

**MONTGOMERY TOWNSHIP PLANNING BOARD
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY
REGULAR MEETING
SEPTEMBER 21, 2015**

MINUTES

Chairman Conforti called the meeting to order at 7:30 p.m. and read the opening statement that adequate notice of the meeting had been posted and sent to the officially designated newspapers.

BOARD MEMBERS PRESENT: Chairman Conforti; Vice Chairman Matthews; Ms. Davis; Mr. DeRochi; Mayor Madrid; Mr. Mani; Mr. Smith; Mr. Wilson

ALSO PRESENT: Mr. Linnus, Board Attorney; Mr. Cline, Board Engineer; Mr. Sullivan, Board Planner; Mr. Fishinger, Traffic Engineer; Ms. Savron, Secretary

I. SALUTE TO THE FLAG

II. PUBLIC COMMENT

There was no public comment.

III. RESOLUTIONS

Case PB-05-15 Applicant: K. Hovnanian at Montgomery, LLC
Block 28001 Lots 5.03, 5.04, 5.05, 5.44-5.78 inclusive, 5.113-5.118 inclusive, and Lot 5.119
Amended Preliminary and Final Major Site Plan with Variances

A motion to memorialize the resolution was made by Mr. Wilson, which was seconded by Ms. Davis. This was carried on the following roll call vote:

Ayes: Davis, Madrid, Matthews, Wilson and Conforti

Nays: None

IV. SWEARING IN OF PLANNING BOARD TRAFFIC ENGINEER

Joseph Fishinger with Dewberry Engineering, 133 Gaither Drive, was sworn in by Attorney Linnus.

V. APPLICATION

Case PB-06-15 Applicant: Country Club Meadows, LLC
Block 4001 Lot 33
Block 6001 Lot 1
Block 5023 Lots 2 & 3
Preliminary Major Site Plan and Subdivision with Variance
Expiration Date – 10/17/15
Affidavit of Notification and Publication Required and Previously Found to Be In Order

Ron Shimanowitz, Esquire appeared on behalf of the applicant. At last month's meeting, the Volunteer Fire Company came forward with some objection to utilization of Covert Drive so the Board asked the applicant to take a look at Covert Drive. A plan has been submitted that focuses on the Fire Company's property, Covert Drive and how the two properties will interact with each other. The applicant would like to open their case to present the plan to the Board for consideration.

Joe Staigar, who remains under oath, explained the new plan. In response to concerns from the Fire Department the applicant is proposing a signalization and signage plan. The plan entitled "Pedestrian Crossing and Fire House Signage" prepared by PS&S dated 8/27/2015 was marked as Exhibit A-9. A pedestrian crossing located opposite Covert Drive is being provided. The pedestrian crossing will be a beacon pedestrian crosswalk and will have two signs on either side of it facing in the westerly and easterly direction. It will be push button activated. Approximately 175'-200' to the east and west of the beacon signs are a pedestrian warning signs. The other signage, for the firehouse, is located at the southeast corner of the intersection of Covert Drive and Belle Mead-Griggstown Road. On either side of the firehouse driveway a flashing sign facing east and west will warn of fire truck activity. The sign will be activated by the Fire Department by some means to be worked out. In addition to the flashing beacons on Belle Mead-Griggstown Road there will be a warning sign approximately 175'-200' to the east and west of the driveway. A firehouse beacon is also proposed opposite the Covert Drive driveway, which will flash at the same time as the Belle Mead-Griggstown Road signal flashes, to alert the motorist that may be leaving the commercial area via the Covert Drive driveway. Although not shown on the Exhibit, Covert Drive will be widened to 28' down past the southerly access to give more room for cars to pull over for emergency vehicles. He believes the traffic signal at Belle Mead-Griggstown Road and Route 206 has opticom equipment installed. The applicant will make sure that system is in operation as part of this application. Mr. Staigar opined that with the proposed crossing and signage improvements the two uses can operate in a safe and efficient manner.

Mr. Fishinger questioned Mr. Staigar. The plan will need County approval and may need to be modified to meet the County's requirements. The 28' is a RSIS standard for a residential road and will work in this instance. Signage will be installed on both sides of Covert Drive to ensure there is no parking.

Mr. Fishinger explained that the opticom system is a flashing strobe light that picks up the sensor on the fire truck and changes the traffic signal. It is set up for whatever fire truck is programmed to that system.

Michael Sullivan said most of his comments have been agreed to. There is a question about the extent of land in the gross tract area with respect to the number of trees that are required. Mr. Fleming said the tree replacement is based upon the net disturbed areas. There is a challenge getting all the required trees in the available space. The roads were segregated out of the developed area calculation because the roads have a standard for shade tree planting at 50' intervals.

Jason Cline referenced Mr. Mondri's comments that were received on September 21st requesting that unpaved fire lanes are to be constructed per Code, opticom device installation and numbering on buildings, stores and apartments must be approved by the Fire Prevention Bureau so they can be seen by emergency responders. Mr. Cline asked if the 20' stub in the residential lot area near Road G is intended to be the access to the railroad the Fire Department asked for. Mr. Fleming responded that there are some delineated wetlands and drainage features in that area. It is meant to give access to the common open space between the railway and the rear of the lots. It is not for heavy or Fire Department access. The Fire Department access will be provided in the Transit Commercial area.

Mr. Conforti opened the meeting to the public to question any of the witnesses.

Rob Simon, Esquire appeared on behalf of the Montgomery Fire Company.

Mr. Simon questioned Mr. Fleming on the zoning table for Belle Mead Plaza. Mr. Fleming said the calculation of the retail office space is approximate because there is always some soft space between preliminary design and final architectural design for common spaces. The retail office space is considered to be a maximum threshold but it could drop down. If it drops down it will not affect the residential square footage. Mr. Simon asked about the variance relief being requested and why the size of the retail office can't be reduced to comply. Mr. Fleming said that when looking at the overall complex they are providing a full-fledged affordable housing component that makes sense; that people can live in. They can design to any standard and this is the proposal before the Board. An alternate plan has not been submitted. Mr. Simon asked if there is anything about the property that prevents the applicant from complying with the ordinance, whether it is gross floor area, maximum lot coverage, minimum parking setbacks, etc. Mr. Fleming replied there were plenty of reasons they designed it as they did. It could be redesigned to meet the requirements but the plan as presented makes a superior plan. Mr. Simon said this portion of Covert Drive is not identified on any of the applicant's plans by name and noted other public roadways are identified by name. Mr. Fleming replied he did not know of any reason why it wasn't named. Mr. Simon asked how Mr. Fleming knows that section of the roadway is actually Covert Drive. Mr. Fleming replied from a licensed boundary survey compared by his company for this project. The licensed boundary survey shows the metes and bounds of Covert Drive. He knows its Covert Drive from Deed research, from the physical presence of the road and the metes and bounds that define that corridor. He did not know whether it was adopted by Montgomery Township. Mr. Simon asked where the measurement is taken to define the distance from a parking space to a lot line or right-of-way line for the bulk variance relief; whether it is from the space itself or the nose of the vehicle. Mr. Fleming replied the setbacks are taken to the physical curb and potential overhang is not taken into account. When the spaces are of adequate size there typically is not an overhang. Mr. Simon asked if the proposed retail office space permits any type of restaurant use and if the parking calculation for restaurant use was taken into consideration. Mr. Fleming said it could and they have anticipated a certain percentage of restaurants between Belle Mead Plaza and Pike Run Plaza. They don't know how leasing will work out but they have worked out sufficient parking overlap between the two projects to make sure they can accommodate the extra parking required by a restaurant. Mr. Simon asked what would happen if there were numerous restaurants on the Belle Mead Plaza site. Mr. Fleming replied there is a threshold which can't be exceeded for both wastewater and parking and traffic. Mr. Simon asked if there will be a deed restriction on the maximum number of parking spaces. Mr. Fleming replied that the parking is calculated based on general retail with some surplus spaces. Mr. Simon asked if there has been any calculation for a medical office use as opposed to a general office use as opposed to a professional office use. Mr. Fleming said they have not made distinctions between those types of offices. Mr. Simon asked if there was anything that prevents those proposed uses. Mr. Fleming replied there is not. Mr. Simon asked where people would park if they run out of parking on a particular day. Mr. Fleming replied that they are not planning to run out of parking. They did not take into account shared parking between day and night uses. During the day there will likely be more than needed and at night there are more than needed for the residents. Atlantic Realty will strive hard to make sure the tenant, both residential and retail, are well served. Deficient parking is bad for business. Their leasing operations will successfully limit the uses to the available parking. Mr. Simon asked if the plan is to specifically designate certain spaces on the site for the residents. Mr. Fleming replied that they have not designated differences between residential parking and consumer parking. It is logical that the parking in the rear of the building would be favored by the residents. Mr. Simon asked who the intended user of the playground area is. Mr. Fleming replied it is for the Township to define. It is part of the overall Montgomery Park system. It should be open to the public. Mr. Simon asked where parking and access to the playground is provided. Mr. Fleming replied that they have not discussed public parking or access for the playground. Mr. Simon asked Mr. Fleming to identify the retaining walls within the front yard that are greater than 4'. Mr. Fleming replied they are in the retention basin. Mr. Simon asked about the truck deliveries. Mr. Fleming said the truck deliveries could come from Route 206 and Covert Drive. There is a secondary access into the site from Covert Drive. There is small area that is being subdivided from the larger 5-acre

tract to supplement the cartway for Covert Drive so a reverse curve can be made and continue through to the south. Trucks tend to like a counter-clockwise movement so they will likely come in from Route 206 travel behind the stores and then leave through Belle Mead-Griggstown Road. Mr. Simon asked what leads the applicant to conclude that a retailer that has deliveries with a tractor trailer will not look at this site. Mr. Fleming said it is not practical but he isn't a leasing agent. The delivery times can be restricted by the owner. There could be 8 to 10 tenants in the site. Mr. Simon asked if there would be soil movement and grading work to Covert Drive on the firehouse side of the right-of-way. Mr. Fleming said the widening of Covert would be to the west, not towards the firehouse property. Mr. Simon asked if this would exacerbate the variances the applicant is seeking. Mr. Fleming agreed the deviation would be greater. The widening of Covert Drive was suggested by the Township to provide an adequate lay-by for first responders. The setback from the parking to Covert Drive will be reduced by 3'. Mr. Fleming reviewed the grading plan and just to the south of the last entrance to the Fire Departments parking bay there is some necessary adjustment of the grade to accommodate the reverse curve elevation wise. Mr. Simon asked if Mr. Fleming was aware of whether there is a section of the Township Land Development Ordinance that identifies that zoning district boundary lines are intended to follow street center lines. Mr. Fleming replied that generally speaking it is good planning practice. Mr. Simon asked if the Township has plowed or made any repairs to the section of Covert Drive since the Fire Company took ownership to the lot to the east. Mr. Fleming is not aware of how Covert Drive is maintained. He does not know if it is a private or public street. Mr. Simon asked if Mr. Fleming was aware of any correspondence from Township Officials regarding Covert Drive not becoming a dedicated public road. Mr. Fleming said he is not aware of any correspondence. There will be no parking allowed on Covert Drive. Yellow striping can be installed off the curb designating fire lanes with no parking signage that would be enforced by Ordinance. Mr. Simon asked if the applicant has considered matching up the primary access to this site to match up with the access for Pike Run. Mr. Fleming said it was a concept they explored when they learned of the Fire Department's concerns. Getting County approval for that plan would be difficult, especially if Covert Drive were to be a public right-of-way. The centerline distance between the new intersection and Covert Drive would be too close. They did not discuss the alternative with the County. Mr. Simon asked if the Fire Company has been contacted to determine their largest emergency response vehicle. Mr. Fleming replied that he did not know what the designer used for the template. Mr. Simon asked if widening of Covert Drive to 28' is standard for a roadway that is intended to be shared by a strip retail center and a fire company. Mr. Fleming replied that under RSIS for the quantity of traffic flows and it is a slow velocity road, a 28' cartway with no parking on either side could easily accommodate a layby lane and movement in two directions. There are components of the plan that must comply with RSIS, however, trying to apply RSIS to Covert Drive is a stretch but in search of standards there has to be some level of care. Mr. Simon asked if the stormwater calculations took into consideration stormwater runoff from Covert. Mr. Fleming said he does not think it gets into the basin itself. The obligation is for dealing with the impervious coverage and alterations within the overall site. The stormwater ponds are taken as impervious coverage in the calculations.

Mr. Shimanowitz redirected. Sheet C3 and PP8 of the plan set prepared by PS&S were referenced. Covert Drive is identified on Sheet C3. Mr. Fleming described Sheet PP8. It is the preliminary plat that shows the preliminary subdivision of the 5-acre lot to provide the area required for the reverse curve on Covert Drive to align it to continue on towards the south. The plan was prepared by a licensed surveyor. PP8 shows Covert Drive and labels it. The plan shows a 50' right-of-way. Mr. Shimanowitz showed a major subdivision plan of Lot 1 and 12, Block 6001 which was marked as Exhibit A-10. The map has the Township Official's signatures, the Somerset County stamp and filed map no. 2883. This plan created the Belle Mead Plaza lot and the firehouse lot. It also created a 50' right-of-way which is now referred to as Covert Drive.

Mr. Simon asked Mr. Fleming questions about Exhibit A-10. Mr. Simon marked Tax Map Sheet 25 as Exhibit O-1. Mr. Fleming confirmed that the 50' right-of-way on the tax map is not identified by street. The right-of-way ends at Lot 12 which is owned by Montgomery Township.

Mr. Linnus said at the end of the last hearing an issue was raised as to whether Covert Drive was public or private. The Township has looked into the issue. It is Township Attorney Hadinger's position on behalf of the Township that Covert Drive is a public road. Mr. Linnus reviewed some documentation and concurs with Ms. Hadinger's opinion. In 1991 or 1992 the Planning Board granted subdivision approval to Bellemead Development Corp. with a dedication of a right-of-way to the Township. The Township through use of Covert Drive has established that it is a public road. In 1996, the Township appropriated money for the construction of Covert Drive. If the objector is going to contend that Covert Drive is not a public road, the burden shifts to the objector to establish that.

Mr. Simon questioned Mr. David Delle Donne. Mr. Delle Donne remains under oath. Mr. Simon asked a question about Exhibit A-5. Mr. Simon noted that the green area in the rendering does not seem to match up with the engineering plan and he asked if the engineering plan was reviewed before this exhibit was prepared. Mr. Delle Donne replied that the green area is typically the grass area or basin area as part of the site plan. It may be a view from Route 206. Mr. Simon asked questions about the car shown in the picture and the parking spaces and about the ingress/egress from the apartments on the second floor. Mr. Delle Donne replied that there are three stairwells. He referenced the floor plan sheets and showed where they were located. The truck deliveries will load into the rear doors of the retail stores.

Mr. Simon questioned Mr. Staigar. Mr. Simon referenced Exhibit A-9. Mr. Staigar testified that a queuing analysis was performed for Covert Drive and it is part of the Traffic Report. The existing users of Covert Drive were not considered in the analysis. A traffic count was not taken at that location because it is very dependent on when there is non-emergency versus an emergency. There is an analysis in the Traffic Report that provides the calculated queues on Covert Drive. The report did take into account future development that is anticipated in the community. The future development of Pike

Run, the portion of the municipal lands to the south of the project, cars using Covert Drive but not going to the retail center and firehouse member cars were not taken into consideration. Principles of RSIS apply to Covert Drive and are based on traffic engineering standards and proper engineering applications. With regard to the proposed increase of Covert Drive to 28' versus any other width there are standards of what a roadway width and a parking lane width should be. When a minimum 10' lane in each direction and an 8' parking lane are added together they come to 28' to provide the ability for a pulled over vehicle and another two vehicles to pass by in a two way directional flow. It is not the applicant's intention to stripe Covert Drive, but if the Township or Board requires it, the applicant will. The intersection could be enhanced with a stop bar as well as a double yellow solid line for the length of 30'-40' to delineate the inbound and outbound. The length of a vehicle doesn't matter when doing an analysis. The width is what matters. The allowable width of any vehicle in the state of New Jersey beyond oversized limits is 8.5'. The widths of the fire house vehicles are 8.5' or less. Widening Covert Drive greater than 28' is not necessary. An assessment of the volumes not taken into account listed in earlier testimony was done to show what would happen if the volumes were increased by a certain number of additional vehicles of what the queuing would be and what the level of service will be. Without the additional traffic the queuing is in the 95th percentile and the maximum at any peak hour is 0.87 vehicles. Four to five vehicles can stack on Covert Drive before they get to the primary access drive. The speed limit on Belle Mead-Griggstown Road is 45 miles per hour. The crosswalk is not a mid-block crossing because it is located at Covert Drive. A driver will be able to see the flashing lights over 500' away. The firehouse beacons can be activated by the fire company if they wish. The beacons turning on when a call comes in to allow the firemen to get to the building versus turning on when the emergency vehicles exit the building was not analyzed. The signage and signal proposal as presented is a work in progress. They welcome comments from the fire company, Township and County. The signal is intended to be a warning to the public that there is going to be first responders and emergency vehicles entering the roadway. The timing that the beacons stay on can be determined after input from the fire company. The flashing beacons will not prevent any member of the public from seeking ingress or egress to the Belle Mead Plaza site through either the primary or secondary access. The reaction from the public will be a lot quicker with the beacons flashing to give the right-of-way to the emergency vehicles. A WB-50 tractor trailer can fit on the site. There is nothing to prevent up to a WB-50 tractor trailer from using the site. A tractor trailer larger than that would not be able to maneuver the site. The State statute on noise control will dictate when deliveries are made because of the residential use on the property. Deliveries would not be allowed on the site between 10:00 p.m. and 7:00 a.m. under the State noise statute. A concept plan was reviewed that shows an alternative access to Belle Mead Plaza that aligns with Pike Run Plaza access. A traffic analysis was not performed on the concept plan. He is not aware of how many training sessions take place at the firehouse property, the number of times a member of the fire company goes to or from the firehouse, how many members there are, what other facilities are contained within the firehouse or how many vehicles are required to respond to a call at any given time. There are plenty of situations where a roadway is shared by a fire company but he has not performed traffic counts for one. Fire lane striping could be designated if requested.

The Board took a five minute break.

Mr. Simon called his first witness, Ms. Barbara Griswold, the attorney for the Board of Fire Commissioners.

Ms. Griswold, 109 Lambertville Hopewell Road, was sworn in. Ms. Griswold testified about the concerns that the Fire District has. The Fire District is a municipal corporation that was created by Township Ordinance. The municipality's statutory obligation to provide fire protection and suppression services within the Fire District were transferred from the Township to the Fire District. The Board of Fire Commissioners has a continuing enforceable and legal obligation to provide resources to respond to and fight fires. The Fire District contracts with Fire Company No. 1 to provide the manpower and expertise necessary to provide services. The fireman and firewomen are legally deemed employees of the Fire District. They perform as much of a government function as the police department does. If the Fire District didn't exist the obligation to provide these services falls to the Township. She opined that the Township has an equal interest and as much of an obligation as the Fire District does to safeguard and promote the Fire Districts and the Fire Departments ability to provide this essential service. The application will impact the use of Covert Drive which to date has been a limited use road and its primary purpose has been limited to providing the sole source of ingress and egress for emergency fire vehicles. There will be additional vehicular traffic as well as an increase in pedestrian traffic. If Covert becomes a through street the volume of vehicular and pedestrian traffic could be substantial. A general rule of thumb is that a structure fire doubles in size every 60 seconds.

Mr. Shimanonwitz objected to Ms. Griswold's testimony about traffic volumes and how fires progress because it is beyond factual testimony.

Mr. Simon clarified that Ms. Griswold is being presented as a fact witness to lay a foundation in terms of how the fire company was created, its purpose and the services that it provides. The testimony that Ms. Griswold is presenting is relevant to building a strong foundation for the fire company's case and why they believe the application has numerous issues whereby it shouldn't be approved in its current state.

Ms. Griswold continued her testimony. Emergency response time is a major concern. If a few minutes are lost getting to a scene there can be a dramatic and devastating effect on the outcome. The changes proposed to Covert Drive unless dealt with properly and with foresight looking into emergency response will have an effect on response time. The Fire District is also concerned with its activities in running a fire district at the fire house with the proposed development. Apparatus and machinery repairs and service takes place in the fire house by outside providers during the day. During these times engine bays are open. The area is not safe for untrained and wandering people. As more people are in the

area the business of running a fire district during the day at that site can pose a risk of danger to the public that doesn't exist now. The fire district is concerned as to what is to prevent people from parking in the firehouse lot and wandering the area or for using the firehouse lot to assume the overflow parking should there be any from the Belle Mead Plaza. There is a liability concern. To fence in access to the area would further slow response time and present additional obstacles to the operation of the Fire District. The Board of Commissioners is asking the Board to recognize the pros and cons and develop the plan in a way to have the least negative impact on the provision of fire services and pose the least potential harm to those who will be sharing the emergency service roadway.

Andrew Feranda, 277 Whitehorse Pike, was sworn in. Mr. Feranda is a traffic consultant with Shropshire Associates and gave the Board his qualifications and the background of his firms work.

Mr. Shimanowitz stated that Mr. Feranda's firm has worked for Country Club Meadows on this project in pursuing a DOT permit. He suggested that Mr. Feranda is conflicted out and should not be testifying on behalf of the objector.

Mr. Feranda said he has not worked on this particular project and has not had any conversations with any of the principals of the applicant with regard to this application. He has not reviewed any information on behalf of the applicant for this application. He is unaware that his firm has done any work at all for this applicant in connection with this project.

Mr. Simon asked that they be given the opportunity to look into the situation and come back to the next meeting.

Chairman Conforti opened the meeting to the public for questions of the professionals.

The application was continued to the October 5, 2015 Planning Board meeting. No further notice will be served.

VI. MINUTES

August 3, 2015 – Regular Meeting

A motion to approve the minutes was made by Ms. Davis and seconded by Vice Chairman Matthews. The motion carried on the following roll call vote:

Ayes: Conforti, Matthews, Davis, Madrid and Wilson

Nays: None

August 17, 2015 – Regular Meeting

A motion to approve the minutes was made by Mr. Wilson and seconded by Ms. Davis. The motion carried on the following roll call vote:

Ayes: Matthews, Davis, DeRochi, Madrid, Mani, Smith and Wilson

Nays: None

There being no further business to come before the Board, the meeting was adjourned at 10:30 p.m.