

PLANNING BOARD OF THE TOWNSHIP OF WILLINGBORO

RESOLUTION NO. _____ - 2013

WHEREAS, pursuant to Resolution No. 2012-185 adopted November 20, 2012, Willingboro Township Council referred certain issues pertaining to the 28.8073 acre Grand Marketplace premises located at 4340 Route 130, North (Block 2, Block 7.01) to the Planning Board for its consideration; and

WHEREAS, said referral arose out of Hadley Real Estate's request to the Township of Willingboro to consider entering into a redevelopment agreement to develop the property in accordance with Hadley Real Estate's proposed plan; and

WHEREAS, the Planning Board duly considered the aforementioned matters at its duly noticed public meeting of January 14, 2013; and

WHEREAS, the Planning Board has been informed by a representative of Hadley Real Estate that its contract with the owner(s) of the Grand Marketplace is currently terminated and consequently Hadley Real Estate can not proceed with an informal or formal presentation its redevelopment plans; and

WHEREAS, the Planning Board is therefore unable to respond to items No. 3 and 4 posed by Council;¹ and

WHEREAS, the Planning Board has considered Council's referral of Items 1 and 2, to wit:

¹ Item 3: "To review the redevelopment plan proposed by Hadley Real Estate and prepare an opinion directed to the Township Council."

Item 4: "To prepare proposed recommendations, amendments or revisions to the Redevelopment Plan for the designated redevelopment area, pursuant to N.J.S.A. 40A:12A07(f), as may be required pursuant to the proposed redevelopment plan of Hadley Real Estate, if any."

"1. Review the property to determine whether it continues to be in need of redevelopment in accordance with the Local Redevelopment and Housing Law N.J.S.A. 40A:12A-1 et. seq."

2. To determine whether the property complied with the settlement agreement and previously executed consent order;" and

WHEREAS, the Planning Board has considered:

(1) Reports from its consultants, including report dated December 17, 2012 by George R. Stevenson, Jr., P.P., AICP, Township Planner and K. Wendell Bibbs, P.E., C.M.E., Township Engineer.

(2) Correspondence by Uri Hugo Taenzer, Esq., Planning Board Solicitor, dated December 27, 2012 directed to Therese Allison, Esq. of Hadley Real Estate and John A. Calzaretto, Esq., attorney for the Grand Marketplace.

(3) Correspondence dated January 9, 2013 from John Calzaretto, Esq. to Uri Taenzer, Esq. together with Mr. Taenzer's response also dated January 9, 2013.

(4) All testimony and discussions between professional consultants, Mr. Omari Allison and members of the Board relating to this referral.

(5) Planning Board minutes relating to this application.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE TOWNSHIP OF WILLINGBORO that with respect to the said items No. 1 and No. 2 (Council's Resolution No. 2012-185 adopted November 20, 2012) it finds as follows:

A. The subject site is located in the B-1 Primary Business District and is encompassed within the overlay Redevelopment Plan dated April, 1998 adopted by Ord. 1998-04 and amended in accordance with the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-7, et. seq.;

B. The Planning Board granted conditional Preliminary Approval to 240/242 Franklin Associates, LLC & Colonial Court Apartments by Resolution No. 8-2006 duly memorialized on September 25, 2006. (Copy is attached hereto and made a part hereof as Exhibit A).²

²Subsequently, another Resolution No. 3-2007 of April 9, 2007 pertained to signage issues.

C. The aforementioned Resolution of Conditional Approval provided, *inter alia*:

BE IT FURTHER RESOLVED that the Planning Board hereby approves of the following schedule (i.e. phasing plan) for completion of the outstanding items:

- (1) Complete striping of the parking lot by October 1, 2006 and pavement patching and seal coat of areas shown on the plan by October 15, 2006.
- (2) Complete new monument signs (subject to approval per item F 1. above) by June 1, 2007.
- (3) Install planted parking lot islands by June 1, 2007.
- (4) Complete installation of proposed additional site lighting by June 1, 2007. (Lighting to be installed by PSE&G shall be ordered ASAP).
- (5) Complete installation all other landscaping by June 1, 2007.
- (6) Complete new pavement areas by June 1, 2007.

BE IT FURTHER RESOLVED that a bond, in form satisfactory to the Township Attorney, in such amount as shall be calculated by the Township Engineer for the completion of the above mentioned items in accordance with the said schedule shall be provided by the Applicant to the Township of Willingboro no later than November 25, 2006.

BE IT FURTHER RESOLVED that, subject to any issues over which the Planning Board lacks jurisdiction, a Temporary Certificate of Occupancy may be issued following release by the Superior Court of New Jersey of any Scarce Resource restraints. Any extensions required for such Temporary C.O.'s will expire no later than July 1, 2007. The Applicant shall file its plans and application for FINAL SITE PLAN APPROVAL in sufficient time prior to the expiration of the Temporary CO for consideration at Public Hearing(s) of the Planning Board prior thereto, it being understood that said Temporary C.O. may be revoked by the Township of Willingboro in the event the Applicant shall fail to comply with its hereinabove imposed scheduled obligations.

D. The Local Redevelopment and Housing Law, NJSA 40A:12A-1 *et. seq.* provides that in order to be classified as "In Need of Redevelopment" an area must manifest conditions that give rise to at least one of the statutory criteria as enumerated under section 40A:12A-5.

E. Inspection of the subject site discloses that as of December 7, 2012, the following conditions were apparent, all of which are indicative of criteria "d," to wit: "Areas with improvements which exhibit faulty design, dilapidation, obsolescence, or are detrimental to the safety, health, morals, or welfare of the community."

- a. Expanses of the parking facility exhibit surface course deterioration ranging from vegetated longitudinal cracking to instances of complete deterioration as noted from the presence of "pot holes."
- b. Deteriorated parking area curbing and missing sidewalk blocks occurring in bordering parking area islands.
- c. Faded parking area striping;
- d. Lack of islands delineating rows.
- e. Lack of interior parking area trees and landscaping.
- f. Lack of parking area screening along the route 130 corridor frontage.

Taken, together, these conditions represent physical deterioration and faulty design. As to the former, the vegetated longitudinal cracking and "pot holes" present a tripping hazard for patrons. The circumstance of missing parking island sidewalk blocks also presents a tripping hazard and further lends itself to patrons having to circumvent the missing block areas by stepping into the vehicular circulation area, where there is no separation between vehicles and pedestrians.

The paucity of parking area islands and lack of islands to delineate rows is indicative of a faulty design in that the lack of such feature lends itself to a condition of unregulated traffic circulation, which condition is exacerbated by the severely faded stall striping making more likely vehicular conflict. The condition also results in an unsafe circumstance owing to insufficient separation between pedestrians and vehicles.

Faulty design is also evidenced by the lack of parking area trees and landscaping; the detriment here is to the public health as trees produce oxygen and cleanse the air through the absorption of pollutants. In addition, the expanse of pavement is detrimental to the environment in that it precludes the natural recharge of stormwater necessary for ground water quality.

The lack of buffering along the Route 130 corridor frontage affords unfettered views of expansive, dated, and deteriorated parking areas, which conditions are an affront to the aesthetics of the area and potentially are injurious to the redevelopment attractiveness of the site.

F. The aforementioned conditions found on-site and the foregoing detriment support a finding of “Area In Need of Redevelopment” based on criterion “d” of NJSA 40A:12A-5. (NJSA 40A:12A-1 *et. seq.*).

G. Members of the Planning Board, having personal familiarity with the subject site, are additionally cognizant of the inadequacy of lighting in the parking lot areas, which condition is deemed to represent a further detriment to public safety.

H. Addressing Council’s request (Item 2) for the Planning Board’s determination as to “whether the property complied with the settlement agreement and previously executed Consent Order,” the Planning Board finds as follows:

a. The Consent Order³ dated April 20, 2006 authorized issuance of construction permits which have cleared the Department of Community Affairs without further Planning Board approval. The Order further required the owner/developer to apply for to the Planning Board Site Plan approval as a condition of occupancy for business. The Order obliged the parties “to identify, in writing, an agreed upon plan for the rehabilitation and reconstruction of the site, including but not limited to, interior and exterior of the building, (hereinafter ‘the Agreement’)...” “Although Plaintiff will be the redeveloper of the subject property, Plaintiff is neither a “Redeveloper” nor is the Agreement to be construed as a “Redevelopment

³240/242 Franklin Avenue LLC, Colonial Court Apartments, LLC vs. Township of Willingboro, Township of Willingboro Planning Board, Superior Court of New Jersey, Law Division, Burlington County, Docket L-00581-06.

Agreement” in accordance with the Redevelopment and Housing Law, N.J.S.A. 40A:12A et seq.” The Township agreed to settle its Action for Fines upon payment of \$250,000.00 “with the understanding that the unpaid balance shall be devoted to providing a superior quality or rehabilitation and reconstruction to the subject property, as noted in the Agreement. The Order provided that “Upon execution of the Agreement, Plaintiffs shall also provide, at Plaintiffs’ expense, the Township with a bond not to exceed \$3,000,000.00 to secure the performance and maintenance of the items agreed upon by the parties in the Agreement. The maintenance bond shall be for at least five years from issuance of the Certificate of Occupancy.”

b. The Agreement contemplated by said Consent Order was finally executed by the Township of Willingboro and the Grand Marketplace under date of April 27, 2007. It reflects the terms of the April 20, 2006 Consent Order.⁴

c. By letter dated November 2, 2006 (Exhibit B) Mr. Taenzer wrote to counsel for the Grand Marketplace regarding the applicant’s obligation to cooperate with the Township Engineer in the setting of the bonding obligation.

d. By letter dated November 30, 2006 Township Engineer K. Wendell Bibbs, P.E., C.M.E. recommended performance guarantee in the amount of \$1,085,649.62 plus inspection escrow of \$45,235,40 representing 5% of the site improvements. (Exhibit C). By letter of March 30, 2007 (which related to the signage bonding) Mr. Bibbs stated: “We note that our office had previously sent the site

⁴The Agreement also addressed sharp controversy between Council and the Developer pertaining to size of proposed monument signage and bonding for same.

improvement bond via letter dated November 30, 2005 (copy attached). As of this date, that bond has not been posted.”

e. By letter dated June 21, 2007 Planning Board solicitor Uri H. Taenzer, Esq. informed counsel of the Grand Marketplace as follows:

I have been advised by Wendell Bibbs, P.E. that your client has failed to comply with the following conditions of the Preliminary Approval Resolution adopted on September 25, 2006:

- (1) Complete striping of the parking lot by October 1, 2006 and pavement patching and seal coat of areas shown on the plan by October 15, 2006.
- (2) Complete new monument signs by June 1, 2007.
- (3) Install planted parking lot islands by June 1, 2007.
- (4) Complete installation of proposed additional site lighting by June 1, 2007. (Lighting to be installed by PSE&G shall be ordered ASAP).
- (5) Complete installation of all other landscaping by June 1, 2007.
- (6) Complete new pavement areas by June 1, 2007.

Moreover, it is my understanding that no performance bonding and inspection escrows in the amount calculated by the Township Engineer for the completion of the above mentioned items has been provided. Same was to be posted no later than November 25, 2006.

As you know, the above Resolution provides that the Temporary C.O. may be revoked by the Township of Willingboro in the event the Applicant shall fail to comply with its hereinabove imposed scheduled obligations.

f. By letter dated June 25, 2007, counsel for the Grand Marketplace responded:

o With respect to item (1), the parking lot was completely patched, slurried and striped prior to the November 2, 2006 grand opening of the facility.

o With respect to item (2)...[N/A].

○ With respect to item (3), the planted parking lot islands, all pre-existing shrubbery was removed and replaced with new topsoil, mulch and plantings.

○ In regards to items (4), my client is again contacting PSE&G who was previously contacted and requested to complete this work.

○ In regards to the balance of items (3), (5), and (6), my client has indicated that during the April 9, 2007 meeting my client requested permission from and the Township Planning Board responded that they would permit a re-visiting in regards to the work to be performed on parking lot pavement replacement in selected areas. This was due to the fact that subsequent, preliminary work in the selected pavement area performed by my client in or about November of 2006 revealed that a substantial, stable base course existed in the selected areas of the parking lot that would permit a reduction in the replacement pavement thickness. ABR Consultants, LLC, and Remington & Vernick Engineers are currently working on the resolution of this matter. It is my client's understanding that Joseph Raday, P.E. of ABR Consultants, LLC is currently awaiting a response to a proposal that was sent to K. Wendell Bibbs, P.E. of Remington & Vernick Engineers.

[Discussion of signage issues omitted]

Also, in order to complete the balance of performance bond items, we must demonstrate to our lender that the litigation is resolved so that monies can be made available to complete the same. My client would like nothing more than to get these matters fully resolved.

g. By letter dated December 28, 2007, counsel for the Grand Marketplace requested placement on the Planning Board agenda for purposes of being heard on the following topics:

- Request for relief from certain parking lot and landscape improvements:
- Request for consideration as applicant for Plenary Retail Consumption License.
- Request for consideration of suggested revisions to Township Outdoor Seasonal Sales Ordinance.

h. By letter dated January 2, 2008, counsel for the Grand Marketplace amended his aforementioned letter as follows: The only topic requested for presentation to the Board by the Grand Marketplace (at the 01/14/2008 meeting) will be:

- Request for final Certificate of Occupancy and for relief from certain parking lot and landscape improvements.

i. The Planning Board is currently unaware of any additional Planning Board Conditional Approval Resolution compliance conditions pertaining to the parking area, etc., to wit: "(1) Install planted parking lot islands by June 1, 2007, (2) Complete installation of proposed additional site lighting by June 1, 2007. (Lighting to be installed by PSE&G shall be ordered ASAP). (3) Complete installation all other landscaping by June 1, 2007 and (4) Complete new pavement areas by June 1, 2007," have been complied with..

j. Nor does it appear that "a bond, in form satisfactory to the Township Attorney, in such amount as shall be calculated by the Township Engineer for the completion of the above mentioned items in accordance with the said schedule to be provided by the Applicant to the Township of Willingboro no later than November 25, 2006, has been provided..

BE IT FURTHER RESOLVED that with regard to said items No. 3 and No. 4 (Council's Resolution No. 2012-185 adopted November 20, 2012) it finds as follows:

A. No redevelopment plan proposed by Hadley Real Estate has been presented to the Planning Board by Hadley Real Estate or by the owner of the Grand Marketplace. The contract which existed by and between Hadley Real Estate and the Grand Marketplace owner having, according to said entities, expired.

B. In the absence of information pertaining to such proposed redevelopment, the Planning Board is unable to prepare further proposed recommendations, amendments or revisions to the Redevelopment Plan for the site.

C. Notwithstanding, the Planning Board remains amenable to future consideration of redevelopment proposals for the Grand Marketplace property should the owner or an authorized representative solicit the Board's recommendations to Council with regard to suitable revisions to the Route 130 Redevelopment Plan.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Planning Board of the Township of Willingboro that based upon the foregoing findings of fact it is determined that:

A. The Grand Marketplace premises, particularly with regard to the parking lot conditions described hereinabove constitutes an Area In Need of Redevelopment” based on criterion “d” of NJSA 40A:12A-5. (NJSA 40A:12A-1 *et. seq.*). Inadequacy of lighting in said parking lot areas constitutes a further detriment to public safety.

B. The Grand Marketplace premises are not in compliance with the Planning Board Resolution of Conditional Approval Resolution No. 8-2006 memorialized on September 25, 2006 in that the owners have failed to meet the following requirements:

- (1) Install planted parking lot islands by June 1, 2007.
- (2) Complete installation of proposed additional site lighting by June 1, 2007. (Lighting to be installed by PSE&G shall be ordered ASAP).
- (3) Complete installation all other landscaping by June 1, 2007.
- (4) Complete new pavement areas by June 1, 2007.
- (6) Provision of a bond, in form satisfactory to the Township Attorney, in the amount of \$1,085,649.62 plus inspection escrow of \$45,235,40 representing 5% of the site improvements. (Exhibit C) for the completion of the above mentioned items in accordance with the said schedule as was required no later than November 25, 2006.⁵

⁵The Settlement Agreement and the Consent Order require,” upon execution of the Agreement, the Plaintiffs shall also provide, at Plaintiffs’ expense, the Township with a bond not to exceed \$3,000,000.00 to secure the performance and maintenance of the items agreed upon by the parties in the Agreement. The maintenance bond shall be for at least five years from issuance of the Certificate of Occupancy.” Inasmuch as no bond in the required amount of \$1,085,649.62 has been posted, the Planning Board’s response to Council’s inquiry No. 2 is that the property is not in compliance with this provision of the Settlement Agreement and the previously executed Consent Order.

C. In light of the expiration of Hadley Real Estate's contract and its consequential inability to proceed with its project, no proposed recommendations, amendments or revisions to the Redevelopment Plan for the designated redevelopment area, pursuant to NJSA 40A:12A-7(f) or revisions to the Redevelopment Plan for Block 2, Lot 7.01 in compliance with the Local Redevelopment and Housing Law, NJSA 40A:12A-1, *et seq.* are being proposed to Township Council by the Planning Board at this time.

The foregoing Memorializing Resolution was duly adopted by the Planning Board of the Township of Willingboro at a public meeting on February 11, 2013.

EXHIBIT “A”

PLANNING BOARD OF THE TOWNSHIP OF WILLINGBORO

RESOLUTION NO. 8 - 2006

WHEREAS, 240/242 FRANKLIN ASSOCIATES, LLC & COLONIAL COURT APARTMENTS, of 459 Route 38, West, Maple Shade, New Jersey 08052, hereinafter called the "Applicant", has filed an Application for Development (Preliminary and Final Major Amendment to Existing Site Plan Approval) with the Planning Board of the Township of Willingboro which application proposes renovation, refurbishment and redevelopment of the existing, long vacant, Village Mall shopping center located at 4340 Route 130, North; and

WHEREAS, the development is to be known as the "Grand Marketplace;" and

WHEREAS, the subject property is an irregularly shaped 28.8073 acre site located on the southeasterly side of Route 130 with frontage of 1,036.98 ft. along U.S. Highway 130 and 578.94 ft. along Sunset Road. It is shown as Page 102, Block 3, Lot 7.01 of the official Tax Map.; and

WHEREAS, the area is zoned B-1 Primary Business District. It is encompassed within the overlay Redevelopment Plan dated April, 1998 adopted by Ord. 1998-04 as amended in accordance with the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-7, et. seq.; and

WHEREAS, the proposed indoor retail shops are permitted in the subject zone wherein "shopping centers, stores, shops, markets where goods are sold or personal services are rendered" are permitted uses. These proposed uses (including any restaurants, i.e. food service establishments) are permitted by Ord. 20-6.6.a.1; and

WHEREAS, "Auction Markets" are expressly prohibited in all zoning districts. (Section 20-5.6.O.1): and

WHEREAS, upon extensive review by Township of Willingboro's elected officials and discussions with its professional consultants, the Applicant and the Township of Willingboro have agreed to settle litigation which settlement terms incorporated in Consent Order dated April

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20, 2006 (Superior Court of New Jersey, Law Division, Docket L-00581-06) included *inter alia* the requirement for the within Site Plan application before the Willingboro Township Planning Board; and

WHEREAS, the Applicant has requested no variances or design waivers from ordinance requirements; and

WHEREAS, the Applicant has requested waivers from providing the following check list (Ord 19-17.3) requirements:

- Item 13, Location of existing buildings, structures, etc., 200 feet from site.
- Item 17, Location of easements, rights-of-way, and roadways 200 feet from site.
- Item 37, Traffic Analysis.

WHEREAS, the Applicant has submitted evidence that notice of said Application for Development and the public hearing thereon has been given pursuant to applicable statutory provisions and requirements of the Willingboro Township Zoning Ordinance; and

WHEREAS, public hearings on said Application for Development were conducted on June 19, 2006, September 11, 2006 and at a Special Meeting on September 25, 2006 in the Municipal Complex of said Township, which meetings were open to the public and at which the Applicant and all other interested parties were given an opportunity to be heard; and

WHEREAS, the Planning Board has considered:

(1) All plans with revisions thereof and amendments and supplements thereto, which have been submitted by the Applicant prepared by Joseph G. Marra, Architect, Landscape Architect and Planner of 22 Howard Boulevard, Suite 203, Mt. Arlington, New Jersey 07856 designated "Festival Market Place, 4340 Route 130 North, Willingboro, New Jersey," as follows:

<u>Drawing No.</u>		<u>Last Revision Date</u>
SP-1.0	Existing Site Layout	01/08/06
SP-1.1	Proposed Building Floor Plan	01/08/06
SP-1.2	Proposed Front Building Elevations	01/08/06

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SP-1.3	Proposed Rear Building Elevations	01/08/06
SP-1.4	Proposed Elevations	01/08/06
SP-1.5	Existing Site Lighting Plan	01/08/06
SP-1.6	Existing Sign Plan	01/08/06

Also, Prepared by ABR Consultants, LLC of 129 North Broadway, Suite 308, Camden, NJ 08102, Project Name: Grand Market Place; Site Location 4340 Route 130, Willingboro, New Jersey 08046. All plans, with exception of Sheet No. 2, i.e. 1 of 9 and 3 through 9 of 9 are signed by Joseph J. Raday, P.E. under date of September 20, 2006.

<u>Drawing No.</u>		<u>Last Revision Date</u>
C-1	Title Sheet	
C-2	Existing Conditions / Survey Plan Prepared by Roy E. Gerould, P.L.S. of 23 Oakland Avenue, Oaklyn, NJ 08107 Issued August 1, 2006.	
C-3	Site Plan	
C-4	Landscape Plan	
C-5	Lighting Plan	
C-6	Pavement Rehab Plan	
C-7	Auto-Turn Plan	
C-8	Detail Sheet	
C-9	Signage Plan	

Also, prepared by Damiano Long, LLC. 129 N. Broadway, Suite 200, Camden, NJ 08102:

STR - 1	Existing Striping Plan Prepared by Joseph J. Raday, P.E.	12/1/05
D-1	Handicapped Details Prepared by Joseph J. Raday, P.E.	12/1/05

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(2) Reports from its consultants, including report dated May 10, 2006 by Uri Hugo Taenzer, Esq., Planning Board Solicitor and Reports dated June 5, 2006, September 11, 2006 and September 25, 2006 by K. Wendell Bibbs, P.E., C.M.E., Township Engineer and George R. Stevenson, Jr., P.P., AICP, Willingboro Township Planner. All of the said reports from the Planning Board's consultants were read at the meetings and are a part of the Planning Board minutes pertaining to this application.

(3) All testimony and discussions between applicant, professional consultants, and other interested parties and members of the Board relating to this application.

(4) Planning Board minutes relating to this application.

NOW, THEREFORE BE IT RESOLVED by the Planning Board of the Township of Willingboro that with respect to the said Application for Development (Preliminary and Final Major Amendment to Site Plan Approval) it find as follows:

1. All property owners within 200 feet of the subject premises and public utilities were given timely, written notice of the Application and the scheduled hearing thereon; timely notice of said application was published in the Burlington County Times newspaper; and public hearings were held as scheduled, in accordance with the laws of the State of New Jersey and the Ordinances of the Township of Willingboro.

1. The site which the applicant proposes to develop is located in the B-1 Primary Business District and is encompassed within the overlay Redevelopment Plan dated April, 1998 adopted by Ord. 1998-04 and amended in accordance with the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-7, et. seq.;

3. No variances or design waivers have been requested by the applicant and any reduction in parking spaces available due to reconfiguration of the parking area to accommodate landscaping and additional islands will have an insignificant impact inasmuch as the site provides more than adequate parking facilities for the proposed uses.

4. The waivers requested from the following check list (Ord 19-17.3) requirements may be granted inasmuch as the Planning Board is intimately familiar with the site and is satisfied that compelling the developer to obtain said items will serve no useful purpose, to wit:

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- ☐ Item 13, Location of existing buildings, structures, etc., 200 feet from site.
- ☐ Item 17, Location of easements, rights-of-way, and roadways 200 feet from site.
- ☐ Item 37, Traffic Analysis.

5. The original pole signs, to the extent that same are still on site, have been abandoned when the subject shopping center was closed for many years and by virtue of elimination of the facades, leaving only the pylons. Current Willingboro Township Redevelopment Ordinance requires monument signage along Route 130 in lieu of pole signs. The Planning Board intends to enforce the current exclusive monument signage requirement in order to create a more attractive, harmonious, modern and, uncluttered appearance for the revitalized highway commercial area of the Township.

BE IT FURTHER RESOLVED that pursuant to the foregoing findings of fact, PRELIMINARY APPROVAL for the Application for Development aforesaid be and the same is hereby granted under and subject to the following conditions:

1. In accordance with Burlington County statutes, Willingboro Township has included a recyclables Ordinance in its Master Plan. Accordingly, the Township has instituted a program for a materials identification inventory and quantity recording requirement for all commercial/industrial uses. Ms. Denise Rose, Township Manager shall be contacted regarding the procedures.

2 Under New Jersey Council of Affordable Housing Round Three Substantive Rules, one (1) affordable housing unit is to be provided for every 25 jobs created. The Applicant has agreed to participate in the process, as required by Willingboro Township Council or order of any court having jurisdiction.

3. The existing stormwater basin shall be cleaned and restored as necessary in compliance with the new Stormwater Management regulations and as recommended by the Township Engineer. The applicant shall execute the standard Detention Basin Access and Maintenance Agreement to include all surface water conveyancing facilities which shall also constitute a recordable easement.

4.

5. 4. The applicant shall revise the plans to the satisfaction of the Township Engineer with respect to the following issues raised in the Planning Board Engineer's letter report of September 25, 2006:

6.

A. Parking and Circulation

_____2. Widths shall be provided for all drive isles.

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3. a. All asphalt Pavement Rehabilitated in accordance with the Pavement Rehab Plan shall be slurry coated to match in color and texture the existing surrounding slurry coated surfaces.

5/6. The plan shall provide the aisle width for the van-accessible spaces.

18. Parking arrangements requiring backing movements into the drive aisle adjacent to the building shall be eliminated.

20/21. A stop sign shall be placed on the east side of the southern most access aisle for the benefit of traffic turning north or south or going straight eastward from this access aisle.

B. Stormwater Management Plan

____ 1. & 5. The applicant shall provide the Township Engineer with a copy of the video and a written report and indicate any proposed corrective action on the plan. The applicant shall replace depressed inlet by November 1.

D. Planting Design

____ 7. Environmental Commission input as to more appropriate plant varieties, where reasonable and not more costly, shall be given due consideration and may be utilized in lieu of those presently proposed in coordination with the Township Engineer. **In accordance with the applicant's agreement, newly installed landscape material shall, during the dry and during the initial growing season, be watered with sufficient frequency so as to minimize destruction.**

E. Lighting

5. The applicant shall propose to the satisfaction of the Township Engineer a lighting plan which will provide for security lighting, whereby a portion of the fixtures will be extinguished after hours of operation.

F. Signage

____ 1. No pole or pylon signage shall be permitted (See finding of fact No. 5) except temporarily (not after June 1, 2007) upon existing pole signs pending approval by the Planning Board with the advice and consent of the Township Planner of no more than four (4) monument signs. Design submissions for the proposed monument signs shall be provided to the Planning Board no later than during the month of December, 2006 for consideration at the January, 2007 Public Hearing. The applicant shall consult with the Township Code enforcement officer and/or Township Manager regarding the proposed interim pole signage so as to satisfy the Township's concern as to avoidance of overly grandiloquent temporary signage.

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6. The Plans shall be revised to include appropriate blocks to signify approval by official bodies as well as acceptance by owner and applicant.

BE IT FURTHER RESOLVED that the Planning Board hereby approves of the following schedule (i.e. phasing plan) for completion of the outstanding items:

- a. Complete striping of the parking lot by October 1, 2006 and pavement patching and seal coat of areas shown on the plan by October 15, 2006.
- b.
- c. Complete new monument signs (subject to approval per item F 1. above) by June 1, 2007.
- a. Install planted parking lot islands by June 1, 2007.
- b.
- c. Complete installation of proposed additional site lighting by June 1, 2007. (Lighting to be installed by PSE&G shall be ordered ASAP).
- d.
- e. Complete installation all other landscaping by June 1, 2007.
- f.
- g. Complete new pavement areas by June 1, 2007.
- h.

BE IT FURTHER RESOLVED that a bond, in form satisfactory to the Township Attorney, in such amount as shall be calculated by the Township Engineer for the completion of the above mentioned items in accordance with the said schedule shall be provided by the Applicant to the Township of Willingboro no later than November 25, 2006.

BE IT FURTHER RESOLVED that, subject to any issues over which the Planning Board lacks jurisdiction, a Temporary Certificate of Occupancy may be issued following release by the Superior Court of New Jersey of any Scarce Resource restraints. Any extensions required for such Temporary C.O.'s will expire no later than July 1, 2007. The Applicant shall file its plans and application for FINAL SITE PLAN APPROVAL in sufficient time prior to the expiration of the Temporary CO for consideration at Public Hearing(s) of the Planning Board prior thereto, it being understood that said Temporary C.O. may be revoked by the Township of Willingboro in the event the Applicant shall fail to comply with its hereinabove imposed scheduled obligations.

BE IT FURTHER RESOLVED that any approval shall additionally be

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conditioned upon the further approval by and compliance with any conditions imposed by the New Jersey Department of Community Affairs, the Burlington County Planning Board, the Burlington County Soil Conservation District (if jurisdiction invoked), the Willingboro Municipal Utilities Authority, and any other agency having jurisdiction.

The foregoing Memorializing Resolution was duly adopted by the Planning Board of the Township of Willingboro at a public meeting on September 25, 2006.



EXHIBIT “B”

Law Offices
Taenzer, Ettenson, Stockton & Aberant
A Professional Corporation

Uri Hugo Taenzer
Alan H. Ettenson
(Member of N.J. and Mass. Bar)
Christopher R. Stockton
(Member of N.J. and PA. Bar)
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Email taenzer@tesalaw.com

November 2, 2006

Michael J. McKenna, P.C.
State Highway 38 and Longwood Avenue
648 Longwood Avenue
Cherry Hill, New Jersey 08002

By Fax to 856-665-7766 and Regular Mail

Re: 240/242 Franklin Avenue, LLC et. al.
Grand Marketplace
4340 Rt. 130, Willingboro

Dear Mr. McKenna:

I write because I received a disturbing telephone call this afternoon from Township Engineer, Wendell Bibbs, P.E. regarding the above application.

You will recall, the calculation of the amount of bonding and the posting which generally precedes issuance of a building permit was held up pending your engineer's providing additional data to the Township Engineer.

It was anticipated that this would be completed within a few days of the Special Meeting of September 25. As a special courtesy, the Board extended until "no later than November 25, 2006" the time by which your client was to post the bond in form satisfactory to the Township Attorney.

I spoke with you in early October (following a similar call from Wendell Bibbs, P.E.) at which time you assured me that you will promptly contact Joseph Raday, P.E. and have him resolve these issues directly with Wendell Bibbs, P.E.

To my complete surprise, Mr. Bibbs tells me today that he has not heard from Mr. Raday and he has not received any updated information required to complete the bonding calculations. Nor was Mr. Bibbs' office called to inspect the improvements which were to be completed by October 15th. (Mr. Bibbs did however receive an invitation to the Grand Opening this Saturday, November 4).

Needless to say, Mr. Bibbs is furious. He was about to notify the Township Code Enforcement Officer to rescind the temporary CO.

Law Offices
TAENZER, ETTENSON, STOCKTON & ABERANT
A Professional Corporation

Michael J. McKenna, P.C.

**Re: 240/242 Franklin Avenue, LLC et. al.
Grand Marketplace
4340 Rt. 130, Willingboro**

November 2, 2006

Page 2.

I have attempted to arrange a conference call with you and Mr. Bibbs but unfortunately you were out of the office.

In alternative effort to determine what could be the cause of any possible misunderstanding, I attempted to reach out to Mr. Raday, only to learn that his telephone number (856) 966-3200 is no longer in service and to my further surprise, apparently ABR Consultants, LLC is not listed in Camden or in Swedesboro (according to 411 Information).

I am sending this letter to you by Fax and Regular Mail so that there will be no further mis-communication regarding my impression that the Township intends to fully enforce the various conditions set forth in the above conditional approval Resolution.

The posting of the bond by November 25 for the improvements which remains and the Township Engineer's approval of the additional work which was to be completed by October 15th are, to my knowledge, essential elements for avoidance of dire consequences respecting the continuation of your client's operations pursuant to the Temporary Certificate of Occupancy.

I regret to inform you that unless information responsive to this letter and compliance with the Resolution satisfactory to the Township Engineer is provided forthwith, I anticipate that the Township Code Enforcement Officer will have no choice but to rescind the CO pursuant to which your client has opened for business (as I understand it from the media) today.

Very truly yours,

TAENZER, ETTENSON, STOCKTON & ABERANT
A Professional Corporation

URI HUGO TAENZER

UHT:wak

cc: Michael A. Armstrong, Esq. (by Fax to 609-877-7755)
K. Wendell Bibbs, P.E. (by Fax to 856-216-9942)

EXHIBIT “C”



Remington, Vernick Engineers
 Remington, Vernick & Vena Engineers
 Remington, Vernick & Beach Engineers
 Remington, Vernick & Arango Engineers
 Remington, Vernick & Walberg Engineers

EDWARD VERNICK, P.E., C.M.E., President
 CRAIG F. REMINGTON, P.L.S., P.P., Vice President

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 Leonard A. Faiola, P.E., C.M.E.

**Remington & Vernick
 Engineers**

232 Kings Highway East
 Haddonfield, NJ 08033
 (856) 795-9595
 (856) 795-1882 (fax)

15-33 Halsted Street
 East Orange, NJ 07018
 (973) 323-3065
 (973) 323-3068 (fax)

**Remington, Vernick
 & Vena Engineers**

9 Allen Street
 Toms River, NJ 08753
 (732) 286-9220
 (732) 505-8416 (fax)

3 Jicama Boulevard, Suite 2
 Old Bridge, NJ 08857
 (732) 955-8000
 (732) 591-2815 (fax)

**Remington, Vernick
 & Walberg Engineers**

845 North Main Street
 Pleasantville, NJ 08232
 (609) 645-7110
 (609) 645-7076 (fax)

4907 New Jersey Avenue
 Wildwood City, NJ 08260
 (609) 522-5150
 (609) 522-5313 (fax)

**Remington, Vernick
 & Beach Engineers**

922 Fayette Street
 Conshohocken, PA 19428
 (610) 940-1050
 (610) 940-1161 (fax)

102 West Allen Street
 Mechanicsburg, PA 17055
 (717) 766-1775
 (717) 766-0232 (fax)

U.S. Steel Tower
 600 Grant Street, Suite 1251
 Pittsburgh, PA 15219
 (412) 263-2200
 (412) 263-2210 (fax)

Univ. Office Plaza, Commonwealth Bldg.
 260 Chapman Road, Ste. 104F
 Newark, DE 19702
 (302) 266-0212
 (302) 266-6208 (fax)

**Remington, Vernick
 & Arango Engineers**

243 Route 130, Suite 200
 Bordentown, NJ 08505
 (609) 298-6017
 (609) 298-8257 (fax)

November 30, 2006

Sarah Wooding, Planning Board Secretary
 Township of Willingboro
 1 Salem Road
 Willingboro, New Jersey 08046

**Subject: Final Major Subdivision and Site Plan
 Willingboro Festival Market
 Performance Guarantee Estimate
 Block 2, Lot 7.01
 Our file #03-38-P-056**

Dear Ms. Wooding:

Enclosed, please find the performance guarantee cost estimate for the above referenced project. The associated plans utilized to determine the cost of construction consists of the following:

Sheet	Title	Initial Date	Revision Date
C-1	Title Sheet	08/01/06	11/06/06
C-2	Existing Conditions / Survey Plan	08/01/06	11/06/06
C-3	Site Plan	08/01/06	11/06/06
C-4	Landscape Plan	08/01/06	11/06/06
C-5	Lighting Plan	08/01/06	11/06/06
C-6	Pavement Rehab Plan	08/01/06	11/06/06
C-7	Auto-Turn Plan	08/01/06	11/06/06
C-8	Detail Sheet	08/01/06	11/06/06
SP-1	Signage Plan	08/01/06	11/06/06

Sheet C-1 and sheets C-3 through C-9 were prepared, signed, and sealed by Joseph J. Raday, P.E., ABR Consultants, LLC., 129 North Broadway, Suite 308, Camden, New Jersey 08102, (856) 668-8600.

Sheet C-2 was prepared by Roy E. Gerould, P.L.S., ABR Consultants, LLC.

In accordance with the Municipal Land Use Law, a copy of the engineer's cost estimate for the site improvements in the amount of \$1,085,649.62 is enclosed. A performance guarantee in this amount must be submitted along with an engineering inspection escrow of \$45,235.40, which represents 5% of the site improvements.

Please note that all bonds must be secured prior to the start of construction and/or the issuance of permits.

Our office is in the process of finalizing the review for resolution compliance so plan may be signed. A preconstruction conference shall be scheduled with the George LaPorte of our office (609-298-6017) at least three (3) working days prior to the start of work.

Currently our information indicates that the owner for this project is Willingboro Mall, Ltd., 2495 U.S. Highway One, Lawrenceville, New Jersey 08648, and the applicant is 240/242 Franklin Associates & Colonial Court Apartments, LLC, 459 Route 38 West, Maple Shade, New Jersey 08052, (856) 667-0400. If this information is incorrect, please have the applicant notify our office in writing as soon as possible of the correct address to which copies of our invoices should be sent. **The M.L.U.L. requires the applicant to notify the municipality and the engineer of any changes in ownership of a project.**

If you have any questions regarding this matter, please do not hesitate to call our office at 609-298-6017.

Sincerely yours,
REMINGTON & VERNICK ENGINEERS, INC.


K. Wendell Bibbs, F.E., C.M.E.

KWB/GJS/GML/clg

Enclosures

c: 240/242 Franklin Associates & Colonial Court Apartments, LLC
Willingboro Mall, Ltd.
Joseph Raday, P.E.
Joseph Marra, R.A.
Robert Carmelia, P.L.S.
James Maddonni, P.E., P.L.S.
Uri Hugo Taenzer, Esq.
Duane Wallace, Director of Inspections
Richard Arango
George R. Stevenson, Jr., P.P., AICP
George LaPorte, w/enclosures

Remington Vernick Engineers

Remington & Vernick Engineers

BOND ESTIMATE

DATE

TWP: Willingboro

NAME: Grand Market Place

LOCATION:

BLOCK: Block 2, Lot 7.01

TWP. NO.:

FIN. NO.:

R&V NO.:

EXCAVATION

PAVING - CONCRETE

5	UNIT	Tree Removal (<24" caliper)	\$840.00	\$4,200.00
15,660	SY	2" Bituminous Surface Course-1(I-5)	\$9.00	\$140,940.00
15,660	SY	2" Stabilized Base (I-2)	\$7.50	\$117,450.00
15,660	SY	4" Dense Graded Aggregate	\$8.00	\$125,280.00
900	SY	6" Dense Graded Aggregate	\$9.00	\$8,100.00
1,611	SY	4" Concrete Sidewalk	\$60.00	\$96,657.00
5,200	LF	8"x18" Concrete Curbing	\$20.00	\$104,000.00
10	UNIT	Handicap Ramp, including curb	\$1,300.00	\$13,000.00
900	SF	Concrete Pavers/Brick w/ 6" Concrete	\$27.00	\$24,300.00
495	SF	6" Concrete, Reinforced	\$7.80	\$3,861.00
440	SF	8" Concrete, Reinforced	\$9.25	\$4,070.00
26,160	SY	Pavement Removal/Roadway Excavation	\$3.00	\$78,480.00
19	UNIT	Concrete Bumper Block, Pinned	\$100.00	\$1,900.00
11,100	LF	Saw Cutting	\$5.00	\$55,500.00

STORM SEWER

1	UNIT	Type E Inlet (0'-6' Depth)	\$3,000.00	\$3,000.00
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PLANTING

97	UNIT	Ornamental Tree	\$250.00	\$24,250.00
45	UNIT	Evergreen Tree	\$250.00	\$11,250.00
549	UNIT	Shrubs	\$40.00	\$21,960.00
1,954	SY	4" Topsoil	\$6.00	\$11,724.26
1,954	SY	Fertilizer/Seed	\$1.75	\$3,419.58

Remington Vernick Engineers

COSTS SUMMARY

DATE

TWP: Willingboro
NAME: Grand Market Place
LOCATION:
BLOCK: Block 2, Lot 7.01

TWP. NO.:
FIN. NO.:
R&V NO.:

1,954	SY	Mulch, 4"	\$4.00	\$7,816.18
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STREET LIGHTING

2	UNIT	400 Watt H.P.S. Pole Mounted Light (add \$825 per additional fixture on pole)	\$3,025.00	\$6,050.00
4	UNIT	Light Fixture Relocation	\$1,500.00	\$6,000.00

For Municipal Street Lighting See "Street Lighting" Section Below

TRAFFIC CONTROL

10	UNIT	Bollards	\$300.00	\$3,000.00
32	UNIT	Handicap Parking Signs w/Van Access	\$250.00	\$8,000.00
12	UNIT	Traffic Control Signs	\$75.00	\$900.00
3	UNIT	Masonry Trash Enclosure	\$3,500.00	\$10,500.00
1	LS	Chain Link Fence Repair	\$2,500.00	\$2,500.00
2	unit	Chain Link Fence Gate, Single	\$800.00	\$1,600.00
1	UNIT	Chain Link Fence Gate, Double	\$1,500.00	\$1,500.00
1	LS	Line Painting	\$2,000.00	\$2,000.00
1	LS	Pavement Markings	\$1,500.00	\$1,500.00

TOTALS

CONSTRUCTION COST:	\$904,708.02
20% CONTINGENCIES:	\$180,941.60
TOTAL IMPROVEMENTS TO BE BONDED:	\$1,085,649.62
5% INSPECTION ESCROW:	\$45,235.40
TOTAL AMOUNT OF MAINTENANCE BOND:	\$135,706.20

(Based on the greater of \$500.00 or 5% of the construction cost pursuant to NJSA 40:55D-53.h)

REV.8-01

This Estimate Of The Costs Of Improvements Has Been Prepared Pursuant To Section 40:55D-53.4 Of The Municipal Land Use Law And Is Based On Documented Construction Cost For Public

Remington Vernick Engineers

COSI 3111A

DATE

TWP: Willingboro
NAME: Grand Market Place
LOCATION:
BLOCK: Block 2, Lot 7.01

TWP. NO.:
FIN. NO.:
R&V NO.:

Improvements Which Prevail In The Vicinity Of The Municipality

Bond By: J. Ockford
Reduction By:
Estimate # 1, Date: 11/29/06