

## **SPECIAL MEETING OF MAY 1, 2006**

The special meeting of the Fair Lawn Planning Board of Monday, May 1, 2006, was called to order at 8:05 p.m. by Chairman Winston in the Council Chambers of the Municipal Building.

Notice of the Open Public Meeting Law was read stating that the newspapers were notified and notice posted on the first floor bulletin board of the Municipal Building.

### **ROLL CALL:**

Chairman Barry Winston; Peter Kortright, III, Joseph D'Arco, Phil Cassidy, Michael Cohen, Al Palmieri, Todd Malkin, Alan Neggia, Harvey Rubinstein, Honey Morgenstern, Deputy Mayor McCarthy

Also present: Engineer John Rottenbucher, Board Attorney Douglas Bern and Board Secretary Cathryn Hochkeppel

### **Amendment to Master Plan – Open Space and Recreation Plan**

Chairman Winston asked if the Chairman of the committee would like to make any comments.

Deputy Mayor Weinstein introduced several of the members from the Open Space Committee who worked hard on this application. He explained that the application has been submitted to the State and the importance of preserving Fair Lawn's precious open space. He thanked Borough Manager Tom Metzler and Cathy Hochkeppel for assisting in the preparation of the application. He explained that the goal is to preserve the precious open space in Fair Lawn. Ed Trawinski, Councilmember, former Mayor and former Planning Board Attorney stated that he was there to lend his support to the application and encouraged the Board members to adopt the plan as part of the master plan. He explained that the people of Fair Lawn have focused on preserving open space and the residents decided to tax themselves. This application is the next logical step that will assist in this goal. He also thanked the committee members and Deputy Mayor Weinstein for their hard work and Manager Metzler and Ms. Hochkeppel for helping to coordinate all the elements on a short timetable. He commended Michael Hakim and stated that he has been a significant asset.

Michael Hakim, President of Hakim Associates, 68 Dean Street, Harrington Park, Professional Planner and Landscape Architecture was sworn in. He explained that the prior Master Plans include a conservation plan and recreation element and some might consider this amendment a redundant but he explained that this amendment sets forth a more detailed plan on how these goals can be accomplished. Mr. Hakim explained the Green Acres program to the Board

members. He also explained the flexibility of the new program. The amendment lists sites that the Borough would be hopeful of obtaining some time in the future. The Borough has stated that it will purchase these properties from willing sellers. Mr. Hakim explained that having an inventory to choose from allows for better negotiations. He explained that this is the first time that the program has permitted communities to take an entire inventory, prioritize the sites and take action on several fronts if there is a seller that enables the Borough to consummate the deal. The communities are pleased with this program and continue to apply for funds in subsequent years. The funds can extend over eight to ten years. The plan can be amended and adjusted as other properties become available. He explained the Plan in detail. He also explained the grant process and the need to act in a timely fashion. Mr. Hakim explained that the Green Acres fund is at the end of its bond issue but that the voters of Fair Lawn and the citizens of New Jersey have overwhelmingly pushed for a greener state so he suspects that despite the terrible budget deficits, there will be some room for another Green Acres bond issue.

Todd Malkin corrected some of the technical aspects regarding the ownership of the Radburn School playground and other minor corrections. He also pointed out that he felt an additional property across from Lackland storage should be added to the acquisition list. Mr. Hakim explained that the list was compiled by the committee but that this is a dynamic documents and properties can be added.

Peter Kortright added some minor corrections relative to dates. Mr. Hakim stated that the minor corrections can be made. Chairman Winston asked how the priorities were determined and Mr. Hakim explained that they were made by the Committee.

Chairman Winston questioned the emphasis on the CCRF Committee when there were many residents from various groups involved in this process and noted that the committee is a nongovernmental organization. Mr. Hakim replied that this is a history of events that have occurred.

Deputy Mayor Owen McCarthy commented that some of the document is simply a historical narrative. Harvey Rubinstein had concerns that adoption of the amendment could lead to the Council using eminent domain to acquire properties. Mr. Hakim replied that the report clearly states that it is the commitment of those who put this plan together to deal with only willing sellers.

Deputy Mayor McCarthy asked if the Board approves this amendment this evening with the minor corrections, how the application process would work. Mr. Hakim explained that the Borough would await the determination of the State whether they would receive a grant. The Borough would then proceed with attempting to acquire a property on the list. For a reasonable price, the community will be preapproved by Green Acres.

Todd Malkin questioned the emphasis on one private group since there are many community elements contributing the movement for acquisition of open space. He did not think it was appropriate to emphasize one nongovernmental group in a document that was becoming part of the Master Plan.

Chairman Winston opened the matter to the public.

Louise Orlando, 12 Arlington Place, Fair Lawn, stated that she agreed that this document should be as favorable as possible to obtain funding from Green Acres but there were a few inaccuracies. She noted that some of the acreage was inaccurate and that two parks were not listed. Ms. Orlando noted that the Haywood tract was never used for recreation but had been an industrial site. She also stated that Daly Field was at one time used by the public only for recreational purposes with Radburn Association's permission. She noted that some of the meetings listed as CCRF meetings were actually town-wide meetings. Ms. Orlando noted that she believed that the speaker indicating that a ten acre parcel was purchased with the assistance of grant money was a little misleading since the grant funds were \$400,000 and the residential property owners are paying over \$5,000,000 in bonding. Peter Kortright stated that he doesn't find the statement misleading in the amendment as it only states what the gentleman said and grant monies were used. Ms. Orlando pointed out that as stated by Mr. Malkin, the Radburn School basketball court is not Board of Education property. Ms. Orlando added that the original Radburn Park design did not designate Daly Field be a park as it was acquired somewhere around 1941. She also pointed out that Archery Plaza does have an access to the street along Topps Cleaners.

Honey Morgenstern asked about the location of the parks Ms. Orlando had noted and was given approximate locations which were added to the plan.

Peter Kortright and Todd Malkin requested some corrections. Douglas Bern opined that since the corrections are minor in nature, the Board can adopt the document this evening, as corrected.

Deputy Mayor McCarthy noted the importance of the application and urged his fellow members to adopt the amendment.

Chairman Winston opened the matter to the public.

Paul Shansky, 9-05 12<sup>th</sup> Street, stated that it should be noted that this document reflects the will of the people and even if it is part of the master plan, it is subject to change. He also noted that it was a commitment since the municipality has to provide an equal amount of funds.

Maureen Moriarity, 14 Bern Place, commented that she does not believe that naming a private committee is inappropriate and that it may help in obtaining grant money from the State because it was driven by the people and that it is a plus for the Borough. Chairman Winston stated that his problem was not the mention of the CCRF. There have been individuals involved who are independent of CCRF. The entire town voted for the open space referendum. Some of the wording of the document gives the impression that CCRF was the complete and only moving force behind this goal which he believes is inaccurate. Deputy Mayor McCarthy agreed it was a town-wide movement.

Mr. Konneky, 350 Plaza Road North, Fair Lawn, stated that regarding CCRF, the point is that you had a bunch of citizens who were brave enough to fight for open space and it sounds like the Board didn't want to give them any credit. Chairman Winston disagreed. Mr. Konneky began listing the open space properties in the amendment and Chairman Winston stated that the Board was not here for a recitation of what is already listed in the document but was here for comments on the document itself.

Cathy Moore, 13-16 Plaza Road, thanked the open space committee for their hard work. She also noted that Archery Plaza has been used within the last six months for recreational purposes and she felt it was important that this notation remains in the amendment.

As no other public wished to be heard, Chairman Winston closed the time for public comment.

Peter Kortright moved that the Open Space and Recreation Plan, as amended, be adopted and the following resolution be adopted by the Board.

**WHEREAS**, the Planning Board of the Borough of Fair Lawn, Bergen County, State of New Jersey, adopted its current Master Plan and amendments thereto pursuant to NJSA 40:55D-28, most recently on December 12, 2005; and

**WHEREAS**, the Master Plan includes an Open Space and Recreation Plan pursuant to NJSA 40:55D-28b (2); and

**WHEREAS**, upon notice duly provided pursuant to NJSA 40:55D-13, the Planning Board of Fair Lawn held a public hearing on the Amendment on May 1, 2006; and

**WHEREAS**, the Planning Board has determined that the Open Space and Recreation Plan for participation in the Green Trust Planning Incentive is consistent with the goals and objectives of the Conservation Plan Element and Recreation, Park and Open Space Plan Element of the Master Plan and that the adoption and implementation of the Open Space and Recreation Plan is in the

public interest, protects public health and safety and promotes the general welfare;

**NOW, THEREFORE BE IT RESOLVED** by the Planning Board of the Borough of Fair Lawn, Bergen County, State of New Jersey, that the Planning Board hereby adopts the Open Space and Recreation Plan for participation in the Green Trust Planning Incentive.

Todd Malkin seconded the motion which was unanimously adopted. AYES: D'Arco, Neggia, McCarthy, Kortright, Malkin, Cohen, Rubinstein, Palmieri, Winston NAYS: None

Chairman Winston recessed the meeting for 5 minutes at 9:15 p.m.

**Reduce Corporation, Block 5903, Lots 7-11, 38 & 39; Maple Avenue; site plan**

Chairman Winston announced that due to time constraints, the Reduce Corporation application will be carried to the Board's meeting of May 15, 2006, without further notice.

**Margand Enterprises; 24-12 – 24-28 Fair Lawn Avenue; Block 3605, Lots 1 and 2; site plan**

Dr. Michael Cohen recused himself from this application. Todd Malkin commented that he is a member of the Economic Development Corporation and a presentation was made to that group by the applicant. Mr. Malkin added that he has not prejudged the application and will consider it on its merits.

Steve Mainardi, Esq., appeared on behalf of the applicant. He explained that the application arises from the client's desire to lease space to Panera Bread. The applicant is seeking minor site plan modifications for an outdoor café area, decorative lighting and a new screened dumpster area. The site currently provides 199 parking spaces where 262 spaces are required. In addition, there is some question whether the outdoor café conforms to the ordinance since the requirement is that the café be in front of the building. Due to the configuration of the site, it makes more sense to have the café on the side and it meets all other requirements. The applicant is also seeking waiver of the requirement to have tables and chairs brought in at night with the understanding that if it becomes a problem, the applicant will remedy the situation. Mr. Mainardi explained that the main entrance will be at the front. They plan on improving the seating area with landscaping. They will use the curb as it exists. The Council has indicated that they would have no problem relocating the bus stop.

Richard Mainardi, Jr., Oakland, New Jersey, was sworn in and explained he was the property manager for this property for the past 13 years. He explained some

of the history of the site and the movement of Goodman's Hardware store. They met with community leaders who indicated that a good restaurant with foot traffic would be an improvement for the area. Panera's Bread fills the need to make this a more downtown area and at the same time, the applicant intends to upgrade the site and make improvements to the façade. If approval is granted, they intend on moving forward as quickly as possible. With regard to the seating on Plaza Road, Mr. Mainardi testified that it is more practical and will beautify the area. He further testified that at one time they had problems with commuters parking in the lot. Since they have remedied that problem, there is always ample parking in the rear. He further testified that the parking area directly in front of and behind the intended Panera's area is usually empty. Mr. Mainardi also stated that each store has its own dumpster and the applicant intends to relocate the dumpsters and enclose the area. Todd Malkin asked about the outdoor seating and was told that the outdoor seating is an integral part of Panera's business.

James Nawn, 65 Hundreds Road, Wesley, Massachusetts, was sworn in and testified that he is a franchisee of Panera Bread. He explained the need for the seating and testified that the application submitted regarding the detail of their operations is accurate. The hours of operation will be no earlier than 6 am to 11 pm. There will be no more than ten employees at the site with a total of 50 employees on the payroll of the store. He explained the deliveries to the site which include a daily delivery from their commissary and a dairy and produce delivery two or three times a week and from our food distributor. He explained that they bake bread, cookies and danish on the premises. With respect to the outdoor seating area, they plan on having four tables with four seats at each table. He explained that they do not fasten the seats down as this enables people to move them for their convenience. Mr. Nawn testified that in his experience leaving the seats out in the evenings has not led to any problems. There is usually staff on the premises 24 hours a day. He added that if leaving the seats out becomes a nuisance, then they will bring them in. Harvey Rubinstein asked if the basement entrance would be used and, if so, asked that it be fenced. He also commented that the slabs to the rear fence entranceway be improved as well as the broken pavement/concrete so that the area is more pedestrian friendly. Mr. Nawn stated that they would not use the basement entrance and if their plans changed, they would secure the area. Harvey Rubinstein asked how they would separate the outside seating from the walkway and Mr. Nawn explained that they typically provide a wrought iron fence. Harvey Rubinstein replied that this should be a condition of approval. He was also concerned about wind with the umbrellas. Mr. Nawn explained how the umbrellas were anchored. He also stated that they take precautions when there is bad weather. Mr. Nawn testified that they do not intend on taking any trees down. Peter Kortright suggested that since most of the parking is in the rear, that patrons be encouraged to enter through the rear. He suggested that there be some signage. Mr. Nawn stated that if the Board approved an awning and/or small sign, they would be happy to install it and it is in their interest to encourage

customers to enter through the rear. Mr. Rubinstein suggested that the entrance to the lot be widened and Mr. Mainardi stated that they did not intend to do that at this time. Alan Neggia commented that the tenants coordinate the tractor trailer deliveries so that there are not three large trailers in the lot at the same time. Mr. Mainardi commented that no matter what tenant is there, there will be tractor trailer deliveries. Chairman Winston stated that the tenants should do their best to coordinate the tractor trailers deliveries. Alan Neggia asked about curbing along the bus stop in the event it is not moved. Joseph D'Arco suggested that they might consider hiring a parking lot attendant. Mr. Nawn explained that their busiest times is 11:30 am to 1:30 pm and the other stores in this mall do not have their peak traffic during lunchtime. In addition, he explained that their most successful stores are when customers make multiple stops. Mr. Nawn explained that 6 am is late for their deliveries and it is in their best interest to get them in and out as quickly as possible. It would not be possible to break it down and have smaller trucks make the deliveries.

David Newkirk, EIC Group, 420 Route 24 East Fairfield, New Jersey, was sworn in and qualified as an expert engineer. He testified that he prepared the site plan and that the parking calculations on the site plan are accurate. The site plan revised to March 15, 2006 was marked as an Exhibit A-1. Mr. Newkirk explained the changes to the site including the dumpster enclosure. He explained the outside café eating area and he stated it will be located within the front and sidelines of the proposed Panera Bread Store. Mr. Newkirk stated they reviewed the parking areas to see if there was another configuration that would produce more parking and they found that reconfiguring the lot would not add parking spaces. The width of the front sidewalk is approximately 10 feet and Mr. Newkirk testified that there are bollards and other obstructions in the front of the store so it is not practical seating which is why the outdoor café is designed to be on the Plaza Road side. Chairman Winston asked if it was possible to fence in the CVS dumpster. Mr. Mainardi stated that it may be a problem with their lease but if they are able to do it, they will. He also explained that they will repair any sidewalk that requires repair. Mr. Rubinstein commented that he felt some important details were missing from the plan.

Peter Kortright commented that the curb needs to be installed by the previous bus stop. He stated that there is a flat catch basin where they are proposing outdoor seating and Mr. Rottenbacher stated that pavers can be integrated into that area. Mr. Kortright stated he also wanted some protection for the trees so they are saved.

Alan Weitzman was sworn in and qualified as an expert architect and professional planner. Mr. Weitzman testified that he prepared an aerial view of the center which was marked as Exhibit A-2. An eye level view from Plaza Road looking west prepared by Mr. Weitzman was marked as Exhibit A-3. Mr. Weitzman explained that he was involved with some studies for redevelopment of the Radburn area. The general area had become old and tired although there

were some good elements. He believes this application includes those design elements and creates a very appealing plaza. Presently, it is virtually flat and it is not very exciting. The Mainardis have decided to upgrade this building substantially. He stated that this project is interesting to him as a designer and planner. He explained the façade, colors, and architectural detail including the pavers. The back lot will have added trees. He testified that he believes it will help revitalize the area. Chairman Winston suggested that the applicant check with the Borough to see if there were additional available trees.

Chairman Winston stated the current site plan does not show some of the detail as pointed out by Mr. Rubinstein. The applicant said he does have a construction drawing and it will show all the detail. The applicant would be willing to submit a copy to the Board. Mr. Rubinstein added that the State passed a law that Planning Board members need to be certified because they recognize the importance of the role. He added that at a recent course it was emphasized how important it is that Board members ask questions to protect the town.

Chairman Winston opened the matter to the public.

Greg Miller, 5 Ramapo Terrace, stated he is concerned is about the dining area and a car coming into the area. Mr. Miller asked about the baker on the premises and was told that there will be a baker on the premises in the evening. He asked about the firewall and Chairman Winston explained that the interior will be up to Code and there will also be an inspection by the Fire Prevention Bureau. Mr. Miller asked if there would be improvements to the sidewalks in the rear of the property and was told that any sidewalk that is deteriorated would be replaced.

Felice Koplik, 6 reading Terrace, stated she is excited to see something happen to the shopping area and agreed that it is need of an upgrade. She also believes it will be beneficial for all the businesses in the area. She commented on the pedestrian safety in the area and wondered if there could be a walkway in the lot. Ms. Koplik also suggested that the fence along Warren Road be upgraded.

June Myerson Place, 15 Ballard Place, stated that the plan looks wonderful but she had concern about youngsters congregating, particularly in warm weather, after 9:00 pm.

Larry Koplik, 6 Reading Terrace, suggested that there could be a cut into the fence creating a walking lane. He added that stop signs could be placed at the traffic aisles and the rows can be divided.

Dr. Michael Cohen, 38-48 Vanore Drive, stated he is a tenant in the shopping center since 1998. He believes it is a good center of town. He does not object

to the kids hanging out. He also commented that he closes at lunchtime and he does not use his parking spaces during that time.

Harvey Rubinstein stated that he is concerned about the odors from the ovens and Douglas Bern responded that the applicant will have to comply with the Code.

Peter Kortright stated that the concept with the Borough is to add more greenery and thinks more should be done along Plaza Road, not just trees but some additional low-lying landscaping. If the bus stop is relocated, the applicant replied that it has no problem with the providing a landscaping plan for that area. Chairman Winston suggested that the applicant consider providing planters and the Garden Committee would provide the plantings and help beautify the area.

Chairman Winston asked if there will be somebody on premises during normal business hours that has some authority. Mr. Nawn explained that the unit will have a general manager who is responsible for the full operation of the unit.

Peter Kortright moved that the application be approved granting the variance of 63 parking spaces and the location of the outdoor café on the side, granting the applicants sign variance including sign height, letter height, awning sign, the number of signs, and additional awning sign and/or identifying sign at the rear, granting a waiver of the requirement that the furniture be brought inside each night with the understanding that if it becomes a nuisance the applicant will adjust to resolve any problem, subject to submission of landscaping plan, a fence to be installed by the outdoor café area, curb cuts on Plaza Road to be eliminated and new curb installed, protection of the existing trees, pavers to be integrated with flat catch basin, increased landscaping along the Plaza Road, a revised site plan to be submitted within 45 days showing the existing conditions and conforming to the checklist, repair of the rear fence on Warren Road, repair of the sidewalk on Warren Road, new sidewalk slab in the rear entranceway and closing the basement entrance or, if used, making the area secure. Todd Malkin seconded the motion which was unanimously approved. AYES: D'Arco, Neggia, McCarthy, Kortright, Malkin, Rubinstein, Cassidy, Palmieri, Winston

Upon motion by Alan Neggia and a second by Joseph D'Arco, the meeting was unanimously adjourned at 12 midnight.

Respectfully submitted,

Cathryn Hochkeppel  
Secretary of the Board

