

**MINUTES OF REGULAR PLANNING BOARD MEETING
HELD ON THURSDAY, OCTOBER 18, 2018**

Chairman Blewett called to order the regular meeting of the Board and announced the meeting was duly advertised in compliance with the Open Public Meetings Act by notice dated October 10th, 2018 sent to the Daily Record, Suburban Trends and posted on the bulletin board and website at Borough hall. All stood for the Pledge of Allegiance.

PRESENT: BLEWETT, KAUFMAN, MARINO, TERRERO AND BRIGHTMAN (ALT. #2)

ALSO PRESENT: NEISS, COUNSEL

ABSENT: KOLDYK, MORREALE, *RUNFELDT, TAORMINA, WILD AND REHFUSS (ALT. #1)

Chairman Blewett stated the first item on the agenda is approval of the September 20th, 2018 minutes. Do we have enough to vote on the minutes?

Ms. Ward mentioned everyone who is present can vote on the minutes.

Mr. Terrero moved to approve the minutes.

Chairman Blewett asked is there a second.

Mr. Kaufman seconds.

Roll call:

Yes: Terrero, Kaufman, Blewett, Marino and Brightman (Alt. #2)

No: None

Abstain: None

Ms. Ward mentioned they're approved.

Chairman Blewett stated the second item on the agenda is Amended Major Site Plan Application #365 by J.H. D.S., LLC, on property known as Block 3, Lot 45 on the municipal tax map also known as 107 Beaver Brook Road. This is a consideration of a memorialization resolution carried from the September 20th, 2018 meeting.

Ms. Ward mentioned the members that can vote on that resolution are Blewett, Kaufman, Marino, Terrero and Brightman.

Chairman Blewett asked are there any comments, questions, changes, additions.

Mr. Neiss stated I think I wrote a good one.

Chairman Blewett mentioned you did.

Ms. Ward stated we didn't hear anything back from Barbarula.

Mr. Neiss stated I sent it to him.

Ms. Ward mentioned I did too with the agenda.

Mr. Neiss stated oh good.

**RESOLUTION OF THE LINCOLN PARK
PLANNING BOARD**

**RE: JHDS, LLC
AMENDED SITE PLAN APPLICATION #365**

**BLOCK 3, LOT 45
107 BEAVER BROOK ROAD
LINCOLN PARK, NEW JERSEY**

WHEREAS, JHDS, LLC (the “Applicant”) applied to the Lincoln Park Planning Board (the “Board”) for amended site plan approval for property commonly known as 107 Beaver Brook Road and designated as Block 3, Lot 45 on the Tax Map of the Borough of Lincoln Park, Morris County, New Jersey (the “Property”); and

WHEREAS, the Applicant seeks this approval in order to provide for outdoor stacking and storage of the Property of raw materials used in the fabrication of steel-based products; and

WHEREAS, the Board has considered the Applicant’s development proposal as presented in the following:

1. Standard Development Application form bearing the July 20, 2017 notarized signatures of members of the Applicant and the Property owner, filed on July 10, 2018;
2. Checklist for General Information;
3. Checklist for Final Major Site Plan;
4. Development Application Review Fee & Initial Escrow Deposit Computation Tables;
5. A certified list of property owners within 200 feet of the Property;
6. A copy of the search for municipal liens, certified by the Lincoln Park Tax Collector, dated July 17, 2017;
7. Copies of prior approvals by the Lincoln Park Planning Board as follows:
 - Resolution #232 memorialized on March 21, 1996; and
 - Resolution #297 memorialized on September 15, 2005
8. Site Plan, prepared by Boswell Engineering, consisting of one (1) sheet, dated Oct. 2016, bearing 1 revision dated May 15, 2018
9. Survey of existing conditions prepared by Boswell Engineering, consisting of 1 sheet, dated October 01, 2015
10. Copies of record architectural drawings, prepared by The Gilchrist Partnership, 135 Fort Lee Road, Leonia, NJ 07605, prepared for Dyckerhoff & Widmann, Inc. consisting of fifteen (15) sheets, dated March 3, 1980, bearing one (1) revision on May 19, 1980; and
11. “Packing and Storage at Branch Facilities,” prepared by the Doka Group Company, consisting of 80 pages A/O May 6, 2014, filed on November 28, 2017. **1**

1 The document described Doka formwork technology including load bearing stacking pallets that will be used by the Applicant.

WHEREAS, the Applicant was represented by John M. Barbarula, Esq., of the Barbarula Law Offices, 1242 Route 23 North, Butler, NJ 07405; and

WHEREAS, the application was the subject of a public hearing held on August 16, 2018 at which time it was established that notice was properly published and served upon property owners within 200 feet of the Property; and

WHEREAS, in addition to the above noted documents and plans, the Board considered the testimony, reports, exhibits and other evidence introduced at the hearing, including the Board Engineer’s August 7, 2018 review letter (the “Engineer’s Report”); and

WHEREAS, the Applicant introduced Jorge Hermida who testified that the Applicant was founded in 2013 and has approximately 25 employees; the company fabricates for fire houses and police departments primarily in New Jersey; trucks bring in raw steel which consist mostly of I-beams which the Applicant cuts, saws, drills and welds for various uses; the end uses, which are constructed on site, require that the raw materials also be on site during the fabrication process; the Applicant has 2 – 3 forklifts that can reach as high as 20’; and

WHEREAS, the Applicant introduced Jorge Hermida (father of the first witness) who testified that all storage will be in the designated area and will go to a maximum height of 23’; the widest length of raw material that the Applicant uses is 35’ but it is possible that this length

could increase on certain projects (in which case the stacks will not be high); when the Applicant's predecessor in interest appeared for site plan approval, outdoor storage was not in issue and, for this reason, the Applicant seeks amended site plan approval.

WHEREAS, the Board also considered the questions and comments presented at the public hearing by members of the Board and members of the public, if any, and based thereon, made the following findings has made the following findings and conclusions based upon the evidence submitted:

STANDING

1. The owner of the Property is H & S Realty Partners, whose members are the same as the Applicant's. The application is for amended site plan previously granted by the Board. The Applicant has standing to bring this application before the Board.

EXISTING CONDITIONS

2. The Property is located in the I Industrial Zone.

3. The Property is an irregularly shaped lot. Access is from a driveway from Beaver Brook Road. The head of the driveway is the property's only point of contact with Beaver Brook Road.

4. Entering from the Beaver Brook Road driveway, a 1½ story frame dwelling is on the right. Continuing further into the driveway, a 3-story block building presents, behind which is a 2-story block and metal building. Macadam pavement surrounds the building on all four sides, small areas of landscaping separate the building and macadam parking areas. Railroad tracks lay just beyond the southern property line. Outside the Property, other industrial-type buildings lie to the north, northeast and east; to the west is vacant land.

5. The Property consists of 266,670 s.f. and conforms to the Zoning Ordinance for the Industrial Zone (although the lot frontage along Beaver Brook Road is 41.97 feet where more than 250 feet would be required for this Property).

6. A portion of the Property is in the effective and preliminary FEMA and Base Flood Elevation and NJDEP Flood Hazard Areas (worst case scenario).

7. The application is to permit the Applicant use of a portion on the south parking lot to stack and store raw materials for steel fabrication.

8. Pursuant to Section 28-106 of the Zoning Ordinance, "[O]utdoor storage of ... machinery and supplies, provided [that this section does not prohibit it and that are] (a) incidental to the main use, (b) effectively screened from the public street and surrounding properties by the main building, natural vegetation or plantings, and/or other screening methods...and (c) "not located within any [restricted] buffer area," is permitted.

9. The proposed storage area will occupy two rows of existing parking and eliminate 61 parking stalls. The remaining balance of parking, 100 stalls, is one spot shy of the number required.

CONCLUSION

10. Subject to the conditions of this Resolution, this application meets requirements for the granting of minor (amended) site plan approval for the specific amendments requested and a *de minimus* (i.e., 1 spot) parking variance.

NOW, THEREFORE, BE IT RESOLVED that this application by JHDS, LLC for minor (amended) site plan be and is granted subject to the following conditions:

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 hearing, 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 Applicant shall comply with all applicable Borough, County, State, and federal laws, ordinances, regulations, and directives.

4. All construction, use and development of the Property shall be in conformity with the plans approved herein; all findings of fact and terms and conditions of this Resolution and, to the extent not inconsistent with this Resolution, all representations of the Applicant and its witness(es) during the public hearing. Any deviations from the terms or conditions of this approval as reflected in the terms and conditions of this Resolution, shall be deemed a violation of the terms and conditions of site plan approval and a violation of the Borough's Development Review Ordinance.

5. The Applicant shall comply with Engineer's Report technical comments 1, 4, 5, 6, 7, 8, 9 and 10.

6. Prior to the signing of the approved Plan, and prior to the commencement of any construction:

(a) Applicant shall submit to the Board Clerk a certification from the Finance Department (i) setting forth the then-current balance in Applicant's escrow account: and (ii) confirming that all charges billed to such account have been or, to the extent known, are capable of being paid in full;

(b) The Board Clerk shall determine (after inquiries to the Board's professionals) that there is a sufficient balance in the escrow account to cover all remaining services chargeable to such account.

(c) Applicant shall submit to the Board Clerk a certification from the Tax Collector that all real property taxes on the Property have been paid to date;

(d) Applicant shall submit to the Borough Engineer a certification from its engineer, architect or attorney confirming that all other necessary governmental approvals, if any, have been submitted or obtained. Applicant shall not secure any building, demolition or other permit for this development from the Borough in the absence of proof that all required governmental approvals or waivers have been obtained by the Applicant.

(e) Applicant shall post inspection fees if required by Ordinance.

(f) Applicant shall arrange for and attend a pre-construction meeting with the Borough Engineer and such other Borough Officials as the Borough Engineer may deem appropriate and necessary.

7. The Applicant's operations, including all new structures and operations approved in the plans shall comply with Ordinance performance standards in all respects, including applicable noise standards. Compliance with these standards shall be continuing requirement for the use of the storage racks to be located on the Property pursuant to this Resolution.

8. The 30' travel lane in the south parking lot shall remain clear.

9. No storage material shall block and exit door or route of egress from the building.

10. The Applicant shall comply with any reasonable requirement of the Borough of Lincoln Park Fire Department with regard to striping and the location of bollards, as appropriate. In no event shall any bollard or other impediment be permitted to block any exit door. There

shall be signage on the east side of the property with regard to the fire issues and, for this purpose, striping is deemed acceptable.

11. The Applicant shall store no flammable item of any kind either in or on the storage racks or within the building.

12. Applicant's construction activities shall be limited to those hours permitted by Ordinance.

13. Applicant shall comply with the reasonable requirements of the Construction Official.

14. Following the completion of all construction, the Applicant shall submit four (4) as-built drawings.

15. **ALL NOTES INCLUDED IN THE APPROVED PLAN, INCLUDING NOTES AND THE ADDITIONAL PLAN MATERIALS REQUIRED BY THIS RESOLUTION, SHALL BE DEEMED TO BE CONDITIONS OF APPROVAL HAVING THE SAME FORCE AND EFFECT AS CONDITIONS EXPRESSLY SET FORTH HEREIN.**

Mr. Kaufman moved the resolution.

Mr. Brightman seconds.

Roll call:

Yes: Kaufman, Brightman (Alt. #2), Blewett, Marino and Terrero

No: None

Abstain: None

Ms. Ward stated it's approved.

Chairman Blewett stated okay. Item 3 on the agenda is memo from the Governing Body dated June 19th, 2018 to conduct a preliminary investigation to examine whether certain properties should be in a condemnation area in need of redevelopment pursuant to N.J.S.A. 40A:12A-1 et. seq.

We are going to table that and we are going to note that the first one on 275 Comly Road is actually coming in and submitting an application so that should be hopefully taken care of by next meeting.

Ms. Ward mentioned it looks like possibly November or December.

Chairman Blewett asked we have no further information about the other properties.

Ms. Ward mentioned no nothing on Mort's Family Group property. I haven't heard anything from the mayor whether the houses are going to be demolished or not.

Chairman Blewett stated okay very good so it is tabled.

The fourth item on the agenda is the proposed marijuana ordinance. We have correspondence from the Council and there is a resolution attached, are there any comments or questions related to this?

Ms. Brightman asked what would be the benefit or non-benefit of passing this prior to the state actually having legislation.

Mr. Neiss stated many communities have already passed such resolutions, such ordinances and I think more than anything else it is a statement. It is a statement about how the people of Lincoln Park feel about having marijuana become legalized and its accoutrements as part of their

community. So you may see not necessarily headshops but you may see places where people can go and buy marijuana, much in the same way as you go to a liquor store and buy liquor that kind of thing. I hate to say it like this, but it really boils down to a moral judgment on the part of the people of the town, so that really is what motivates, at least in my opinion, towns to take the affirmative pre-emptive step that this represents.

Your job as a Planning Board is a little different than just approving or not approving the language because this is proposed as zoning, as part of your zoning ordinance. The issue for you is is it consistent or inconsistent with the Master Plan that's the analysis for the level of analysis that this Board has to engage in.

I'll admit to you that I didn't have a chance myself to go and look through the Master Plan and see whether or not I could discern consistencies or inconsistencies, this ordinance is sort of in its own territory. It is not you know how many feet need to be in the setback, or you know can you build this in this zone it's not like that at all, it is sort of out there on its own in that sense. But that said, your job is to tell the Council whether you view this ordinance as consistent or inconsistent with the Master Plan. I'm sorry I don't know how to help you tread that course.

Chairman Blewett stated I don't know if there is anything that we actually restrict in the Master Plan.

Ms. Ward mentioned I don't believe it is in the Master Plan but it's in your Development Review Ordinance certain things are restricted and not permitted.

Chairman Blewett stated so what this does then if the ordinance was passed, it creates a non-permitted use not permitted right?

Mr. Neiss stated correct.

Mr. Kaufman mentioned I don't necessarily see how assuming it is legalized that it is any different from a vape shop. We have one of those and there is no other industry that is prohibited in town based on the zoning, assuming all legal activities I don't really see how it is much different.

Chairman Blewett stated okay. One of the things it doesn't do is restrict access for those that qualify in need of medical marijuana. I think it restricts the business of growing and retail sale of it, at least that's the way I read the first section here. All uses not expressly permitted in this article are prohibited but not limited to the following.

Mr. Kaufman mentioned medical is specifically mentioned in here.

Chairman Blewett stated yeah it is excluded.

Mr. Kaufman mentioned but you are also assuming that marijuana is legalized so medical or recreational is all legal at that point.

Mr. Terrero asked would we be open for grounds for any sort of a lawsuit in case it becomes legal and then our town does not allow it, do we become open for grounds for a lawsuit in terms of your discriminating against it.

Mr. Neiss stated you know that is an excellent question. It is not clear yet whether or not because effectively what you are saying is our ordinance would trump state law.

Ms. Brightman mentioned that is where I was going.

Mr. Neiss stated it is not clear yet what the state law will say if anything about local ordinances. For the sake of argument, if the state passes a law and says the sale of marijuana anywhere in the State of New Jersey is legal and no one shall prohibit its sale or marketing in the state, and then somebody comes along and says hey wait a minute Lincoln Park has this ordinance, it could be that the state law invalidates this ordinance we don't know yet. I don't know yet. Until that legislation if it is passed and adopted by the state legislature we don't know.

Mr. Kaufman asked do you feel ordinances like this are premature.

Mr. Neiss stated personally yes, but what is happening is people are recognizing that it is like a deluge. This notion of marijuana as a source of revenue and as a source of you know recreation is the coming thing and people want to act preemptively because there is a notion of not in my backyard I don't want this here. I don't want this thing to be here.

Mr. Kaufman asked by industry, not necessarily marijuana, is it something that the town could tax in a certain way.

Mr. Neiss stated I doubt it because it is going to be the subject of state legislation, if in fact it is passed. I don't think that the town will have the option to tax it that way. If anyone is going to tax it, it's probably going to be the state of course.

Ms. Brightman stated but there would be a licensing fee maybe to open your business or something of that nature.

Mr. Neiss stated I could easily see that but what are we talking pennies essentially for that kind of thing because you can't discriminate. If a barbershop license is \$50 here in town and you want to open a marijuana store or whatever, you want to charge a thousand dollars there is your lawsuit.

Ms. Brightman stated I'm not sure this questions belongs directed to you it may be more so to ask on a Council level, but what would be the difference, I did some research on this because it made me a little uneasy about passing something before there was state law. I did a lot of reading on it and I noticed that some municipalities were passing moratoriums instead of an ordinance.

Mr. Neiss asked you mean they were saying, if the legislature adopts a marijuana ordinance we are going to hold ours in abeyance, or we are not going to permit it to be part of our -- I'm not sure what you mean.

Ms. Brightman stated it seemed to be a moratorium of time to make a decision because there was something in the law that I read and I don't know quite how to interpret it. If it was passed and you had something in place, you couldn't change it for a five year period.

Mr. Neiss stated it is not ringing any bell with me because Council has complete unfettered authority really to amend any ordinance in town at its pleasure.

Ms. Brightman mentioned you answered my question. Thank you.

Chairman Blewett asked so what do we want to tell the Council.

Ms. Brightman stated I'm not comfortable voting on it personally or supporting it.

Mr. Kaufman asked is it a yes or no support vote.

Chairman Blewett stated we have to vote so what is the general consensus?

Mr. Neiss mentioned again what you are being asked is not to vote whether or not you want the ordinance or not that is not your role, it is the Council's role to say yeah or nay to the ordinance. Your role is to say is this ordinance consistent or inconsistent with the Master Plan that's the extent, beyond that you may not go. I mean you could have your opinion and I certainly do, everyone in this room has an opinion about whether or not marijuana should be legalized or not that is not what this is about.

Ms. Brightman stated I understand that.

Chairman Blewett asked so is there a time frame when the Council is planning to take action on this.

Ms. Ward stated I believe it is scheduled for next month so they were looking for us to get

back to them. I don't believe there is anything in your Master Plan or Re-examination reports stating what is permitted or not permitted that's in the DRO.

Mr. Kaufman mentioned it may not fit into the Master Plan. Again I'm not really familiar with it but it doesn't fit into it if we allow other similar legal businesses, I don't see why this would be any different so I don't think it fits.

Chairman Blewett stated right and when you look at our zoning for the things that I can remember, somethings may not be permitted in certain zones but ultimately you'll get to a zone where something is permitted right? I can see retail or something to that affect.

Mr. Kaufman mentioned I can see certain things not permitted within a certain radius of a school or church, or something like that, and that I would agree with that, but a blanket no zoning aspect of it I don't agree with that.

Ms. Ward stated like a gas station, for example, is not permitted within a 1,000 feet of a school or a library, but all of our gas stations fall into the conditional use category and most of them had variances or they pre-dated the ordinance.

Chairman Blewett asked is it reasonable to say that the Board's review of the ordinance, our determination is that it is inconsistent with the Master Plan in that we don't restrict the retail sale of anything.

Mr. Kaufman stated it is not the retail sale but we don't restrict any legal industry.

Mr. Terrero mentioned within the entire Borough. There are things permitted but somethings are not permitted throughout the entire Borough.

Chairman Blewett stated any applicant has to come to us and demonstrate that their use is permitted within the town.

Mr. Terrero mentioned correct.

Ms. Ward stated that type of information isn't in the Master Plan but in your DRO in Chapter 28.

Chairman Blewett stated right.

Mr. Terrero mentioned it is zone specific not for every zone. It is a business proposing something that will be prohibited in every zone regardless of location. Again we are assuming at this point it is a legal thing now. If it is legal state wide and not legal at the federal level, then does that become another issue?

Mr. Neiss stated it is not legal at the federal level.

Mr. Terrero mentioned assuming it is not and then assuming it becomes legal at the federal level, then how does that affect us?

Chairman Blewett stated well we will let that play out in the court.

Mr. Neiss stated that is further down the road. I don't think the feds are ever going to get to that point, like Canada that just earlier this week did that nationally.

*Mayor Runfeldt arrived at the meeting.

Chairman Blewett stated until they decide they need a tax, then they will go after it just like gasoline.

Mr. Kaufman asked so are we going back to this are we not comfortable with a blanket ban.

Chairman Blewett stated I don't know if we are going to say that we are not comfortable with the blanket ban, but we are going to say it is not consistent with the Master Plan.

Ms. Ward asked Arthur is that sufficient.

Mr. Neiss stated if you can add a little bit of your reasoning to that that would be fine.

Ms. Ward asked would you say the prohibited items are found the DRO not in the Master Plan.

Chairman Blewett stated this is more of a question than a statement, but I don't think we prohibit any type of retail sale.

Mr. Kaufman asked do we prohibit any type of business.

Ms. Brightman asked adult book stores.

Ms. Ward stated in your DRO there are prohibited uses that's going to change with the codification of your DRO because some of the things in your DRO are so outdated; like tanning of hides, etc. and Lincoln Park isn't that type of town anymore.

In your different zones like your B-1, B-2 and B-3 certain things are permitted in one zone but not permitted in the other zone. It depends on what zone you're in and what's permitted or not permitted.

Mr. Kaufman asked if this was written more with permission in a certain zone that might be a better match with our Master Plan because it is not permitted in a B-1 or within a thousand feet of a school, church or library.

Mrs. Brightman mentioned a school yeah.

Mr. Neiss stated if it was more articulated.

Mr. Kaufman mentioned right if this was rewritten to articulate saying it is not allowed in residential or within certain radii of whatever buildings that might be a better fit with our Master Plan.

Mr. Neiss stated, in other words, if this prohibition were limited to certain zones and excluded and included as the case may be, you think that that would be more consistent with the Master Plan?

Mr. Kaufman mentioned I do.

Mr. Neiss asked Mayor can we put you on the spot and ask what motivates this anti-marijuana ordinance.

Mayor Runfeldt stated I just believe that with the current state of things in Trenton we are trying to get out ahead of things in case something should come up. We want to know where we stand with anybody that might be looking to do something in here, whether it be growing, dispensary, or anything like that.

Chairman Blewett stated yeah but we don't prohibit the growing of plants right and especially if it becomes legal. I guess we do with certain types of retail so we'll have to go look at that, but I guess it is too late and we need to send something back to Council.

Ms. Brightman mentioned yeah but isn't the growing of plants a separate entity because I know Woodbridge has one that is a separate ordinance for having --

Chairman Blewett stated well we'll find that as permitted use in some of our zoning, but this as it is written prohibits retail marijuana stores, retail marijuana cultivation facilities, retail product manufacturing facilities and we don't prohibit manufacturing and testing. I thought we allow laboratory testing. I think it is the way it is written right? Well we do allow growing and selling of plants in the town, but anyway what do we want to say?

Mr. Kaufman stated I don't think it is consistent.

Ms. Brightman stated yeah.

Mr. Kaufman mentioned I would recommend a rewrite at the least.

Chairman Blewett asked do you want one of us to draft something or --

Ms. Ward stated we can say it is not consistent with the Master Plan but what else do you want to convey to the Council?

Mr. Kaufman mentioned well I think anything else is opinion and not you know --

Mr. Terrero stated we do not restrict certain things, specifically for the entire Borough.

Chairman Blewett stated this ordinance prohibits.

Mr. Terrero mentioned this one prohibits in the entire Borough. We don't prohibit in our Master Plan anything throughout the entire Borough.

Ms. Ward stated we don't but the prohibition is in your DRO.

Mr. Terrero mentioned correct. The DRO doesn't really restrict anything throughout the Borough it restricts it in certain zones. We don't have anything consistent with banning retail, planting or testing throughout the entire Borough so it is not consistent with our Master Plan that we are just basically blocking from anything happening in any location in the town.

Mr. Neiss stated that's the basis.

Ms. Ward mentioned okay, we'll send the memo.

Mr. Neiss stated so you realize you are telling the Mayor and Council that they should put this ordinance in their pipe and smoke it right?

Mr. Kaufman mentioned that would not be legal.

Ms. Ward asked do you want to do a voice vote on it or a vote.

Chairman Blewett asked all in favor.

Board members aye.

Chairman Blewett asked any opposed.

Board members none.

Chairman Blewett stated very good.

Ms. Ward mentioned it's unanimous.

Chairman Blewett stated the fifth item on the agenda is the correspondence from John A. Desch Associates, Inc. dated September 21st, 2018, a Supplemental Proposal for Traffic Engineering Consulting Services for Meridia Transit Village, Lincoln Park, LLC project. The memo from Jack Desch highlights the fact that they have accomplished the initial review of what we asked them to and basically any further review is going to cost us \$4,200.

Ms. Ward mentioned right.

Mr. Neiss asked this is escrow money is it not.

Chairman Blewett stated yes.

Ms. Ward mentioned they have a letter they sent us and they were looking for confirmation from the Board that it was okay to go ahead with it. They were looking for signature and a date on it.

Chairman Blewett asked who would have signed the last proposal to go ahead.

Ms. Ward stated I don't recall, I think we just confirmed their proposal by letter.

Chairman Blewett stated I have no objection to it because I think we are going to need it.

Mr. Kaufman asked this is being paid for by applicant right.

Ms. Ward stated by the applicant out of his escrow account.

Mr. Kaufman mentioned okay.

Chairman Blewett asked do we make a recommendation.

Ms. Ward stated I think you can just approve it by voice vote. Arthur who should sign this correspondence?

Mr. Neiss mentioned the question is who is authorized to sign it. If they make you authorized to sign it Chuck this would have to be reworded because you are not accepting the terms, it is not you, it is you as the chair of the Planning Board, on behalf of the Planning Board accepting the terms. With those kind of amendments and the rest of you agreeing that this is something the Board should do I would recommend that we go that way.

Ms. Ward mentioned I will send an email to them and have them reworded it on the bottom and then Chuck can sign on behalf of the Board.

Mr. Neiss stated either come in or at next month's meeting.

Ms. Ward mentioned whatever.

Chairman Blewett asked any other concerns/comments.

Mr. Kaufman stated no.

Chairman Blewett stated okay.

Ms. Ward asked for a voice vote.

Board aye.

Chairman Blewett stated maybe just to catch the mayor up on the properties that are falling into that study for condemnation. We were told by our engineer that 275 is coming with an application so by next month that should be taken care of. I guess we haven't heard anything else about Shop-Rite so we tabled it until next meeting.

Ms. Ward mentioned Tom had a meeting with the engineer for the Vita property and the application is moving along and we should have it shortly.

Mayor Runfeldt stated okay thank you.

Chairman Blewett stated we did have an ordinance committee meeting and Sal do you want to go over it with the Board.

Mr. Marino stated we discussed the pod situation in town and we don't have an ordinance for that but I pulled out several different towns that do have one and Chuck, Josh and I reviewed it. We made some comments and we are going to put something together for the next meeting and we'll take a look at that and present it to the Board and we'll see where we go with that.

Mr. Neiss stated send it to me and we'll draft something.

Chairman Blewett asked is there any other business.

Ms. Ward mentioned yes your meeting for next month we may have a problem with a quorum. Nick has classes on Tuesdays and Thursdays for the months of October and November. Sal will be down at the league. I assume the mayor will be at the league too. Tom will be at the league and Donna may not be around.

Ms. Brightman stated I'll be just back but I don't know what kind of shape I'll be in.

Ms. Ward mentioned Dave Koldyk is excused from the Meridia application.

I have several dates in November that are available. We have the 20th, 26th and 27th all available. The 7th and 29th that's court. Council is on the 5th and 19th. Election Day is on the 6th and Veteran's Day is on the 12th and we certainly do not want it on Election Day as parking is going to be at a premium.

William Rush, the attorney for the Meridia project, when he dropped off the application to us requesting a special meeting. Tom is reviewing the application and working on his report so I don't know what the Board's pleasure is.

Mr. Neiss stated at our last meeting you effectively decided that they were complete. There were some administrative items that the applicant has not quite completed but I think we should move the project ahead and rather than stand on ceremony we should do that.

Mr. Ricci, your planner, received the packet and he is writing a report on it. I don't know if he is available for any of those dates as Paul didn't get back to me yet. Tom is available for those dates. Arthur, I don't know if you're available for those dates.

Mr. Neiss asked what are the dates.

Ms. Ward mentioned it looks like the 15th we do not have a quorum for it. It would be the 20th, 26th or the 27th.

Mr. Kaufman asked are they looking for a special meeting in addition to that meeting.

Ms. Ward stated we don't have anything available in the November as we are pretty tight with scheduling so that is the problem.

Chairman Blewett mentioned so what you are saying we don't have a quorum on our normal night.

Ms. Ward stated correct not on our normal night.

Mayor Runfeldt have you heard anything from our alternate Rob Rehfuss? Since we have our new By-Laws he has not been in attendance since January of 2017.

Mayor Runfeldt stated I can reach out and find out what his intentions are.

Ms. Ward mentioned we are one short.

Mayor Runfeldt stated there isn't any way to get anyone sworn in before that any way.

Ms. Ward mentioned I don't know if his term is up or not.

Chairman Blewett stated I'm available for all three dates.

Mr. Kaufman stated I'm available for all three dates too.

Mr. Neiss mentioned I can't do the 26th.

Ms. Ward stated okay. So the 27th would be a Tuesday and the 20th is a Tuesday also.

Mr. Terrero stated I should be available.

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Ms. Ward asked the 27th.

Mr. Terrero stated I should be.

Mr. Kaufman stated I would rather the 27th after Thanksgiving.

Ms. Ward mentioned okay I'll check with Paul Ricci.

Mr. Neiss asked when did you ask him about these dates.

Ms. Ward mentioned last week but he hasn't gotten back to me yet.

Mr. Neiss stated it is really the Board that should decide.

Ms. Ward mentioned as long as we have a quorum that is the main thing.

Chairman Blewett asked everybody said the 20th and 27th.

Ms. Ward mentioned the 27th Nick will not be in attendance because he has classes.

Mr. Neiss stated the 20th and 27th are both Tuesdays.

Ms. Ward mentioned right I know. Mayor would you be available for those dates?

Mayor Runfeldt stated likely yes.

Ms. Ward asked Sal.

Mr. Marino stated the 27th yes.

Ms. Ward asked what about the 20th.

Mr. Marino stated possibly.

Mr. Kaufman mentioned the 27th is better.

Chairman Blewett stated why don't we shoot for the 27th.

Ms. Ward asked the 27th is a better day.

Board members agreed.

Ms. Ward asked if we do not have a quorum on the 27th then the 20th would be acceptable for everybody. The meeting is on the 27th but the fall back date would be the 20th then.

Board agreed.

Ms. Ward mentioned I'll do the legal. I'll send an email to the applicant about the public hearing date on the 27th.

Mr. Neiss asked is anyone going to the league.

Ms. Ward mentioned Sal, Tom and the mayor.

Chairman Blewett asked any other new business.

Mayor Runfeldt asked would it be possible to have a brief five minute closed session pending litigation

Chairman Blewett stated okay very good.

Councilman Gemian asked do you have a public quorum session.

Chairman Blewett stated I guess we could allow it.

Councilman Gemian stated just two minutes.

Chairman Blewett stated all right.

Councilman Gemian stated I had come prepared to offer some comments regarding the redevelopment but I'd like to hold those comments in abeyance until the next meeting when others are present as well.

Chairman Blewett mentioned okay.

Councilman Gemian stated however listening to your concerns regarding the marijuana ordinance I just wanted to offer some additional context around it from the Council's perspective. Not speaking for everyone on the Council but I think that the motive behind drafting such a purposefully vague ordinance was to essentially set up pretty much of a road block as many other municipalities are doing because as counsel said this issue is on a very slippery slope and I don't think there is any municipality in the State of New Jersey understands where it is headed or where it might wind up. Everyone has a significant fear and someone over here mentioned the moral issue that I think supersedes everything else apart from the Master Plan and other development things that townships might be involved in.

Just to draw a quick analogy, the adult pornographic industry is a five billion dollar a year industry and I don't think there is anyone in this room would advocate putting an adult book store on Main Street. So this is a significant analogy because medical marijuana is in fact a misnomer and just to give you a quick backgrounder. I was formally Vice President of Marketing and Business Development for a company called CannaPharma RX which was a medical pharmaceutical company exploring the initiative of medical marijuana for the purposes of eradicating significant diseases. We had about 12 of these targeted disease, presently there are only 3 pharmaceutical companies in the entire world that have a medical marijuana drug approval.

One such company is called GW Pharma in the UK and they grow their own plant but they do not market their drug through smoke inhalation, they synthesize the plant into a formula that is given by a medical route administration through injection or other routes of acceptable medical therapy. So if the term medical marijuana is being used as a catchall phrase and the implication you should keep in mind is that if it is smoked there is very hardly anything medical about it it's purely recreational. However, if it is synthesized into other forms of drugs and newer technology such as a patch, a pill, a sublingual form or injectable form it must go through what every other pharmaceutical company has to do with its drug, go through a drug development process and be approved by the Food & Drug Administration.

So the 3 companies that I have mentioned have been approved by the FDA and those drugs are available by prescription only through a healthcare professional; such as a physician, pharmacist or a nurse practitioner and must be dispensed at a regular pharmacy not at a marijuana dispensary.

The State of Colorado has an avalanche of medical marijuana dispensaries and pretty much 98% of that use is for recreational use of marijuana, so the term of medical marijuana is really being caught up in a crazy state. Everyone is kind of thinking about states and localities will get a windfall of money and what we are really looking to avoid here is a windfall of doing no harm.

So coming back to the ordinance, the Council was interested in trying to put up an ordinance that would put the emphasis and the obligation on any applicant who was interested in opening up a facility in Lincoln Park. The burden would be put on them to demonstrate what the medical "relevancy" of what they intend to do and then we would take that on on an ad hoc basis and a case by case basis, but to have a blanket ordinance that we will permit any dispensary or allow medical marijuana to flourish in our community I think is a real slippery slope to put us on, hence the language. I'll grant you it is not the best language in the world but it could benefit from substantial redrafting I will admit that; but I just wanted to share with you some of the context and

the motivation behind it. Thank you very much for listening.

Chairman Blewett stated so we are going to have a closed session so unfortunately we have to exclude the public.

Ms. Davis mentioned this is the first time I've been closed down by you, I'm use to it in other places.

Chairman Blewett asked would somebody make a motion to go to closed session.

**RESOLUTION OF THE PLANNING BOARD
OF THE
BOROUGH OF LINCOLN PARK
RE: MATTERS TO BE DISCUSSED IN CLOSED SESSION**

WHEREAS, the Planning Board of the Borough of Lincoln Park (the "Board") deems it necessary to discuss certain matters in closed session, with the public excluded, as permitted by N.J.S.A. 10:4-12.b.; and

WHEREAS, the subject matter to be discussed in closed session comes within a specific exception (under N.J.S.A. 10:4-12.b.) to the requirement under N.J.S.A. 10:4-12.a. that all Board meetings be open to the public; and

WHEREAS, the Board desires to adopt this resolution prior to entering closed session, as required by N.J.S.A. 10:4-13.

NOW, THEREFORE, IT IS RESOLVED by the Planning Board of the Borough of Lincoln Park as follows:

1. That the Board's discussion of matters covered by the attorney-client privilege shall be conducted in closed session, with the public excluded.
2. That the matters discussed in closed session can be disclosed to the public at a future time to be determined by the Board.

Mr. Terrero moved it.

Ms. Brightman seconds.

Chairman Blewett asked all in favor.

Board aye.

Chairman Blewett asked opposed.

Board none.

***CLOSED SESSION**

Chairman Blewett stated we are back in open session.

Anything else to come before us?

Mr. Kaufman made the motion to close the meeting.

Mr. Terrero seconds.

Meeting adjourned 7:58 P.M.

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Respectfully submitted:

Joan Ward, Secretary

Charles Blewett, Jr., Chairman