

**Borough of Highlands
Planning Board Meeting
June 11, 2015
Regular Meeting**

Meeting Location: Highlands Elementary School, 360 Navesink Avenue, Highlands.

Mr. Stockton called the meeting to order at 7:35 P.M.

Mr. Stockton asked all to stand for the Pledge of Allegiance.

Mrs. Cummins read the following statement: As per requirement of P.L. 1975, Chapter 231 notice is hereby given that this is a Regular Meeting of the Borough of Highlands Planning Board and all requirements have been met. Notice has been transmitted to the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board.

ROLL CALL:

Present: Mayor Nolan, Mr. Hill, Mr. Redmond, Mr. Colby, Mr. Korn,
Mr. Francy, Mr. Stockton, Mr. Wells

Absent: Mr. Britton, Mr. Danzeisen, Mr. O'Neil

Also Present: Carolyn Cummins, Board Secretary
Jack Serpico, Esq., Board Attorney
Robert Keady, P.E., Board Engineer

**PB#2015-2 CMB, LLC & 90 Portland, LLC
Block 1 Lots 6, 7, 8 – 90 & 100 Portland Road
Application Review & Schedule Public Hearing**

Present: None

The Board reviewed the application for completeness.

Mrs. Cummins stated that Mr. McGann has requested that the public hearing date be scheduled for August.

Mr. Stockton stated that he had a conflict with this application.

Mr. Keady briefly explained that the application is a simple lot line adjustment.

Mayor Nolan offered a motion to set a public hearing date for this application for August 13th, seconded by Mr. Francy and approved on the following roll call vote:

ROLL CALL:

AYE: Mayor Nolan, Mr. Hill, Mr. Redmond, Mr. Colby, Mr. Korn, Mr. Francy,
Mr. Wells

NAY: None

ABSTAIN: None

**PB#2000-8 Amended Dan Shields/Windansea Restaurant
Block 50 Lot 4 – 56 Shrewsbury Avenue
Adoption of Resolution**

The board reviewed the draft resolution and discussed minor changes.

Mayor Nolan offered a motion to move on the adoption of the following Resolution:

**RESOLUTION APPROVING AN AMENDMENT TO THE APPROVED SITE
PLAN APPLICATION OF WINDANSEA RESTAURANT/DANIEL
SHIELDS, BLOCK 50, LOT 4, 56 SHREWSBURY AVENUE**

WHEREAS, the applicant Windansea Restaurant/Daniel Shields, hereinafter referred to as the “applicant” is the owner of property known as Block 50, Lot 4 on the Highlands Borough Tax Map, which property is located at 56 Shrewsbury Avenue, Highlands, New Jersey and is located in the WC-1 Zone; and

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WHEREAS, Preliminary and Final Site Plan Approval and Variances were previously granted to the applicant for the subject property in 2000. Subsequent amendments to the original approval were granted in January and May, 2001; and

WHEREAS, the applicant now requests a third amendment to the original approval that would permit the applicant to retain the use of a temporary bar that was constructed after hurricane Sandy along the rear of the building on a permanent basis. The bar is 39 feet in length and has 14 seats. The details of the proposal are set forth in the plans and maps submitted with the application which are incorporated herein in full by reference thereto; and

WHEREAS, all jurisdictional requirements have been met and proper notice has been given pursuant to the Municipal Land Use Act and Borough ordinances, and the Board has jurisdiction to consider this application; and

WHEREAS, the Board considered this application at a public hearing held on May 14, 2015; and

WHEREAS, Daniel Shields testified in support of the application. Members of the public also testified and objectors were represented by Richard Pepsny Esquire; and

WHEREAS, the Board after considering the evidence and testimony presented by the applicant and the interested citizens and objectors has made the following of fact and conclusions based thereon:

1. The property is located in the WC-1 Zone, which permits the uses at the subject property.
2. The parking space requirement for the use is a total of 74 parking spaces based on the square footage of the structure.
3. The applicant has 31 on-site spaces and 70 off-site spaces that are leased from the Borough of Highlands for a total of 101 parking spaces dedicated to this site.
4. Based on the foregoing calculations the applicant complies with the applicable parking and land use ordinances of the Borough; and

WHEREAS, the Board after considering the testimony and exhibits has found the proposed amended site plan to be acceptable with conditions; and

WHEREAS, this resolution shall memorialize the Board's action taken to approve the proposed site plan amendment with conditions at the meeting held on May 14, 2015.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Highlands that the application for the amendment to the previously approved site plan application with variances is hereby approved contingent upon the applicant complying with the following conditions:

1. All testimony, evidence and representations made by the applicant and its witnesses are incorporated herein.
2. Taxes, fees and escrow accounts shall be current.
3. Compliance with the recommendations set forth in the letter from the Board Engineer dated May 11, 2015 for this project.
4. Compliance with any of the outstanding conditions of the prior approvals granted by this Board unless such conditions have been waived or superseded by this approval.
5. Approval of all outside governmental agencies that have jurisdiction over this application.
6. The applicant must submit a true copy of the lease for the off-site parking spaces with the Borough to the Board Secretary for inclusion in the Board's file.

Seconded by Mr. Redmond and adopted on the following roll call vote:

Ayes: Mayor Nolan, Mr. Hill, Mr. Redmond, Mr. Danzeisen, Mr. Wells

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Nays: None

Abstain: None

PB#2015-1 B-Four Enterprises

Block 69 Lots 13 & 13.01, Block 72 Lots 8 & 8.01, Block 72 Lots 9.001 & 9.012

Adoption of Resolution

The board reviewed the draft resolution and had a lengthy discussion on revisions to the resolutions.

Thomas Morford was sworn in to make clarifications

Mayor Nolan offered a motion to move on the adoption of the following Resolution:

**RESOLUTION APPROVING THE PRELIMINARY AND FINAL MAJOR
SITE PLAN AND DESIGN WAIVER APPLICATION OF B-FOUR
ENTERPRISES, LLC FOR, BLOCK 72, LOTS 8 & 8.01; BLOCK 69, LOTS 13
& 13.01; BLOCK 72, LOTS 9.001, 9.011 & 9.012**

WHEREAS, the applicant B-Four Enterprises, LLC (hereinafter referred to as the “applicant”) is the _____ of the above captioned lots, which lots are located in the WC-2 Zone in the Borough of Highlands, New Jersey; and

WHEREAS, the applicant has applied for preliminary and final major site plan approval with a design waiver for the purpose of operating a tiki bar and restaurant on the site previously occupied by the Clam Hut Restaurant in the Borough. The applicant intends to use the existing structures at the site for lavatory purposes and the tiki bar and the existing parking lot areas. All of the details of the proposed new and existing structures and proposed parking areas are set forth on the plans and maps submitted with the application, and submitted into evidence at the public hearing of the application by the Board held on May 14, 2015. All of the foregoing are incorporated herein by reference thereto. The applicant has also applied for a design waiver to permit new light fixtures to be attached to the existing utility poles at the site at an elevation of 24 feet, where the applicable ordinance permits a maximum elevation of 15 feet; and

WHEREAS, all jurisdictional requirements have been met and proper notice has been given pursuant to the Municipal Land Use Act and Borough Ordinances, and the Board has jurisdiction to consider this application; and

WHEREAS, the Board considered this application at a public hearing held on May 14, 2015; and

WHEREAS, Thomas Morford, a principal of the applicant testified on the operational details and the general layout and uses proposed at the site; and

WHEREAS, Michael James Monroe, a licensed architect in the State of New Jersey testified on the architectural elements and addressed the ADA compliance issues; and

WHEREAS, members of the public cross examined the applicant’s witnesses and expressed their opinions on the project; and

WHEREAS, the Board makes the following factual findings in connection with this application based on the testimony and plans and maps submitted on behalf of the applicant and the members of the public:

1. The proposed uses at the site are permitted pursuant to the applicable Borough Development and Zoning Ordinances.
2. The applicant intends to operate the tiki bar from mid-May to mid-September and use the area for boat storage during the months in between during the off-season.
3. The applicant will provide cross-easements for ingress, egress, parking and lavatory uses at the subject property.

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4. The portable kitchen proposed to be located on the site will be contained in a trailer that will be placed on the site at the beginning of the season in May and be removed at the end of the season in September.

5. The applicant will operate the bar and restaurant seven (7) days per week from 11:00 am to 11:00 pm during the season.

6. The applicant will employ 10-15 employees during the season.

7. The applicant proposes to install two (2) dumpsters at the site that will be emptied at least two (2) times per week and more often if necessary.

8. All deliveries to the site will be contained in a box truck.

9. The site will have "piped in" music; no live "bands".

10. There will be two (2) lavatories located in each of the existing structures at the site. Two (2) lavatories will be ADA compliant.

11. The project is located in the CAFRA zone and requires CAFRA approval.

12. The requested design waiver will be granted so long as the light fixtures are shielded to prevent light from shining on the contiguous properties that border the subject site.

13. The Board finds that there is a pre-existing non-conforming lot coverage variance that is not affected by this application.

14. The Board finds that the number of parking spaces proposed meet the requirements of the applicable ordinances and are adequate for the uses proposed at the subject premises; and

WHEREAS, the Board finds that the preliminary and final site plan application can be approved and the design waiver granted so long as the applicant complies with Board imposed conditions set forth hereinafter.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Highlands that the application for preliminary and final major site plan approval and design waiver for the aforementioned lots is hereby approved contingent on the following conditions being met:

1. All testimony, evidence and representations made by the applicant and its witnesses are incorporated herein.
2. Taxes, fees and escrow accounts shall be current.
3. The applicant shall comply with all of the outstanding comments and conditions if any set forth in the Board Engineer's letter dated May 11, 2015, which is incorporated herein in full by reference thereto.
4. The applicant agrees to post performance bonds and/or inspection fees as determined by the Borough Engineer if any.
5. The applicant shall obtain the approval of all outside governmental agencies that have jurisdiction over this project prior to the issuance of any permits for any construction at the site.
6. The applicant must supply a permit from the NJDEP for the construction of the existing deck, tiki bar and the construction of the remainder of the proposed site improvements and the installation of the portable kitchen including the sink and grease trap at the premises or a letter indicating that the NJDEP has no jurisdiction over the installation of any one or all of these items. In the event the applicant supplies documentation indicating that the deck construction does not require any approval or permitting from FEMA and/or NJDEP, the applicant is permitted to use the deck and tiki bar area. In the event any outside agency requires the applicant to make any changes to the plans approved by this Board, the applicant must submit those changes to this Board for its review and approval.
7. The applicant shall obtain the approval of the Highlands Regional Sewerage Authority for the project if required by law.
8. The applicant shall construct the project in accordance with the plans and maps submitted with the application and/or submitted into evidence at the public hearing or any plans or maps hereinafter supplemented to conform to these conditions of approval and/or the representations made by the witnesses for the applicant at the public meeting.
9. The applicant shall submit the proposed cross-easements for ingress, egress, parking and lavatory use to the Board Engineer and Attorney for their review and approval.

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10. The applicant shall repair and stripe the parking areas and replace all damaged sidewalk and curbing at the site. The applicant shall also install adequate traffic and parking signage at site as per the requirements of the Board Engineer **and remove the existing “Private Property- No Trespassing” signs at the site.**
11. No boats will be permitted to tie-up to the deck area.
12. The applicant shall submit amended site plans to the Board (and Board Engineer) depicting the topography of the area (elevations) and flood zone information requested by the Board Chairman and Board Engineer at the public hearing.
13. **The applicant is permitted to have a maximum of 12 boats stored on property during the time period that the bar and restaurant are in operation so long as that does not result in a loss of the amount of the approved parking spaces required by Ordinance or approved by this Board.**
14. The applicant will shield the proposed pole mounted light fixtures to prevent light spillage onto contiguous properties.
15. **The applicant shall comply with the Borough sound or noise ordinances.**
16. **The applicant shall confirm with the Borough Tax Assessor the correct (current) lot and block numbers for the subject property and so designate the correct lots and block numbers on revised plans.**
17. **The applicant shall submit revised plans showing the number of parking spaces approved for the site; 130 boat slips; 26 seats at the tiki bar; 29 tables with seating for 4 patrons on the deck area and around the tiki bar.**
18. **No tractor trailer deliveries are permitted. All deliveries will be by “box” truck as represented at the public hearing by the applicant.**
19. **All construction and equipment shall be compliant with FEMA V-Zone Coastal Construction requirements, NJDEP, CAFRA and Flood Hazard Area construction requirements.**
20. **The applicant shall install “duck-bill” backflow prevention valves on all existing storm drainage outfall pipes.**

Seconded by Mr. Redmond and adopted on the following roll call vote:

Ayes: Mayor Nolan, Mr. Hill, Mr. Redmond, Mr. Colby, Mr. Korn,
Mr. Stockton, Mr. Wells
Nays: None
Abstain: None

Master Plan

Mr. Stockton stated that the Master Plan Subcommittee has had two meetings. The June 1st meeting there was only himself and Mr. Redmond. The second meeting held on June 8th there was Mr. Francy, himself and the Board Planner. The would like to review the Jacque Costo Report.

Mr. Hill explained that the Army Corp will be having a meeting and one month from now will have more information and will report back to the board.

The Board discussed public notice will be given for public notice for public participation in committee meetings.

Mayor Nolan offered a motion to appoint Greg Wells as Alternate Master Plan Subcommittee member to replace Mr. Korn. Seconded by Mr. Stockton and approved on the following roll call vote:

ROLL CALL:

**AYE: Mayor Nolan, Mr. Hill, Mr. Redmond, Mr. Colby, Mr. Francy,
Mr. Korn, Mr. Stockton**
NAY: None

Mr. Francy talks about the Professional Planner Slaviki and his resiliency about residential area and their emphasis was on the business. He expressed his disappointment with the Planners Presentation.

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Discussions continued

Mr. Serpico advised Mr. Francy that if he wants the Planner to answer economic issues then he should ask for it.

Mr. Keady told Mr. Francy that if he wants something then tell them.

Discussion continued with regard to the disappointment with T & M's first presentation.

Mr. Colby suggested we make zoning laws more flexible.

Mr. Stockton stated that we will gather the best information that we can.

Brief discussion regarding the Rutgers Study.

Communications – Navesink Capital Project

Mr. Colby then questioned the status of the permits and plans for 48 townhome project – Navesink Capital.

Mr. Keady stated that he is reviewing the plans.

Mrs. Cummins – the Construction Official has been advised to not issue any permits before the board signs off.

Mr. Hill then advised the board that the Army Corp will be having a public meeting on July 22nd to do their presentation.

Mr. Hill asked Mr. Keady if the developer changes the siding on the 48 townhome project then what happens.

Mr. Keady explained that if there are changes will ask Mr. Serpico what needs to go back before the board.

Mr. Serpico stated that if the approval required a certain type of siding and it's not on the plans then we have a problem.

Master Plan

Mr. Francy stated that there is data being developed and should be inserted into the Master Plan.

Mr. Stockton spoke of Stakeholder meetings.

Mr. Serpico stated it would be acceptable to accept reports at the meeting.

Mr. Wells stated that our main street is similar to Atlantic Highlands and Red Bank and asked if we got their plans.

Mr. Stockton explained that our Planners have done many master plans and will borrow information from the best.

Mr. Serpico spoke about a redevelopment plan for a section of Asbury Park.

The board then reviewed the correspondence about a flood hazard permit application for Birchwood and no action was required.

Approval of Minutes

Mayor Nolan offered a motion to approve the May 14th minutes, seconded by Mr. Redmond and approved on the following roll call vote:

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ROLL CALL:

AYE: Mayor Nolan, Mr. Hill, Mr. Redmond, Mr. Colby, Mr. Korn, Mr. Wells,
Mr. Stockton

NAY: None

ABSTAIN: None

Mayor Nolan offered a motion to adjourn, seconded by Mr. Colby and all were in favor.

The meeting adjourned at 8:32 p.m.

Carolyn Cummins, Board Secretary