engineering and construction of the “lift and slide” parking system apparently caused certain changes in the Orange Road façade of the Structure, necessitating this application; and

WHEREAS, the Applicant met informally with the Development Review Committee (“DRC”) on several occasions during and following which the Applicant made several changes to its proposal, primarily to the architectural aesthetics of the facades and roof; and

WHEREAS, on February 23, 2017, the Applicant appeared before the Montclair Historic Preservation Commission (“HPC”) which rendered its report, also dated February 23, 2017, and thereafter, the Applicant made other revisions in accordance with the HPC’s verbal and written recommendations; and

WHEREAS, the Applicant was represented by Thomas Trautner, Esq. of the firm Chiesa Shahinian & Giantomasi, P.C., One Boland Drive, West Orange, New Jersey 07052; and

WHEREAS, the Board held a hearing on the application on April 3, 2017; and

WHEREAS, at that hearing, it was established that notice was properly published and served upon property owners within 200 feet of the property upon which the Structure is located; and

WHEREAS, at the beginning of the hearing on the application the Board marked the following as exhibits:

- A-1: Application dated October 20, 2016 (2 pages)
- A-2: Certification of taxes paid
- A-3: Certification of publication

Planning Board Minutes of June 12, 2017

- A-4: Affidavit of service
- A-5: Owners' Consent [MAP Urban Renewal, LLC (New Jersey) and HP Orange 2013 Urban Renewal, LLC,] dated October 21, 2016
- A-6: Planning Board Resolution adopted July 9, 2012
- A-7: Easement Agreement between the Township of Montclair and MAP Urban Renewal, LLC dated 12/6/13; recorded 4/10/14
- A-8: Corporate Ownership Disclosure Statement
- A-9: Site Plan (2 Sheets) by Lessard Design, issue date 6/3/13: Sheet 1 (CS103) last revised 3/2/17; Sheet 2 (CS102) last revised 02/21/17
- A-10: Architectural renderings by Lessard Design, dated 10/3/16, revised 2/8/17:
  - O1: Perspective View
  - O2a: Front/West Elevation
  - O2b: Front/West Elevation
  - O3: South Elevation
  - O4: North Elevation
  - O5: Building Section
  - O6: Illustrative Site Plan
  - O7: Material Samples
  - O8: Canopy Detail
  - O9: Existing Sidewalk Condition
  - O10: Part. Floor Plans
  - O11: Part. Floor Plans
  - O12: Concept Wall Section
  - O13: Solar Panel Plan
- A-11: Planning Department Report dated 3/7/17
- A-12: Board Engineer's Report dated 3/7/17

and

WHEREAS, the Applicant introduced Jerry Simon of Lessard Design whose credentials as an expert in architecture were accepted by the Board; the witness described in general terms the manner in which the proposed changes affect the various elevations as well as the roof, including a discussion of the nature of the materials to be used; he described the numerous discussions the Applicant had had with the DRC with regard to the changes to the Orange Road elevation by virtue

## Planning Board Minutes of June 12, 2017

of the lift and slide parking system and to the other elevations<sup>1</sup>; the witness showed samples of the filigree at the base of the building and a sample of the brick to be used for the base; and

WHEREAS, Erik Maran of the firm SmithMaran LLC, with address at 6 South Fullerton Avenue, Montclair, New Jersey 07042 (the “Redevelopment Consultant”), was sworn and testified as the Township’s Redevelopment Consultant; this witness agreed that the overall Structure now looks better than its original formulation but there are many details that should be reviewed and which, in his opinion, should be preserved as conditions if the Board grants the application; examples of these details include the fact that the face brick should extend around all four sides of the brick columns, including the inside faces, with the corners expressed as full bricks, through the use of actual or “corner” face brick; metals to be used in the Structure (excluding the lift and slide framing) should match one or more of those of the MC Hotel;<sup>2</sup> the witness expressed a concern regarding the steel columns on the first floor, Orange Road side, suggesting that they should be enclosed at that level, citing prior comments made by members of the DRC and the Planning Board’s Revisions Committee with the Applicant indicating that the columns are 4” to 6” back from the concrete and will be painted to mask them; and

WHEREAS, Joe Casillo, the Applicant’s senior construction manager for the Structure project testified that the lift and slide parking mechanism was for MC Hotel purposes; the mechanism will have two lift platforms and accommodate approximately 116 cars; he indicated that the hotel will be operated by a different company than the Applicant and the hotel will also use valet service; and

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1 During the hearing, the Board noted an apparent elevation discrepancy shown on Exhibit A-10, Sheet 02b, between the “Original” with regard to Ground Level Parking (shown at 317.60) and the “Proposed,” with Level One (shown at 316.50) and/or Level Two (shown at 328.00).

2 The February 21, 2017 report of the Redevelopment Consultant (6 pages) was not marked as an Exhibit during the hearing. Nonetheless, by virtue of the witness’s discussion of its content, this report is deemed to be a part of the record of this application.

Planning Board Minutes of June 12, 2017

WHEREAS, the Applicant's architect testified that part of the reason for the inclusion of the proposed architectural elements was to visually reduce façade massing and make it a more attractive building than the original concrete cast structure that had been approved; the elements of the Structure were redesigned in order to pick up elements of the Crescent Parking Deck and to harmonize the Structure with Montclair Center, as required by the Plan; and

WHEREAS, the Applicant introduced Keith Ottes of Langan Engineering whose credentials both as a professional engineer and planner were accepted by the Board; this witness introduced

A-13: A colorized version of drawing CS103 [Exhibit A-9]

with the witness indicating that, in accordance with the HPC recommendation, lirope will be added to both the Orange Road and Board of Education Drive (south) locations on the exterior of the Structure; in addition to maintaining the 6 street trees on Orange Road, the Applicant will install one new tree on the southern side of the building; the witness indicated that an easement agreement [Exhibit A-7] had already provided the Applicant with 12" into the Township right-of-way and this application seeks an additional 8" in order to construct the reworked façade on the Orange Road side for the lift and slide mechanism; and this witness introduced

A-14: One Sheet with five drawings [CS102 of Exhibit A-9] showing the encroachment area of the façade (with the largest shown on inserts C and B) and

WHEREAS, this witness's planning analysis determined 2 deviations from the Plan and one variance that are required for this application:

1. Upper-story setback on the Orange Road façade (Plan § 4.2.4): The Plan section was designed to prevent the "canyon effect" often found with large buildings but that is not present here because, across the street from the façade is a school field; moreover the façade has been

broken up by architectural elements, advancing the overall Plan objectives of providing high quality design (Plan § 2.3.1), maximizing the Structure's ability to provide parking (Plan § 2.3.2) as well as making efficient use of the Structure parking spaces before new parking structures should be necessary (Plan § 4.7.1). This deviation from the Plan will cause no substantial impairment to the public good or to the Plan itself.

2. Non-compliance with setback (Plan § 4.1.6): Indicating that the existing easement was for 12" to accommodate the lift and slide mechanism, the additional 8" being requested will not impact public safety on the Orange Road side because there will be adequate distance between the façade and the sidewalk and lighting at the location. In short, parking is being maximized without any detriment to the public caused by this *de minimus* change.

3. Variances resulting for proposed signage: The witness cited to Montclair Code § 347-106 and § 347-110.5A(2), in referring to the awning/canopy to be located above the ingress and egress on the Orange Road side of the Structure.<sup>3</sup> The Applicant suggested that it was the Township's request that the canopy be made larger and, with increased size, the letters should also be scaled larger and that the granting of the variances will provide aesthetic enhancement to the garage façade base and existing non-descript garage door, improve the identification of the garage for motorists and alert pedestrians as to the presence of vehicles.

WHEREAS, the Board carefully considered the testimony, reviewed the Exhibits (A-1 through A-14), and considered the questions and comments presented at the public hearing by

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<sup>3</sup> As of the date of the Board's hearing, the Applicant's plans revealed that the directional configuration of the driveway at the middle of the Orange Road side of the Structure had been changed from what had originally been approved. For example, Exhibit A-10, Sheet 06, reflects egress only but bi-directional aisles were approved. The Applicant represents that the bi-directional drives shall be restored and, as a result, the exterior canopy signage shall be revised and approved by the Board's Revisions Committee.

Further, the Board has received confirmation that 78 parking spaces in the Structure that were allocated for the Township remain so allocated.

## Planning Board Minutes of June 12, 2017

Board members and members of the public and, based thereon, determined the following findings of fact and conclusions of law:

1. All “WHEREAS” recitals set forth above are incorporated, as if set forth at length, as part of the Board’s findings.
2. The Applicant’s application to the Board; all materials submitted in support of and in connection with it including all plans, surveys and exhibits; the documents introduced and marked for identification and those deemed marked at the Board’s hearing; together with the Applicant’s testimony and stipulations on the record, if any; and the testimony of the witnesses introduced by the Applicant and otherwise heard by the Board, are part of the record of this application.
3. The property containing the Structure is part of and subject to the Plan and the use is permitted.
4. The current application requires at least two deviations from the requirements of the Plan. Where the Plan speaks, its development requirements supersede all otherwise applicable Township zoning or development regulations (N.J.S.A. 40A:12A-7c.). The Plan, at § 7.3, expressly authorizes the Board (and not the Zoning Board of Adjustment) to grant deviations from its requirements “where the purposes of the [] Plan would be advanced by a deviation from the strict requirements of this Plan and the benefits of the deviation would outweigh any detriments” and “unless such deviation or relief can be granted without substantial impairment of the intent and purpose of the” Plan; cf., Milford Mill 128, LLC v. Borough of Milford, 400 N.J.Super. 96 946 A.2d 75 (App. Div. 2008) (where the redevelopment plan expressly forbade any “any deviations from the terms and requirements of this redevelopment plan, including the granting of any ‘d’ or ‘c’ variances”).

Planning Board Minutes of June 12, 2017

5. Predicated on the testimony of its planner, the Applicant seeks deviations and variances from the following: Elimination of the upper-story setback on the Orange Road façade (Plan § 4.2.4); relief from the setback on the same side (Plan § 4.1.6) by increasing the amount of the encroachment into the Township’s right of way by an additional 8”; and increasing the size of the lettering on the awning/canopy above the drive aisles also on the same Structure side (Montclair Code § 347-106 and § 347-110.5A(2)).

6. The Board determines and finds that, based on the evidence presented, the amended site plan meets the requirements of the Plan and that its requested deviations and the variance will not outweigh any detriments and can be granted without impairment to the intent and purposes of the Plan.

7. The Board determines and finds that the witnesses presented by the Applicant were credible and their testimony and opinions are credible unless expressly stated otherwise herein.

**NOW, THEREFORE, IT IS HEREBY RESOLVED**, by the Planning Board of the Township of Montclair, that the application of MONTCLAIR ACQUISITION PARTNERS, LLC for amended site plan approval for the Structure be and is hereby approved and granted, subject to the following conditions:

1. All “WHEREAS” recitals, findings of fact and conclusions of law set forth above are incorporated herein by reference.

2. The Applicant’s application to the Board and all materials submitted in support of and in connection with it, including all notices, plans, surveys and exhibits, and the documents introduced and marked for identification at the Board’s hearings, together with the Applicant’s testimony and stipulations on the record, if any, and whether or not they appear herein as conditions or otherwise, as well as the testimony of the witnesses introduced by the Applicant and

## Planning Board Minutes of June 12, 2017

persons otherwise heard by the Board, including the statements of the members of the Board, and the documents that were so deemed are all part of the record of this matter.

3. The Structure considered by the Board on this application shall be developed strictly and entirely in accordance with the last revised plans presented to the Board, and in accordance with any revised plans to be submitted and approved as required herein, the testimony of the Applicant's witnesses, and the stipulations made on the record regardless of whether the same, or any of them, appear herein as such.

4. The Applicant shall work and coordinate with the Redevelopment Consultant to address any unresolved details in its report dated February 21, 2017. In addition, the Redevelopment Consultant shall be entitled to review and provide comments to the Applicant's construction drawings for the Structure.

5. The Applicant has agreed to and shall comply with Items 1 and 2 of the recommendations contained in the HPC's February 23, 2017 report. Additionally, the HPC Design Review Subcommittee shall be presented with and permitted to review and comment upon the materials to be used in the development of the Structure.

6. The approval granted by this Resolution is subject to the Applicant's negotiation with and favorable approval by the Township Council of an amendment to or replacement of the Easement Agreement (Exhibit A-7).

7. The Applicant shall work and coordinate with the art professional on appropriate lighting to highlight the artwork that was part of the Board's original approval. Should the art work professional suggest additional lighting, the same shall be reviewed and approved by the Board's Revisions Committee.

Planning Board Minutes of June 12, 2017

8. In the event any issue cannot be resolved either between the Township's Redevelopment Consultant and the Applicant, or between the HPC Design Review Subcommittee and the Applicant in connection with the foregoing paragraphs of this Resolution, with notice to the Redevelopment Consultant, the Applicant shall present its position(s) on each matter to the Board's Revisions Committee whose decision on all such matters shall be final. That notwithstanding, the Applicant may return to the Board for any additional clarifications that may be required.

9. The Revisions Committee shall review and approve the change in content (i.e., for ingress/egress) to the canopy on the west façade of the Structure.

10. The Applicant shall continue to be responsible for payment of all escrow fees incurred pursuant to Montclair Code § 202-27, as well as for inspection fees pursuant to Montclair Code § 202-28 and -28.1, and shall furnish such sums in full no later than twenty (20) days subsequent to a written request.

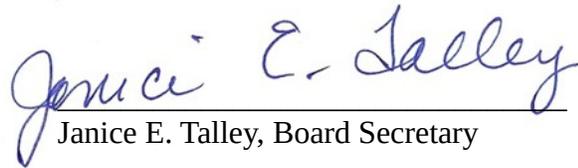
11. The Applicant shall provide proof that all currently due real estate taxes have been paid, escrow deposits have been posted, and inspection fees paid prior to the issuance of any (further) building or other permit required subsequent to the date of this Resolution.

12. The Applicant shall comply with all applicable statutes, regulations, codes, and ordinances of the State of New Jersey, County of Essex, and Township of Montclair.

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**BE IT FURTHER RESOLVED** that this Resolution shall remain on file in the office of the Planning Board, a copy of this Resolution shall be mailed or otherwise transmitted to the Applicant's attorney within 10 days of its adoption, copies shall be furnished to the Township

Manager, the Township Council, the Township Clerk and the Township Tax Assessor, and notice of approval of this Resolution be published as provided by law.

  
Janice E. Talley, Board Secretary

RESOLUTION  
PLANNING BOARD  
TOWNSHIP OF MONTCLAIR

44 PLEASANT PARTNERS, LLC  
44 Pleasant Avenue  
Block 2902, Lot 20

MPB APP. # 2479  
June 12, 2017

**WHEREAS**, 44 PLEASANT PARTNERS, LLC (the “Applicant”), as the contract vendee of real property located at 44 Pleasant Avenue and designated as Block 2902, Lot 20, on the Montclair Township tax maps (the “Property”), with the consent of the Property’s owner, Ann M. Lewis (i.e., letter dated September 22, 2016), filed an application with the Montclair Township Planning Board (the “Board”) for major subdivision and variance approval to create an 8-lot subdivision accessed by a to-be-created street (cul-de-sac) intersecting with Pleasant Avenue for the later development of eight (8) one-family structures on land currently occupied by a single residential structure; and

**WHEREAS**, the Applicant initially sought in connection with its application for preliminary and final major subdivision approval and the following variance:

1. Pursuant to N.J.S.A. 40:55D-70c and from Montclair Code § 347- 45B(2) requiring a minimum front yard setback for corner lots; and

**WHEREAS**, the Board received, marked into evidence, and reviewed the following Exhibits:

- A-1 Application for Development dated October 6, 2016 and filed on October 7, 2016;
- A-2 Letter from Tax Collector certifying current payment of real estate taxes;
- A-3 Affidavit of Publication;
- A-4 Affidavit of Service;

## Planning Board Minutes of June 12, 2017

A-5 Subdivision Plat prepared by Casey & Keller, Inc., 258 Main Street, Milburn, NJ 07041, dated October 4, 2016, last revised January 6, 2017;

A-6 Architectural drawings prepared by Appel Design Group, 220 South Orange Avenue, Suite 100, Livingston, NJ 07039, dated 10-04-2016:

<u>Dwg.</u>	<u>Title</u>
1	Cover Sheet
2	Title & Topographic Survey
3	Demolition Plan
4	Preliminary Subdivision Plat
5	Grading, Drainage & Utility Plan
6	Soil Erosion/Sediment Control Plan & Notes
7	Lighting & Landscape Plan
8	Eight Road Profiles
9	Nine Construction Details
10	Ten Construction Details
11	Eleven Storm Detention Details

A-7 Images (photographic array) of Immediately Adjacent Buildings dated January 23, 2017;

A-8 Storm Water Management Report prepared by Michael Lanzafama, P.E., of Casey & Keller, Inc., dated October 4, 2016, revised January 19, 2017;

A-9 Maintenance Manual – Storm Water Management System for Proposed Underground Detention Facility & Proposed Jellyfish Filter prepared by Casey & Keller, Inc., dated 8/29/2016;

A-10 Board Planner's Report prepared by Janice Talley, PP, AICP, dated January 31, 2017;<sup>4</sup>

A-11 Board Engineer's Report prepared by W. Thomas Watkinson PE, dated January 31, 2017;

A-12 Board Engineer's Report prepared by W. Thomas Watkinson PE, dated February 2, 2017; and

**WHEREAS**, the application was first heard by the Board at its meeting on February 27, 2017, at which time it was established that notice was properly published and that property owners within 200 feet of the Property had been properly served with notice, and the application was thereafter adjourned to April 3 and April 24, 2017 with public announcements made of both dates at the conclusions of the first and second hearing dates; and

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<sup>4</sup> Attached to the Board Planner's Report is the December 14, 2016 referral report by the Montclair Historic Preservation Commission which is incorporated by reference into and made part of the record of this application ("HPC").

Although not separately marked as an Exhibit, the Board Planner's report, dated April 19, 2017, is also incorporated into the record of this application.

**WHEREAS**, the Applicant was represented throughout this proceeding by Richard S. Schkolnick, Esq., of the firm Brown Moskowitz & Kallen, P.C., 180 River Road, Summit, New Jersey 07901; and

**WHEREAS** the Applicant introduced Michael Lanzafama, of Casey & Keller, Inc., whose credentials as an expert in land surveying, professional engineering and planning were accepted by the Board; and Mr. Lanzafama described the project generally and introduced

A-13 15-Slide PowerPoint® presentation

and described the Property as 2.539 acres that slopes approximately 6' from west to east but, according to the witness, does not present a flood hazard; at present, a single 2-1/2 story frame, unoccupied structure is on the Property;<sup>5</sup> the witness indicated that the minimum lot width in this R-1 Zone is 70' and all of the proposed individual lots meet or exceed that figure; similarly, the minimum lot depth in the Zone is 110' and all of the proposed lots exceed that requirement; the proposed street (Lewis Court), a cul-de-sac, will have a 28' cart way and otherwise complies with RSIS with regard to access by emergency and Township garbage collection vehicles; the Property has no and will contain no overhead wires; and

**WHEREAS**, the witness described the storm water management system as a ground water recharge system and discussed the jellyfish filtering unit, indicating that the homeowners (by a homeowners association) shall be responsible for the maintenance of the system; at Pleasant Avenue, the system is a "solid state" (i.e., non-perforated pipe); in order for the system to function optimally, the grading of the backyard swales must not be changed and, because of this, the Applicant has agreed that this condition shall be recorded in all of the deeds for the eight lots; additionally, the Applicant agreed that a maintenance manual shall be recorded in the Office of the County Register and be on file in the appropriate Township office; all of that said, however, the Board expressed concern that the maintenance obligation shall not be shifted to the Township in the future and discussed the possibility of the Applicant providing a bond in favor of the Township to "ensure" against this circumstance; the Applicant shall apply to the Township Council to require that parking shall only be on one side of the "flagpole" of the cul-de-sac street in accordance with its plan; and

**WHEREAS**, this witness discussed the operation in this case of Montclair Code § 347-45B(2) and the calculations used to determine the average front yard setback with regard to other properties on Pleasant Avenue; this witness believes that the Applicant's [initial] proposal represents a better planning design because it eliminates the need for curb cuts on Pleasant Avenue, reduces driveway lengths, and will increase the green area thereby reducing impervious coverage; in his opinion, placing more of the homes on Pleasant Avenue will reduce the rear yards to all lots and create greater front yards; and the witness introduced

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<sup>5</sup> At its January 4, 2016 meeting, the Board considered the HPC's nomination of 44 Pleasant Avenue to be worthy of landmark designation pursuant to Montclair Code § 347-134, *et seq.* The Board heard comments that the "Aubrey Lewis House" was also known as Rose Brae. Its architect was Dudley Van Antwerp and is an example of the craftsman style. A realtor representing the Property owner advised the Board that the owner was not in favor of historic designation. The Board's vote on designation resulted in a tie and thus the motion was not carried, with the effect that the Board declined to recommend the Property's inclusion to the Township Council.

A-14 Drawing number 12 “Alternate Subdivision Plat–Two” dated 01-06-2017

which reflects the alternate design is locating four lots on Pleasant Avenue and which the witness described as being not as beneficial as the plan being proposed by the Applicant; the witness discussed Montclair Code § 347-18E (minimum lot size) in the context of N.J.S.A. 40:55D-70c(2) criteria, indicating that the purposes of zoning would be furthered by the Applicant’s primary plan (i.e., two lots rather than four on Pleasant Avenue); specifically, space, density and the general welfare are advanced by providing the additional housing (i.e., two lots of the eight lot subdivision) especially since the proposed units will have architecturally pleasing facades;<sup>6</sup> the witness, in the context of his planning testimony, confirmed that the benefits of the proposed subdivision substantially outweigh any detriments; and because the front yard setback of the nearest building on the north (a daycare center) is 79.1’ and the front yard setback of the nearest building to the south has a setback of 27.3’, there is no established zone plan in this vicinity and Ordinance § 347-45B(2) prescribes that the nearest two structures are to be considered in the determination of setbacks; and

**WHEREAS**, the Board continued this application to April 3, 2017 at which time the Applicant’s attorney notified the Board that the cost of the jellyfish replacement cartridges is approximately \$2,000 every two years; the Applicant’s attorney agreed that the Applicant will enter into a Developer Agreement with regard to the storm water maintenance and bonding issues that the Board found necessary and appropriate and the Applicant’s attorney suggested that the Applicant would consider moving, rather than demolishing, the residence structure currently situated on the Property; and

**WHEREAS**, the Applicant re-introduced Michael Lanzafama who testified that he had confirmed with the manufacturer of the jellyfish system the cost estimate and advised that it would take one vacuum truck approximately one day (or less) to service the cartridges; and the witness proposed that although the design set forth on Exhibit A-14 would be fully conforming, the number of curb cuts on Pleasant Avenue would make the four-house configuration less safe; and the witness introduced

A-15 Alternate Subdivision Plot

wherein Lot 1 requires a *de minimus* variance and, on this drawing, he has arranged Lots 1 and 5 to be staggered as to provide a (more or less) straight diagonal line from the setback of the building to the south, across the Property, and to the setback of the building to the north; this design, however,

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<sup>6</sup> The Applicant’s attorney directed the Board’s attention to Green Meadows v. Montville Planning Board, 329 N.J. Super. 12 (App. Div. 2000) (citing Pizzo Mantin Group v. Township of Randolph, 137 N.J. 216 (1994) (“a planning board’s review of a subdivision proposal, including the layout of the entire design, must be made within the framework of the standards prescribed by the subdivision [ordinance] and, if pertinent, the zoning ordinances. Planning Boards do not have the authority to deny an application for subdivision approval based on considerations of the general welfare, the purposes of the Municipal Land Use Law, and sound planning. If denial of a variance or waiver which is required for a proposed subdivision plan would be arbitrary or unreasonable, the need for the variance or waiver cannot justify rejection of the subdivision proposal” [citations omitted])).

## Planning Board Minutes of June 12, 2017

might have the effect of calling out variances for the four lots at the rear of the subdivision (i.e., Lots 3, 4, 8 and 7); and

**WHEREAS**, the Board introduced its own Exhibit 1, a drawing prepared by member Steven Rooney which apparently, in rendered form, suggests that the Aubrey Lewis residence could still be accommodated on the Property albeit with a reduced number of subdivision lots; and

**WHEREAS**, the Applicant introduced its architectural team, Larry Appel and Joseph Cestero, whose credentials as experts in architecture were accepted by the Board, with Mr. Appel introducing

A-16 Architectural Drawings PB-2 and PB-5 prepared by his office indicating Model A.1 and Streetscape View, respectively<sup>7</sup>

and the witness introduced

A-17 Architectural Drawings PB-3.1 and PB-4.1 prepared by his office indicating Model B.1 and Model C.1, respectively<sup>8</sup>

with the witness indicating that PB-1 describes the house examples that can be placed on Lots 1, 2, 5 and 6; and

**WHEREAS**, the final hearing on this application occurred on April 24, 2017 with Mr. Lanzafama introducing

A-18 Drawing number 4 entitled "Preliminary Subdivision Plat Rendering" dated 10-04-2016, last revised 04-12-17

with the witness stating that that the reconfiguration of this "Alternative 3" results in the need for one front yard setback variance for Lot 1 and, depending on which version of home type chosen by the purchaser, the lots in the rear (i.e., Lots 3, 4, 8 and 7) would require a variance(s) for parking in front yards pursuant to Section 347-34(B); the witness opined that the intent of the setback ordinance is to maintain the character of the existing streetscape in the area; the witness indicated that with regard to those rear lots, the driveways and vehicles on them will not generally be seen from Pleasant Avenue and, therefore, a "cluttered look" will be avoided and these represent good reasons for granting the front yard setback variance for Lot 1 (and, by extension, for the lots in the rear); and the witness introduced

A-19 Report prepared by Board Engineer W. Thomas Watkinson, PE, Board Engineer dated April 20, 2017

indicating that the Applicant will comply with all of the comments set forth in that letter including the installation of a connecting manifold at the north end of the underground detention system; on behalf of the Applicant, the witness represented that red oak trees could be changed out in favor of another species and that the Applicant will consult with the Township arborist; the Applicant will

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<sup>7</sup> These drawings were last revised on 2-20-17.

<sup>8</sup> These drawings were last revised on 4-3-17.

enter into a Developer Agreement and understands that because 77 trees will be removed (indicating that approximately 36 or either dead or in poor condition), there will be a 38 tree replacement; and

**WHEREAS**, the Applicant re-introduced the testimony of Larry Appel who introduced

A-20 Four 11 x 17 renderings pages dated 4/24/17 of three (3) models:

- Model A.1 Front Elevation – View from Louis Court
- Model A.1 Side Elevation – View from Pleasant Avenue
- Model B.1
- Model C.1

and this witness testified that the building structures that will be built shall be substantially similar to those depicted in the foregoing exhibit; and

**WHEREAS**, the Applicant agreed to advertise the Aubrey Lewis residence for potential relocation and will conform to the HPC protocol of preserving evidence of the existing building both inside and outside; and

**WHEREAS**, the Board carefully considered the Exhibits (A-1 through A-20), the testimony of the witnesses, the questions and comments presented at the public hearings by Board members and the public, and all of the evidence presented; and

**WHEREAS**, the Board made the following findings of fact and conclusions of law:

1. The Property is located on the west side of Pleasant Avenue between Hilltop Place to the far south and Cedar Avenue to the far north; Manor Court, a cul-de-sac, is to the far west. The Property is in the R-1 One-Family Zone.
2. The Property is a large lot consisting of approximately 2.7 acres, has a roughly rectangular shape, and is the largest property in this segment of Pleasant Avenue;
3. Presently, the Property contains a large vacant 2½ story, two-family dwelling that is setback approximately 609 feet from Pleasant Avenue on a slope sloping uphill from Pleasant Avenue.
4. The Applicant proposes an 8 lot subdivision for purposes of erecting 8 single family dwellings. A new street, culminating in a cul-de-sac, shall provide access to all 8 lots.
5. In the Applicant’s final design configuration (“Alternate 3”), necessarily an off-street parking area will be located between the main building and the curb on which several of the residential structures front. This will require a variance from Montclair Code § 347-34B.
6. In the Applicant’s final configuration (“Alternate 3”), Lot 1 will be set back from Pleasant Avenue a distance of 40’ but the corresponding lot on the opposite side of Lewis Court (Lot 5) will be setback 53.2’. Lot 1, therefore, requires a variance from Montclair Code § 347-45B(2).
7. The Board concludes that the testimony and opinions of the witnesses presented by the Applicant were credible unless expressly stated otherwise herein.

## Planning Board Minutes of June 12, 2017

8. Based upon the Board's particular knowledge of local conditions, the development proposed by this application is not inconsistent with the character of the neighborhood and will not adversely impact the public good.

9. The grant of the two variances promotes several purposes set forth in the Municipal Land Use Law (i.e., N.J.S.A. 40:55D-2): They effect the appropriate use and development of lands (purpose a) in that the setbacks fulfill the intendment of the ordinances (e.g., to eliminate overdevelopment and maintain, to the extent possible, the existing character of the streetscape). Moreover, by providing all curb cuts in Lewis Court rather than off Pleasant Avenue, public safety is increased. The cart way of the cul-de-sac complies with RSIS; access by emergency and other vehicles is provided for in this plan. The variances assist in promoting adequate light, air and open space (purpose c) within and in relation to the development. The lots have been laid out to maximize the rear yards and avoid overcrowding or "clutter" in the Pleasant Avenue streetscape. In this regard, the variances also assist in promoting appropriate residential density (purpose e). They provide sufficient space in an appropriate location for residential use (purpose g). They promote a desirable visual environment (purpose i), especially since the Applicant has agreed that it shall construct only three (3) possible residence types (i.e., Models A, B and C as shown in Exhibit A-20). The variances promote the efficient use of land (purpose m).

10. Based on the foregoing findings, the Board also concludes, with respect to the requested variances, that the Applicant has proved that the purposes of the Municipal Land Use Law would be advanced by a deviation from the applicable Zoning Ordinance requirements and that the benefits of these deviations substantially outweigh any detriment and do not cause substantial detriment to the public good or substantial impairment of the intent and purpose of the zone plan and zoning ordinance pursuant to N.J.S.A. 40:55D-70c(2);

11. The Board concludes that the Applicant has met the criteria and standards for major subdivision approval set forth in Montclair Township's subdivision ordinance (Montclair Code § 301, *et seq.*

**NOW, THEREFORE, BE IT RESOLVED**, by the Planning Board of the Township of Montclair, that the application of 44 PLEASANT PARTNERS LLC for preliminary and final major subdivision and variance approval is hereby approved and granted, subject to the following conditions:

1. All "WHEREAS" recitals, findings of fact and conclusions of law set forth above are incorporated herein by reference.

2. The Applicant's application to the Board and all materials submitted in support of and in connection with it, including all notices, plans, transmittal letters, letters submitted in response to Board professionals' review reports, and all of the documents introduced and marked for identification at the Board's hearings, together with the stipulations on the record, whether or not they appear herein as conditions or otherwise, as well as the testimony of the witnesses introduced by the Applicant and persons otherwise heard by the Board, including the statements of the members of the Board, are deemed and are hereby made part of the record of this matter.

3. The Property shall be developed strictly and entirely in accordance with each last revised plan and rendering presented to the Board, except to the extent the same may have been subsequently modified by the Board.

4. The Applicant shall continue to be responsible for payment of all escrow fees incurred pursuant to Montclair Code 202-27, as well as for, if applicable, inspection fees pursuant to Montclair Code 202-28 and -28.1, and shall furnish all such sums requested in full no

## Planning Board Minutes of June 12, 2017

later than fifteen (15) days subsequent to a written request or all further municipal consideration of or action upon the Applicant's development plan shall cease until paid.

5. The Applicant shall comply with all applicable statutes, regulations, codes and ordinances of the State of New Jersey, County of Essex and Township of Montclair.

6. The Applicant shall consult and work with the Township arborist to change out the plan's red oak trees to be replaced by a different species of street tree.

7. The Applicant shall obtain a tree removal permit from the Township Clerk's Office prior to the issuance of any building permit.

8. The Applicant shall comply with the entirety of the Board Engineer's April 20, 2017 report [Exhibit A-19] including comment paragraph nos. 2, 3 and 7. As to the remaining comment paragraphs of that report, see condition paragraphs 9, 10, 11 and 12 and immediately below.

9. The Applicant shall enter into a Developer Agreement which, among other things, shall provide for a performance bond with respect to all on-site improvements and a maintenance bond for the maintenance of the proposed street and to underground water detention facility.

10. The documents and instruments that will establish the homeowners' association and the individual property deeds shall reflect that the maintenance of the individual drywells on each lot is the responsibility of the individual homeowners. The homeowners' association shall be responsible for the maintenance and cost of maintenance of the underground water detention system unless responsibility for the maintenance of the detention system is placed on the owners of Lots 1 and 5 by an appropriate deed restriction. The documents and instruments of the association (or the deed restrictions on Lots 1 and 5 if there shall be no association) shall require the association or the owners of Lots 1 and 5 to provide notice to the Township, commencing two years after the initial operation of the underground water detention facility and no later than every two years thereafter, of the successful completion of the maintenance procedures.

11. The Applicant shall record a maintenance manual whose content shall be approved by the Board Engineer for the stormwater management system which includes a manufactured treatment device with the Register of the County of Essex and an additional copy shall be delivered to the Township's Building Department. The Applicant and the owners of the individual lots shall comply with the guidelines and procedures of the Manual.

12. Approval of the name of the proposed street name, "Lewis Court," rests with the Township Council. The Applicant shall take all steps necessary to obtain a road opening permit. Based on the Applicant's testimony, there shall be parking on only one side of the street.

13. The dwelling structures to be erected upon Lots 1 through 8 shall be substantially similar to the design and look of the depictions on Exhibit A-20. No additional variance relief will be necessary for any lot purchaser who determines to build one of the three designs depicted on that Exhibit. Brick, stone or stucco shall be used at the base of all residences and HardiePlank® (not vinyl or plastic) or its equivalent shall be used for siding. Visual details at the cornices and dormers shall be maintained as presented on Exhibit A-20.

14. With the consent of the Applicant, the Board directs that the Applicant shall advertise for sale the existing structure on the Property. Such advertisement shall be advertised for one period of no less than sixty (60) days and shall occur on no fewer than the following websites:

- (1) <https://www.oldhousedreams.com>;
- (2) <https://savingplaces.org/preservation-magazine#.WP64FoEpCEc>;
- (3) <https://www.thisoldhouse.com>;

- (4) Baristanet.com
- (5) The Montclair WaterCooler and
- (6) The Montclair Facebook page

and in two (2) publications (once per month) of the following newspapers: The Montclair Times and Montclair Local. The advertisement shall read in substantially the following form:

Historic “Aubrey Lewis” house available for purchase. The premises are purchased “as is,” “where is.” The structure must be removed from its present location at 44 Pleasant Avenue, Montclair, NJ, to a location within approximately ¼ mile. The purchaser shall be required to enter into a contract with seller in which: (a) the purchase price not to exceed \$10.00; (b) the purchaser shall perform all necessary remediation before the move and the costs of the move shall be borne by purchaser; (c) the seller will contribute a maximum of \$10,000 toward the move cost; (d) all other incidental costs, if any, shall be borne entirely by the purchaser; (e) purchaser shall indemnify seller from any and all liability, including attorneys’ fees and costs; and (f) purchaser shall provide appropriate insurance guarantees. Contract must be executed on or before August 31, 2017; the movement of the structure shall be negotiated in good faith.

15. At the earliest opportunity and before the advertisement discussed above, the Applicant shall prepare a photographic record of the existing “Aubrey Lewis” building structure, both inside and outside, in accordance with a protocol to be provided by the HPC.

16. All individual lot deeds shall contain the restriction that the owner shall not grade or regrade any existing swale on the lot, unless prior, written approval for such grading or regrading is furnished by the Board Engineer.

17. The street trees shown on the plan shall be moved to the Township right of way and such trees shall not be removed.

18. The Applicant shall install concrete pads adjacent to each of the residences for air conditioning, utility and other mechanicals. Each pad shall be completely screened by shrubbery of an appropriate height and density.

19. The Applicant shall provide proof that all currently due real estate taxes have been paid, escrow deposits have been posted, and inspection fees paid prior to the issuance of any building permit.

20. The Applicant shall submit a map of the major subdivision that complies with N.J.S.A. 46:26B-2, *et seq.*

21. The Applicant shall comply with the Township’s residential developmental fee Ordinance, Code § 202-42.

22. The approval of this application is conditioned upon timely receipt of a favorable report on the application by the Essex County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

**BE IT FURTHER RESOLVED** that this Resolution shall remain on file in the office of the Planning Board, a copy of this Resolution shall be mailed or otherwise transmitted to the Applicant' attorney within 10 days of its adoption, copies of this Resolution shall be furnished to the Township Manager, the Township Council, the Township Clerk and the Township Tax Assessor, and notice of approval of the Resolution shall be published as provided by law.

  
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JANICE E. TALLEY, Board Secretary