



**PLANNING BOARD**  
**Monday, March 16, 2015**  
**DRAFT MINUTES**

*You couldn't pick a better place.*

**OPENING:** The meeting was called to order by Chairperson John Osorio at 7:45pm

**PLEDGE OF ALLEGIANCE:** Led by Chairperson Osorio.

**OPMA STATEMENT:** Read by Chairperson Osorio in compliance with the Sunshine Law.

**ROLL CALL**

- **Members in attendance:** John Osorio; Carole Roskoph; Carolyn Jacobs; Larry Terry; Gina LaPlaca; Sam Kates; Moly Hung; and Marlyn Kalitan.
- **Professionals in attendance:** Paul Stridick, Director of Community Development; Lorissa Luciani, Deputy Director of Community Development; Jacob Richman, Planning Technician; Stacey Arcari, Planning Board Engineer; and Jim Burns, Esq., Solicitor

**Comments from the Public not related to tonight's agenda:** None.

**ADMINISTRATIVE ITEMS**

*Adoption Meeting Minutes from March 2, 2015.* John Osorio made a motion, which was seconded by Carole Roskoph, to adopt the Meeting Minutes from March 2, 2015. Affirmative votes by Osorio; Roskoph; Jacobs; Kates, LaPlaca, Hung, and Kalitan. Minutes are approved.

**AGENDA ITEMS**

**14-P-0037**

Block(s) 437.01 Lot(s) 3-9 & 21  
Zone: Industrial Restricted (IR) Zone.

**FC Cherry Hill, LLC & NM Cherry Hill, LLC**

Cardone Avenue  
Cherry Hill, NJ

*Relief Requested: A preliminary and final major site plan with bulk (C) variances to develop an access road from the rear of Lot 5 (former Syms Clothing store) through Cardone Avenue (a private access easement) to Marlkrass Road (a County Road).*

**Exhibits Submitted:**

- A: Tax Map
- B: Site Plan from 1957
- C: Survey from 1966
- D: Subdivision Plan from 1967
- E: Preliminary & Final Major Site Plan (already submitted to the Board)
- F: Alternate Preliminary & Final Major Site Plan (already submitted to the Board)
- G: Overlay of both Major Site Plans

**Discussion:** Applicant FC Cherry Hill, LLC & NM Cherry Hill, LLC, applied for a preliminary and final major site plan with bulk (C) variances to develop an access road from the rear of Lot 5 (former Syms Clothing store) through Cardone Avenue (a private access easement) to Marlkrass Road (a County Road); located at Cardone Avenue, Cherry Hill, New Jersey (Block 437.01 Lots 3-9 & 21). The property is owned by FC Cherry Hill, LLC & NM Cherry Hill, LLC.

Application was represented by:

- Rick Goldstein, Esq. – Attorney for the Applicant
- David Fink – Co-Owner of Property, Finnmarc Mgmt.
- David Fleming, PE – Engineer, T&M Associates
- David Shropshire – Traffic Engineer

Mr. Goldstein began the application by noting that the applicant is seeking preliminary & final major site plan approval with bulk (C) variances in order to develop an access road from an existing driveway across the subject site (former location of Syms). The lots in question are proposed to be consolidated. Mr. Goldstein then introduced Exhibit A and identified the characteristics of each lot and their history. Mr. Goldstein noted that lots 3-5 are zoned B2 while the remaining lots are in the IR zone. Mr. Goldstein also noted that the current owners of the property are prepared to invest millions of dollars into redeveloping the site, and in order to make the site marketable to a potential tenant, they will need to improve access to the site. This access improvement can be done via an access drive from the rear of lot 5 (Syms) and connect it to Cardone Avenue. Exhibits B, C, and D were then introduced to the Board as supplemental site history information with Mr. Goldstein detailing ownership history at that time. Of particular note is that a tail of Cardone Avenue (0.64 acres of total land) has no record of ownership, most likely due to a scrivener's error, and was not conveyed to any entity. The scrivener's error, stated Mr. Goldstein, exists in a resolution from 1973. It was also noted that the Township does not collect taxes on this land since it is not owned by anyone. Mr. Goldstein posits that all of Cardone Avenue, including the unclaimed portion of land, was intended to part of lot 21.

Mr. Goldstein then presented exhibit E, which shows the original proposed extension of Cardone Avenue (connecting Marlkrass Road through to lot 9 of Cardone Avenue into the back of lot 5). Mr. Goldstein noted the applicant owns of the land in which this road extension would go through. Next, Exhibit F was presented, which shows the alternate pathway the road extension could extend through which goes from lot 5 to Cardone Avenue through lot 6. This alternate plan would require approval from the New Jersey Superior Court for a claim of quiet title since the alternate plan goes through the section of land that unowned. Mr. Goldstein requested the Board to approve the Plan in Exhibit E, but if the applicant does get approval from Superior Court for the quiet title to the unowned land, then the applicant requests that Community Development administratively approves the alternate plan (Exhibit F) as that is the applicant's preferred site plan. Lastly, Mr. Goldstein stated that the ultimate proposal for the former Syms building is for a medical facility, but for confidentiality reasons, he cannot disclose the prospective tenant.

Mr. Fink was next to appear before the Board and gave testimony regarding ownership of the subject property. Specifically, Mr. Fink bought the property in September of 2013 and noted that the site had been vacant since 2012. Mr. Fink stated that without acquiring the driveway access approvals, the prospective tenant would not be interested in the property. Mr. Fink noted that tens of millions of dollars would be invested in improvements to this site. Mr. Fink also noted that the applicant would have to come back to the Planning Board for site plan, that the vacant houses on lot 6 and 9 will be demolished, and that Title 39 will be secured through the Township. Mr. Goldstein noted that when the acquisition of Cardone Avenue occurred when the current owner bought lot 21. Mr. Goldstein felt that the applicant had a good chance of winning their quiet title complaint. Mr. Goldstein stated that there should be no issue with developing the proposed road through the wetlands portion of the property as the appropriate permits have been acquired from NJDEP and the Township has a copy of said permit.

Mr. Fleming was the next witness called to testify. Mr. Fleming stated that T&M Associates did the site planning work on this project and went through NJDEP for permits. Mr. Fleming went into details regarding the site plans in Exhibits E and F and also presented Exhibit G showing the overlay of the two plans so that the Board could easily see the different between the potential pathways of the road extension plan. Mr. Fleming noted that he will be preparing conformance plans so that the proposed road will comply with ordinance requirements for the construction of roads.

Mr. Shropshire was called by Mr. Goldstein to provide testimony on the traffic engineering portion of the application. Mr. Shropshire noted that either proposed plan would work from a traffic standpoint but that Exhibit F is more preferred. Mr. Shropshire stated that NJDOT is in favor of the alternate plan (Exhibit F) from a traffic safety and traffic flow perspective, especially in regard to accessing the site without needing too many maneuvers. Mr. Shropshire testified that he will come up with a plan to mitigate or eliminate potential cut-through traffic for those traveling between Marlkrass Road and Route 70 (as part of a forthcoming site plan application). He also noted that there is a bus stop out in front of the former Syms site which has pedestrian access. Mr. Goldstein noted that some businesses use Cardone Avenue to access their sites. Mr. Shropshire stated that Cardone Avenue will remain a private road but that it will have public road style improvements that should improve access for neighboring business. The road will be a two-way street throughout and the current owners will be responsible for maintenance of said road. Lastly, Mr. Shropshire discussed methods for managing AM peak traffic periods as well as turns in and out of the site as well as noting that NJDOT will not permit access off of their nearby jughandle. Mr. Goldstein added that the applicant agrees to all of the comments in the Community Development and Environmental Resolutions, Inc. review letters.

Ms. Luciani went through Community Development's review letter and the various conditions of approval. Ms. Luciani did however state that no variances are required now as the applicant will be revising the plan to remove any need for a variance. In regard to the 25' residential buffer requirements, Mr. Goldstein noted that the site plan will show landscaping in the buffer that complies with the Zoning Ordinance. Ms. Luciani did note two technical design waivers and then reiterated the conditions of approval and need for the applicant to come in for site plan

approval if today's request was granted by the Board. Also, the applicant will need to seek relief from the Scarce Resources Constraint Order. Mr. Goldstein clarified that while the homes on lot 6 and 9 will be demolished, he does not want their removal to be conditioned upon getting the lot consolidation. Ms. Luciani stated that this is fine but that this should be noted on the conformance plans. Ms. Arcari then went through ERI's review letter in regard to site planning, traffic control improvements, environmental permitting, and stormwater management. Mr. Goldstein stated that the applicant will comply with ERI's conditions.

**Public Discussion:**

- 1) Richard Hluchin, Esq., attorney for neighboring shopping center and office building property, Heritage Square, appeared and addressed the Planning Board regarding his client's request for the Planning Board to impose an access easement through Applicant's property for the benefit of his client as a condition of approval of Applicant's application. Mr. Hluchin advised the Planning Board that his client believes Applicant's proposed development is "fantastic" and that his client supports this application. The Planning Board encouraged the Applicant to have a nonbinding discussion with Mr. Hluchin's client regarding the requested access easement but made it very clear that, consistent with case law, the Planning Board was not in a position to force or require the Applicant to provide any requested access easements to any non-applicant. Mr. Hluchin withdrew his client's requested condition of approval and agreed to a meeting with Applicant with no commitment of any agreement by Applicant.
- 2) Dalia Hay appeared and testified regarding the application. Ms. Hay testified that she owns the dance studio located adjacent to the proposed driveway and expressed support for the application but concern regarding access to her property, parking and change in her mailing address.
- 3) John Haynesworth appeared and testified regarding the application. Mr. Haynesworth noted that he is realtor and asked about lot 21 being noted as 3 Allison Drive. Ms. Luciani stated that 3 Allison Drive is not part of the application but that an existing access easement connects the subject site to Allison Drive.
- 4) Steve Slotwinski appeared on behalf of his mother, Anna Slotwinski, who resides at 10 Cardone Lane. Mr. Slotwinski advised the Planning Board that he preferred the more direct access route as identified as the Exhibit F site plan. Mr. Slotwinski also expressed concern as to traffic noise and privacy and the impacts of traffic on his mother's privacy.
- 5) Sloan Rosten appeared and testified on the application. Mr. Rosten advised that he lives at 11 Collage Court in the development located behind the Syms property. Mr. Rosten expressed concern regarding traffic noise and street lights impacting the homes located behind the Syms property. Testimony was provided by the Applicant's Professionals that Mr. Rosten's property is located approximately 552 feet thru a dense wooded area behind the Syms property and that there would be nominal impact from the access drive to residents of College Court. Expert testimony was further provided by the Applicant's traffic and noise engineer, David Shropshire, that noise levels generated from the proposed driveway will comply with the State of New Jersey Noise Control Act and any noise generated from the proposed access drive would be drowned out significantly by the noise currently being generated from Route 70.

Seeing no other persons wanting to speak in regard to the application, Chairperson Osorio closed that portion of the meeting.

Solicitor Burns reiterated the applicant's request and the conditions of approval, and also noted that the Planning Board was advised by him for the Applicant and counsel for Heritage Square that their respective clients would discuss the issue of an access easement off the record and that no further input or recommendations would be required from the Planning Board.

**Motion:** Following the reiteration of the conditions and variances needed by Solicitor Burns, Carole Roskoph made a motion, which was seconded by John Osorio, to approve the application with the conditions as stated. Affirmative votes by Osorio, Roskoph, Jacobs, Terry, Kates, LaPlaca, Hung, and Kalitan. The application is approved unanimously.

**Resolutions:**

None.

**Meeting Adjourned:** 10:00 PM.