

TOWNSHIP OF LOPATCONG  
SPECIAL COUNCIL MEETING

December 14, 2015

The Special Meeting of the Council of the Lopatcong Township Council was called to order approximately 6:00 pm by Mayor McKay. The meeting was held in the Municipal Building located at 232 S. Third St., Phillipsburg, New Jersey 08865.

A moment of silence was offered followed by the Oath of Allegiance.

Mayor McKay stated “adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Gazette and The Express-Times and by posting a copy on the bulletin board in the Municipal Building.”

Roll call: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay. Also present were Attorney Campbell and Engineer Sterbenz.

**Public Comment:** Motion by Council President Ciesla, seconded by Councilwoman McCabe to open for Public Comment.

Jong Sook Nee - A partner at McManimon, Scotland and Baumann was present to represent OPUS Investments, LLC the contract purchaser of the former Ingersoll-Rand site in both the Township of Lopatcong and Town of Phillipsburg. She expressed their appreciation for holding the special meeting. The Redevelopment Plan, the appropriate zoning being in place is the keystone to the project being able to be built. She referred to Page 5 noting two changes that they would like consideration. The Planning Standards for development. The minimum building setback from US Rt. 22 from Lock Street states 150 feet. They would like consideration of an average of 150 feet. This will allow a little more flexibility in the footprint of the building. The second is on Page 6 the maximum Floor Area Ratio. Currently at standard of 0.228 – they would like that to be increased to 0.3. The sole reason for these two changes would give them the ability to maximize what can be developed on this particular site. It allows the expansion of the footprint and to change and adjust where the building is placed. A bigger building means bigger rateables. Because this is a redevelopment project, this is more of a partnership she explained. Mayor McKay asked for the documents Mr. Baumann referred to in one of his emails. Jong Sook Nee responded that she would email those documents off as they are ready.

Joe Pryor – The setback, when this goes to the Planning Board, they certainly can grant a variance which will give them the opportunity to look at the particular situation. The FAR is a little more problematic because this cannot be handled at the Planning Board. This will have to go to the Board of Adjustment which will make the process messy.

George Ritter – The redeveloper has asked the Council to consider a Redevelopment Plan that has a million square feet of floor area. The floor area ratio put forth in the Redevelopment Plan grants them that ability to have up to a million square feet of floor area in the project. Whether they put it on one floor, four floors, they can have a million square feet. The issue that they saw was if they went to .30 in the floor area – 30%, that in essence would be giving them the bonus of over 316,000 more square feet that allows the project to be a 1/3 bigger. The question is that the plan now in terms of parking and layout does not reflect any of this. It reflects a single story, one million square foot building. The Board should have the ability to judge whether the extra 30% would be fit on the site in a proper way and a way that helps mitigate some of the impact.

Jong Sook Nee – The only thing she wanted to correct was that because they are in the Redevelopment Law, the Zoning Board would not have jurisdiction. The plan would actually have to be amended in the same process.

Motion to leave Public Comment by Councilwoman Schneider, seconded by Council President Ciesla. All in favor.

Attorney Katrina Campbell provided an overview of the process. What you are being asked with the first item on the agenda is a first reading to adopt an amended and restated Redevelopment

Plan. There is currently a Redevelopment Plan on the books. This is an amendment and this amendment was drafted by Planner George Ritter after reviewing the proposal provided by the potential redeveloper. So, it is Mr. Ritter's position and I think Mr. Sterbenz has reviewed it and my office has reviewed it that this plan is compatible with what they are seeking to build on this property. Since then, the redeveloper's counsel has provided comments asking for a couple of tweaks and so what should be done tonight before first reading is address those two items. The redeveloper's counsel would prefer to be the way they've asked with the tweak but if they cannot have it that way, they would not object. Once you do first reading of the Ordinance, the resolution would follow to send the ordinance to the Planning Board. The 30<sup>th</sup> will be the second reading of the ordinance.

Mayor McKay – If we make this first step, we are not obligated to go into the other steps. The matter of the road, if you look at the language in the agreement, it would appear that the Township is going to finance and build that road.

Attorney Campbell – There is an Interlocal Agreement between the towns of Phillipsburg and Lopatcong many years ago that addressed the (inaudible). I can tell you that I just grabbed it and on a quick look, she thought those items did not apply anymore. You might want to rescind that agreement and Phillipsburg may do the same. This will be addressed but not necessarily; you don't need to address that as part of the financing of it but if you want to tweak the language of the access (inaudible).

Mayor McKay- George that is Section 4.3.1.

George Ritter – (Inaudible)

Attorney Campbell – I don't see anything in this Redevelopment Plan that says that the town has any obligation to do anything. It just talks about there will be a thorough fare that connects the redevelopment area and if you look at the plan that was submitted by the redeveloper, it is a circuitous road.

Mayor McKay – We've had an issue with another connector road and I don't want to relive that.

George Ritter – In addition to the road extending Phillipsburg, one thing we did provide in here is that Lock Street would be realigned. They're at an odd angle to tie into it. Whatever the improvements are (inaudible). So, there is two elements in the Circulation Plan; the connection back to Phillipsburg and the (inaudible) of Lock Street into that plan.

Council President Ciesla – Would we be able to take out that statement?

Mayor McKay – If it is not applicable, we can take the statement out.

Council President Ciesla – This one; Lopatcong and Phillipsburg have executed an Interlocal Service Agreement that facilitates financing and planning for the connector road.

Attorney Campbell – Yeah.

Council President Ciesla – If we just remove that. Since it is not even applicable to this situation.

Attorney Campbell – Correct.

Mayor McKay – Yeah, I don't like things in the agreement that are not applicable it brings confusion in the future sometimes.

Attorney Campbell – Taking just that sentence out seems to take out all references to

Mayor McKay – And then there was in 4.2.1. I may of misread it but something to the effect that the entire redevelopment area; 103 acres, may be acquired by the Township in furtherance of the redevelopment area.

George Ritter – Well, it just meant it left you the option to do that; it says may; you don't have to do it.

Attorney Campbell – That's the basic premise of Redevelopment Law that we have the right not the obligation, so, I recommend you leave that in there. That just gives you rights that you wouldn't otherwise have. So, I would not recommend taking that out.

Council President Ciesla – You need to renumber the relocation. I think you may change 4.2.1; it should be 4.2.2 at the bottom of Page 12.

Attorney Campbell – You made the one change regarding the connector road. I recommend you have discussion regarding the Floor Area Ratio and George already started speaking on the Floor Area Ratio, so, maybe you want to do that one first.

Mayor McKay – One other one with the traffic study.

Attorney Campbell – That is a Site Plan issue. You don't need to do that for your (inaudible).

Mayor McKay – We don't need to, but wouldn't it be more advantageous to have that upfront?

Attorney Campbell – Until you know what they are going to build, you're not going to need the Site Plan

Mayor McKay – Why (inaudible) what they're going to build (inaudible).

Attorney Campbell – (Inaudible). I'd defer to George.

George Ritter – We had requested that (inaudible) required to supply the traffic study when he makes the submission to the Planning Board is the way it would normally happen. We had put it in the need to have a traffic study when the redeveloper applied to the Planning Board because it would be at that point he would know what he is actually asking for. One of the, just to give you an example, the current Redevelopment Plan shows a single one story million square foot building but the Redevelopment Plan allows a mix of uses; office, office research, warehousing. We know what the applicant, the redeveloper would like to do know but let's say he decides he wants to do four story office buildings, well that would have a different impact on traffic then a million square foot warehousing and the truck traffic that comes with it. So, depending on where he ends up when he applies it, would make a difference. So, I would think it would be most useful to address a traffic study when he actually makes a submission. What this is doing is giving the Planning Board the tools to evaluate the impact. They can get a traffic study, they can look at it and see how it is going to occur, but the part of having it done now, is the only thing I will say is we don't know if that's the plan. So, he'd go through the exercise and the money being spent to evaluate the impact not only from coming and going at that intersection but several intersections down the road in terms of a full blown traffic study and I'd think it be more useful than just have it based on what he thinks, he really intends to build. Hopefully, it is what he showed us but we don't know that because like I say, the ordinance allows buildings up to 50 ft. in height but you can do a four story office building if that is one of his choices. The current building is a million square feet, 2,000 feet long – one building. He could break into two; he could break it into three. We don't know.

Mayor McKay – Initially it was two buildings.

George Ritter – Well, that's probably before my time. When I got involved, it was one building.

Mayor McKay – 1.4 million I think they added up to.

George Ritter – Oh, okay because the one I looked at was a million square feet. That's what is proposed today.

Mayor McKay – Okay now, you speak of traffic from the one million square foot building but in as much as this is going to be the main entrance to the entire site which is another six million square feet in Phillipsburg buildings, wouldn't that traffic study be for both?

George Ritter – Yes, well, they'd have to address the residual traffic. I think the applicant, if I recall correctly, is proposing 4 million in Phillipsburg, in that range. So, yes the study would have to, the 22 intersection has to be able to accommodate not only what he is proposing in Lopat but has to accommodate everything he intends to feed through it. It will become the most significant access to this property. So, he'd have to address it all. He'd have to look at that, he'd have to look at how it works, the number of turning lanes, that whole thing.

Attorney Campbell- George, I think what the Mayor's concern is that if Lopatcong doesn't get built right away, and Phillipsburg does, that there would be, he's concerned about the impact that they came through before they ever came for a Site Plan in Phillipsburg.

George Ritter – Well, they'd still have to go for a Site Plan here though to get across it. So, he'd have to come back and actually submit if that's all he was going to do, he'd have to submit for the road which would bring the same traffic study because he would also have to apply to the State for the new intersection on 22. So, I don't think he can avoid addressing that at some point even if he chooses to do all of Phillipsburg before he ever got to anything in Lopat. That would address not only volume but is the street the proper width, does it have the proper turning radius as the grades, it would be an evaluation of the whole proposal.

Attorney Campbell – And you said evaluate that proposal would be very different whether trucks turning into that road or cars.

George Ritter – Well, yes, because if you said that all your traffic was office related; cars, normal passenger cars, the majority as compared to several hundred trucks a day, obviously, trucks even though there may be fewer trucks, they have larger impacts because they're simply bigger to get through intersections and turns, so, it does depend on what he asks for. In the end, what he decides he's going to build, what that impact is going to be. So, I'm comfortable with the idea that Site Plan, it what has to be tied down. I don't think he could side step that.

Councilwoman Schneider – Can I ask you George how accurate are those traffic studies because I've just read an article recently about Amazon and their warehouse in Robbinsville, I believe, where it is almost the same scenario as us, where one town had the building and the other town had the access road and the congestion was just, still it's ridiculous that they can't even get it under control because the employees, the trucks, now people that took a ten minute ride to bring their kids to school is now a forty minute ride and they did provide a traffic study but they're in a situation now.

George Ritter – I think the traffic study comes down to two things; one the person preparing it to the person reviewing it. In terms of being able to look at the traffic study and see if it addresses all the issues and whether it addresses all the intersections because often times the impact goes far beyond the initial, where I want to put the driveway and how it goes through the whole community and that really comes down to the applicant submitting the information and in this case, Mr. Sterbenz, the Township Engineer, would be doing the traffic review. In terms of whether he believes it was appropriately done and properly factored and also part of it, traffic engineering is probably 80/90% science and 10% gift and what I mean by that is how you allocate where the traffic is coming from today. That's, that part is where the art comes in in terms of 90% of trucks are going to come from here and 10% are from here, that's part of the art of it but I think you are in good hands here. Mr. Sterbenz has been doing reviews on many developments as long as I've been here from a traffic standpoint and I think his firm has the background to take a very hard look at it and traffic impact it would seem.

Attorney Campbell – I actually read that article too and I think at the very end of the article what they said was they believe the information that was given when they did the study and they were going back to them and telling them that they were in violation of certain things because they didn't provide all the information. They said we are going to have this many cars and they had this many cars.

Councilwoman Schneider – Exactly, that's what I mean by that, not questioning Paul's abilities at all.

Attorney Campbell – It's not the end of, I mean right now it is in Robbinsville because it is Christmas-time and Amazon is going crazy but it's not the end all-be all okay? We made this decision and we're done. They're going to go back.

Councilwoman Schneider – Right, but who wants to have that originally. Nobody wants to have that and, you know, and then you have all your residents very angry at you because now you've got no one being able to get anywhere and taking into consideration a possible asphalt plant on the other side of town. You know, if you can't get in one side and can't get in the other, how do you get home. It's just, uh, it's a really touchy subject for me because there's, you know, I'm reading these things and, yeah, that article and it started even before the Christmas rush and you know it's just a little concerning to me, a lot concerning to me.

George Ritter – Well, it should be in this case because if you believe that the applicants, the redeveloper's successful and it gets a million square feet developed in Lopatcong and several million in Pohatcong, you are looking at hundreds of trucks that have to make those moves so it can be a very significant impact and it is a very important part of the plan here, is the traffic analysis and then how they are going to address it particularly on 22 as well as several other sites; some in Phillipsburg and then another one in Lopat.

Mayor McKay – George, I don't seem to remember seeing anything in there that was really specific as to who would be responsible to build that access into the development and put up the traffic lights and build the highway.

George Ritter – Well, there is nothing in here and I'll defer to your attorney on this but, normally, how funds are spent to build something, will come out in the developer's agreement in terms of what share if any the town is going to carry versus what share the developer is going to carry. So, I suspect in that negotiation is where you will come down to how you are going to be buying up, as I say, if at all the costs, the offsite infrastructure costs, how you are going to actually pay for that. Who is going to pay for that? I would keep it in the developer's agreement myself. I think that is a much better place to put the finances. This really is, is more or less a guideline for zoning. All intense and purposes this is, uh, zoning regulations. In terms of how you develop and it really doesn't deal with finances, who pays for what that kind of thing. It sets more of a guideline for developments and I would think that the actual developers agreement is where you get into the real guts of who pays for what and who's responsible for what.

Mayor McKay – And the Township is adequately protected by going about it in that fashion Katrina.

Attorney Campbell- Yes. I would recommend that is where you do it as well. In addition, Rt 22 is a state highway not municipal. Lock Street connector road is municipal. Just to put it in perspective, you're changing your ordinance because you have a redeveloper who has a plan that is incompatible with what you have. In other towns, for example, the Township of Harmony, they have no redeveloper's waiting in the wings but they have a redevelopment area and they've created a plan and a plan is what they'd like to see there. So, it is very general and it is very well; we'd like to do use this kind of use and the reason you are making changes so you are not trying to tailor it necessarily exactly for what they are asking for. When I said that is what we did, meaning we didn't give them anymore because that's all George thought they needed but it is suppose to be a general redevelopment plan and the only reason they're here is because they can't fit in what; and the reason they can't fit in when you did it last time is because you had a different redeveloper in mind and that's perfectly okay to do it based upon someone coming to you. But I can tell you in a lot of towns, it is done hoping someone comes along and can fit within those parameters what you'd like to see so it's not very specific. The developer's agreement is when you would put in whose going to do what and that's a contractual thing.

Planner Ritter – I would also point out that this does not lock the developer into a warehouse of a million square feet. What this does is fix the Floor Area Ratio a million square feet but he could turn that into three or four buildings or three or four office buildings because it does permit, this does allow him a broader range of uses other than warehouse and he can go up, he can do what he wants, it just happens of what he proposes is a one story million square foot building.

Councilwoman McCabe – Did he propose that our side would be built first or he, does he still have the choice to whichever?

Council President Ciesla – Do which ever.

Planner Ritter – Yeah, I think he has the right to propose what he wants to do. I will say that the plans were submitted to use for review. The warehouse was shown in Phase I but that's obviously something that he could reconsider, he can rephrase it.

Attorney Campbell – I think he already put you on notice that they are considering that just because of the timing.

Councilwoman Schneider – Yes, he did state that. What is, do we know where Phillipsburg stands with this at the moment, where are they in the process? Anybody know?

Council President Ciesla – They are further along.

Attorney Campbell – I don't know exactly. They've, when we had a redevelopment (inaudible).

Council President Ciesla – Should we ask them?

Dan Gural – My name is Dan Gural, I'm the developer that you are all talking about. Tomorrow night is my final vote. Financial Agreement will be in place. The, we have tenants in tow and we had numerous tenants interested in this site and they have all had to walk away because we are not at the point where we can talk to them. So, it is important that this document be approved so that we can prove that we can develop and build in town. Does that answer your question? Thank you.

Attorney Campbell – So, does anyone have any more questions for George regarding the Floor Area Ratio?

Council President Ciesla – So if we, again, if we change the FAR to .3 they don't necessarily need to use it all but it does give them the ability to do, like you said, like a million three up to that so they can do anywhere in there and again they can go out or up.

Planner Ritter – Right, they could go out, they could go up, they could do a different combination of warehousing, office building, research labs, whatever and just give them a broader range to go to, that I guess the bottom is it, is something that you haven't seen. You haven't seen the impact on the plan that's really what you're giving up. Obviously, you'll get to see it when it comes in for Site Plan but and it is fairly significant. It is a 1/3 more square footage so I felt it was something the board, the redevelopment authority, the Council would like to see before it just happens.

Council President Ciesla – Well, I think that, the mayor saw that on the original part when he was meeting with them, it was a 1.4.

Mayor McKay – That was a whole different plan. That had an overpass and highway didn't get moved, it was a whole different plan so.

Council President Ciesla – With the setback how does this

Planner Ritter – Well, the setback, the building setback that we proposed is if you look, first of all the building itself, let's assume that what they have is what they get. The building itself is 2,000 feet long to give you an idea of the sense parallel to 22 and we were thinking that the minimum setback from the right of way of 22 should be 150 feet. The applicant or redeveloper has suggested 100 feet, so it is a shift of 50 feet.

Council President Ciesla- They actually changed it to an average of 150 feet?

Planner Ritter – They're asking. I didn't, I wasn't going to (inaudible) and I felt at least in terms of design, the place you probably want the most open, not the most open space but a place for a buffer; a place to get a little green because one thing you have to remember is that between the building and Route 22 will also be all the loading bays for the warehousing. That will be a sheet of asphalt that's anywhere from a 100 to 120 feet wide in addition to the building coming out

along which can be parked numerous trucks, loading docks, you name it. So, what we were trying to do, and by the way if you look at the Site Plan itself today, the minimum setback is 120 feet and so what we were trying to do is try to assure that we have enough room along the 22 frontage that we can at least get some buffering's, some landscaping and truthfully, based on what the applicant has, he's already met that requirement for it and I would just be reluctant to squeeze it any tighter, that's been our feeling. Obviously, if you feel differently, we can reduce that setback.

Councilwoman McCabe – Mr. Sterbenz is going to think about it as strongly as George did about that limit. Can we do a minimum, like a minimum?

Planner Ritter – Well, that's what this is – it's a minimum.

Councilwoman McCabe – So this says average.

Planner Ritter – Well no, that's what they asked for, not what I suggested.

Councilwoman McCabe – Oh, I see.

Council President Ciesla – He suggested the minimum.

Planner Ritter – I said the minimum, so, the closest the building could get to the right-of-way at 22 would be 150 feet they'd have to setback. Now, there could be parking between the building on 22 or a driveway or whatever.

Council President Ciesla – And what about the FAR Paul? Paul's opinion on the FAR was

Attorney Campbell – Paul agreed but he wasn't as adamant as (inaudible) Bill might have something (inaudible).

Bill Burr – Yeah, I think Paul's sentiment pretty much echoes what George said, you know, it was proposed in the Redevelopment Plan at 22 based on the plans, we have the concept plans we had received, so I think Paul was inclined to see it stay at that unless we saw plans that reflected it otherwise to give us a sense of what the impact was but, again, I think at the end of the day, he's deferred to you folks to make that call. Yeah, he didn't have a strong opinion yay or nay to be honest with you.

Attorney Campbell – At the end of the day, both of those items are policy decision for Council to make. The professionals are just giving their opinion and my opinion is there is no legal opinion for it. It is a policy decision.

Council President Ciesla – So, either approves it as it stands with the FAR

Attorney Campbell – Well, I think at this point, if Council is comfortable removing that one sentence from 4.31 about the connector road in the Interlocal Service Agreement and making that typo change 4.22. If someone wanted to, you know, do first reading as it stand as or you can do it, I would just say discuss what you want first and then do your first reading.

Councilwoman Schneider – There is another typo on Page 2 – it's, um, unless I'm looking at it wrong, it was 1.21 on the back, on Page 1 and it goes to 1.12 instead of 1.22.

Attorney Campbell – I see it, so the (inaudible). So, if everyone's comfortable with those three changes.

All of Council said yes.

Attorney Campbell – Have a discussion about without voting necessarily, but how does everyone feel about the one item and how does everyone feel about the second, because if we have a consensus and maybe someone makes a motion to do first reading in which ever form you choose.

Councilwoman Schneider – Okay, I guess I could start. We hire our professionals to trust their

opinion and, you know, when we don't necessarily know what the right answer is for it and I would say I would like to go with George's suggestions and keep it as is.

Mayor McKay – Anyone else have any comments?

Councilman Belcaro – I don't have a problem with always going larger, you know, asking for a bigger footprint. I've been at other planning boards where they would ask you to go as big as you can. Doesn't mean you will go that big, but it is easier. You can cut back. It is easier to come back and go smaller than it is to go bigger afterwards. So, I don't have a problem that the developer is asking to go as big as you can. Just like going for a loan; it doesn't mean you are going to borrow \$100,000 but you come back and say I only need 50 after you do all your assessment coming back. So, I don't have a problem with that, so, that's where I stand. I would support something like that only because of previous experiences with that part. Always ask for the largest footprint you could possibly get doesn't necessarily mean you are going to build to that size. At least it is easier and I stated before it is easier to ask larger now then to come back later and try to amend it or change it.

Planner Ritter – Well, I don't disagree with that in terms of the effect on the redeveloper. That's what you do by giving it up and it is strictly a call that you'll have to make, is you lose some control. That's the only question you have to weigh in your own mind. I agree with you. When I work for private clients and we develop an ordinance, I try to do exactly what this gentleman is trying to do, I try to write the largest standard in because you are absolutely right because it is easier to go to a board and ask to have it cut then to go back in and have to go, "Oops, can I have 10% more"? What you are giving up as the redevelopment authority is just control over 300,000 square feet floor area.

Councilwoman Schneider – Right and it wouldn't be as big of a problem if we could see it. Like you said, I can't see it. So, you know, it is a big thing to say yes to when you can't actually see, you know, we don't have access to that and I think we should leave it as it is and if there needs to be a change that significant, then they can come back and ask for it but it is a big thing to say give them that and give them the extra by us not having more control over it and then, you know, in the end it turns out to be something that you know, it is too big and we shouldn't be as big as what we just allowed them to do.

Councilman Belcaro – I look at it a couple different ways. No. 1, if it does go that much bigger, it equals more revenue for the Township. No. 2, it is only the first reading. Doesn't mean it will be applicable to the second reading.

Council President Ciesla – If you, if Katrina, if you raise the FAR to .3 and the Planning Board suggested to lower it back.

Attorney Campbell – You'd have to do first reading again.

Council President Ciesla – You'd have to do first reading again.

Katrina Campbell - It's a pretty significant change even though it is a reduction, it's too much of a change.

Council President Ciesla – I don't have a problem with the FAR. I'd like to keep the setback at 150 though.

Attorney Campbell – These changes that you are contemplating whether you make them or not, that doesn't mean also when you send it to the Planning Board, they're going to look at the plan and you may also say and could you weigh in on these two things because maybe you stay where you are and they feel differently or maybe you move it up and I'm sure if you move it up they will tell you. If you don't opt to do these things maybe the Planning Board has an opinion. Can't hurt to hear it.

Councilwoman Schneider – That's why I'd rather keep it as is and let, let them come back with their comments.

Mayor McKay – If allowed larger buildings, and you made the impact on the environmental part

of it too let, you know, the impervious, too much impervious surface. I don't know. I haven't seen that. Have you seen that?

Planner Ritter – I'm sorry the, well clearly

Mayor McKay – Wastewater Plan.

Planner Ritter – Oh they have one. In the Development Plan they've submitted they have allocated space for storm water management. How it's been sized, that kind of thing, I mean, I don't know and I doubt Paul's had a chance to really look at it.

Bill Burr – I don't think they (inaudible).

Planner Ritter – But they have allocated space for that now. Obviously, how they would add the 300,000 square foot could affect the amount of impervious cover two ways. If they went up, it may not increase the building footprint, it might actually reduce it from 1 million square foot they have on the ground but, again, if they change the use, it might change the parking requirements, how much has to be paved, you don't know. I mean that's what you do, you just don't know.

Council President Ciesla – If they have to follow all those guide lines is there a possibility if you raised it to .30. Would we even be able to actually obtain that because I know we have the maximum impervious coverage of 55% and that's not something we would be changing, so, they'd have to work within the confines of all the other guidelines as far as like parking requirements and

Planner Ritter – True. The way the ordinance is put together, the FAR, the impervious cover can be (inaudible) which will stop them and they would have to come back and ask for relief if they exceeded the 55 or if they exceeded the FAR or the 30% coverage.

Councilwoman McCabe – Even though I tend to agree with Lou, if you know, it is easier to start big and then if they needed to make it smaller, it is easier to come back for that change. You know, my feeling is we have a developer here that is willing to work with us and on this property and I think that this is something that's important to the Township. I think we should try to give them as much flexibility and see what type of tenants they're able to bring in. It might afford them more tenants which would be better I think for all of us but, again, this is the first reading. If we approve this and the Planning Board comes back and says, you know, gives us some incredible reason that we aren't aware of or didn't think of, we can do a first reading again or I mean we are not locked in at this very moment.

Mayor McKay – I thought they had to have this done by the end of the year.

Attorney Campbell – They would like it.

Mayor McKay – We couldn't do another first reading it would be next year right?

Attorney Campbell- January.

Councilwoman Schneider – Right. So this is pretty, you know, I think we are being flexible by having a special meeting and by getting this done when, you know, we weren't prepared for it and everyone has been scrambling to get it done on both sides, everybody's worked hard to get information but it was kind of under the gun and you know, it's um, I think we've been accommodating but you have to protect the Township also. You have to protect what was presented to us and also what our professionals are telling us and, you know, we haven't been able to see it in order to protect the Township, you need to see it beforehand so you know what is going to happen. You know what is going to build there. But if you are going to do it this way, you are kind of going in blind by giving them free reign to do whatever it is they do and you know, more, more square footage could mean more revenue but it could also mean a lot of bigger problems in the Township as well as that could mean more expenses to us. So, you have to look at both sides but we don't have that picture in front of us right now so I think it would be wise to protect the Township and keep it as is and you know, we've worked with them, we're working, we're trying to get this done in a timely fashion for them to have it done before 2016. So I think

it should stay where it is because it is kind of a dangerous thing to do by just giving them 360,000 more square feet to build on.

Attorney Campbell – Does anyone have any discussion about setback?

Councilwoman Schneider – No I think Mr. Ritter said as well you want to have some landscaping and some kind of buffer.

Mayor McKay – I don't want it to look like Strykers Road though.

Councilwoman Schneider – Right. Exactly.

Council President Ciesla – The 150 I'd like to keep.

Attorney Campbell – Well if there's no more discussion for Council perhaps someone wants to make a motion for first reading and just maybe explain in what form and then you can, assuming you have second, you can have vote on that and if for some reason let's say the first person who makes that motion gets outvoted, you can have another motion on a different version of it so let's say you make the motion, keep it the same, which it sounds like you're going to do and maybe you get out voted that doesn't mean then that someone else can't make a motion to say well I liked the Floor Area Ratio, I don't like the setbacks so or the other way around, you can keep doing it. Don't be afraid to make the first motion is what I'm saying.

Councilwoman Schneider – Okay then I'll make the motion to, you know, do the couple of changes in the clerical but leave the plan as is.

Mayor McKay – Do we have a second? I'll second it.

Attorney Campbell - More discussion?

Councilwoman McCabe – Is that how this works, if we, let's say we agree to increase it and

Attorney Campbell – Right now there is a motion on the floor to keep it the same.

Councilwoman McCabe – keep it the same.

Attorney Campbell – So, if you want to do that, that's what's going to move onto the Planning Board and if for some reason they come up with a plan that they need more than that they'll have to come back to you to ask you to amend your plan again. So, let's say they find a user who needs 1.2 million square feet. They'll have to come back to you. If the vote doesn't and you want to allow the square footage but not the setbacks, you could make a motion to do that and you can have another vote on that or maybe that one dies, then you have another motion to change the vote. So, you can do whatever you need to do, but the way the motion currently stands is to keep it the same which would meet everything they are asking to do in their current proposal but if they find a user who needs a little bit more or something a little different, they would have to come back to Council which would go through first reading back to the Planning Board and, so, obviously, they don't want to do that but that's where you are. It's not the end of the world.

Jong Sook Nee – I just want to clarify. I actually feel a lot of the concern about feeling like you are approving something before you see it and we fully acknowledge that. We actually happen to practice and we represent numerous municipalities who often struggle with the same, am I committing too much, am I giving you too much. The one thing that I really want to point out and I'm relying on the fact that your counsel also reinforced this, this is just the zoning and I understand it makes you grand and great and you're giving away all the keys to the municipality. We don't get to build anything unless we have a Redevelopment Agreement with you. So, there is no way we are going to come to you with the Site Plan unless you know what we are going to build, so, I don't want to take, I don't want to discount the concerns that are being raised about giving us too much but I do want to reinforce that, that is the power of redevelopment as we are in a partnership with you. So, your Redevelopment Agreement, which George has also underlined, those are going to be the terms. We are not going to come in and say we sure like building Disney Land. We don't really care what you want. You are going to have terms on us

that require that you approve what we are going to build. You are going to know who our tenants are. You are going to know who is building what. You will know how we finance it and we're going to have deadlines. You are going to be able to enforce them against us, so, this is not the end of seeing us and this is absolutely not the last time you are going to see us as far as who we are going to bring in, so, I just want to give you some assurance that this is absolutely not an approval for us to build whatever we want. If you give us a little more room it only gives us negotiation power and then you are going to be able to see exactly what we are going to bring in and you are going to be able to approve that, not just at the Planning Board level, but at this level too because you are the ones who approve the Redevelopment Agreement with us not the Planning Board. So you don't give that away, so, I just want to give you a little more background but we do appreciate the conversation.

Mayor McKay – We couldn't do another first reading, it would be next year right?

Attorney Campbell – January.

Councilwoman Schneider – Right. So this is pretty, you know, I think we are being flexible by having a special meeting and by getting this done when, you know, we weren't prepared for it and everyone has been scrambling to get it done on both sides, everybody's worked hard to get information but it was kind of under the gun and, you know, it's um, I think we've been accommodating but you have to protect the Township also. You have to protect what was presented to us and also what our professionals are telling us and you know, we haven't been able to see it in order to protect the Township, you need to see it beforehand so, you know, what is going to happen. You know what is going to be built there. But if you are going to do it this way, you are kind of going to (inaudible) by giving them free reign to do whatever it is they do and you know, more, more square footage could mean more revenue but it could also mean a lot of bigger problems in the Township as well as that could mean a lot of bigger problems in the Township as well as that could mean more expenses to us. So, you have to look at both sides but we don't have that picture in front of us right now, so, I think it would be wise to protect the Township and keep it as is and you know, we worked with them, we're working, we're trying to get this done in a timely fashion for them to have it done before 2016. So, I think it should stay where it is because it is kind of a dangerous thing to do by just giving them 360,000 more square feet to build on.

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Attorney Campbell – Well, if there's no more discussion for Council perhaps someone wants to make a motion for first reading and just maybe explain in what form and then you can, assuming you have second, you can have vote on that and if for some reason let's say the first person who makes that motion gets outvoted, you can have another motion on a different version of it so let's say you make the motion, keep it the same, which it sounds like you're going to do and maybe you get out voted that doesn't mean then that someone else can't make a motion to say well I like the Floor Area Ratio, I don't like the setbacks, so or the other way around, you can keep doing it. Don't be afraid to make the first motion is what I'm saying.

Councilwoman Schneider – Okay, then, I'll make the motion to, you know, do the couple of changes in the clerical but leave the plan as is.

Mayor McKay – Do we have a second? I'll second it.

Councilwoman Schneider – Yep, and I understand that but we have our engineers and we have our professionals that are telling us something different so, you know, you want to get done what you want to get done and these guys we've hired to look out for us and they're telling us it

shouldn't change that we should keep it as is for now so you know, thank you.

Attorney Campbell – I think at the end of the day it's how short of a leash do you want to keep this program on. There are many steps along the way that you will have more things to approve and you are going to know what they're building there and you are going to know all those things but this is kind of the first step as to how short a leash. Right now, they're only going to be able to build sort of what they proposed. Now, George has already said it could be office space, it could be manufacturers. There is still a lot of this, that's why it's just how tight the reins you want to keep at this step and that's why George and Paul and I have all said it is a policy decision for Council.

Council President Ciesla – My only discussion is, like you said, if it gives them, my reason for giving the the larger FAR, is it gives them a little more bargaining power. I'm going to bring in here and maybe our building will be built a little quicker but they still have to adhere to all the other percentages and regulations that we're putting in here. So, it is not like they are going to be like just because we said it, yeah, you can have a .30 FAR that they are not going to be able to exceed in impervious coverage percentage limit that would be put on them.

Councilwoman Schneider – But how do you know they won't? How do you know they will go, I mean they could go to the max?

Council President Ciesla – They could but they still have to stay within the other boundaries that we set for them.

Councilwoman Schneider – Yeah, I guess I'm confused, if all that's in place, then why do we even need to talk about this. Why do we even need to have it stay or go like, you know, if it's that insignificant at this point, why would our engineer and professionals tell us you should leave it as is, you know, there is a reason for that and if it were something that well it can be fixed later on, we wouldn't be here discussing that right now.

Council President Ciesla – Yeah, I mean all we saw was a picture to be honest with you. I mean we didn't get anything. I mean all that is left for the Planning Board and you guys have to go over all that to make sure they are in line with all the regulations. I mean that's all I feel I really have seen is a picture at this point for their plan on how that would work.

Planner Ritter – What they've shown us is how they would like to develop the site which also shows us where they want open space, where they want the roads to go. The only policy issue here is just as you have described it is, how much lead way you want to get before you look at it. Again, I mean they're asking for 300,000 square feet; 30% more than what's

Councilwoman Schneider – Right. Not 5% or 10%; it's huge.

Planner Ritter – So, that's really the question. You're absolutely right though that if you approve the extra 300,000 they're still capped by the setbacks, they're still capped by the impervious cover but it maybe a plan that looks considerably different then ways you or I don't know that you may or may not like. That's the question you have to deal with.

Council President Ciesla – Do we have any say over that? So, if we approve this plan and then they come in with a completely different plan that maybe we don't like because based on the first picture that we saw, what is our recourse then?

Attorney Campbell – A little less (inaudible) because as long as they meet, you might say, "Well that building is way too big but they met that aspect of it" so. Where if you left it the way it is and they came back and wanted you to amend your Redevelopment Plan and then put (inaudible) and you don't like it then you just don't amend your redevelopment.

Mayor McKay – Roll call:

AYES: Council President Ciesla, Councilwoman Schneider, Mayor McKay

NAYS: Councilman Belcaro, Councilwoman McCabe

### **Ordinance 2015-15**

**ORDINANCE OF THE TOWNSHIP OF LOPATCONG,  
COUNTY OF WARREN, STATE OF NEW JERSEY  
ADOPTING THE AMENDED AND RESTATED  
REDEVELOPMENT PLAN FOR THE REDEVELOPMENT  
AREA LOCATED ON THE FORMER INGERSOLL RAND  
IN THE TOWNSHIP.**

**WHEREAS**, the municipal council of the Township of Lopatcong, in the County of Warren, State of New Jersey (the “**Township**”), a public body corporate and politic of the State of New Jersey (the “**State**”), is authorized pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”), to determine whether certain parcels of land within the Township constitute an area in need of rehabilitation and/or an area in need of redevelopment; and

**WHEREAS**, in 2006, in accordance with the criteria set forth in the Redevelopment Law, the Township identified and designated the former Ingersoll Rand property commonly known as Block 101, Lots 1 and 1.01 on the tax map of the Township as an “area in need of redevelopment” (the “**Redevelopment Area**”); and

**WHEREAS**, in 2006, the Township adopted a redevelopment plan for the Redevelopment Area (the “**Original Redevelopment Plan**”) which was later amended on May 2, 2007 (the “**Redevelopment Plan Amendment**”); and

**WHEREAS**, the Town Council has determined that substantial changes to the Original Redevelopment Plan and the Redevelopment Plan Amendment, in the form attached hereto as Exhibit A (the “**Amended and Restated Redevelopment Plan**”), be considered to accommodate and facilitate development within the Redevelopment Area depicted therein; and

**WHEREAS**, the Planning Board must review the Amended and Restated Redevelopment Plan and transmit its recommendations relating to the Amended and Restated Redevelopment Plan to the Town Council in accordance with the provisions of *N.J.S.A. 40A:12A-7* of the Redevelopment Law; and

**WHEREAS**, upon receipt of the Planning Board’s recommendations relating to the Amended and Restated Redevelopment Plan, the Town Council believes that the adoption of the Amended and Restated Redevelopment Plan is in the best interests of the Township.

**NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN, STATE OF NEW JERSEY AS FOLLOWS:**

**Section 1.** The aforementioned recitals are incorporated herein as though fully set forth at length.

**Section 2.** Contingent upon the receipt of the Planning Board’s recommendations, the Amended and Restated Redevelopment Plan, attached hereto as Exhibit A and made a part hereof, is hereby adopted pursuant to the terms of *N.J.S.A. 40A:12A-7* of the Redevelopment Law.

**Section 3.** The zoning district map in the zoning ordinance of the Town is hereby amended to include the “Redevelopment Area” per the boundaries described in the Original Redevelopment Plan and the Amended and Restated Redevelopment Plan.

**Section 4.** If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

**Section 5.** A copy of this Ordinance and the Amended and Restated Redevelopment Plan shall be available for public inspection at the office of the Municipal Clerk during regular business hours.

**Section 6.** This Ordinance shall take effect in accordance with all applicable laws.

## NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Township of Lopatcong held on December 14, 2015, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Council to be held on December 30, 2015 at 7 p.m. or as soon thereafter as the Township Council may hear this Ordinance at the Municipal Building, 232 S. Third Street, Phillipsburg, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Margaret B. Dilts, CMC

Township Clerk

Attorney Campbell – Just a housekeeping matter. Can we have this in a document that we can make those changes? The format you gave us is that a PDF or a Word or

Planner Ritter – Well, the answer is I can supply it tomorrow in a format.

Attorney Campbell – Beth is going to advertise it tonight. She is going to send it to the paper to make sure that we meet the deadlines we need to meet so you can have your second reading. Okay, I'll work with George. Second item on your agenda is a Resolution referring to the Planning Board, basically saying you need to take this seriously. You need to look at this at your next meeting. You need to look at this for us. I recommend that you go forward with that resolution.

Mayor McKay – Motion to approve 15-146.

R 15-146

RESOLUTION OF THE COUNCIL OF THE TOWNSHIP OF  
LOPATCONG, COUNTY OF WARREN, NEW JERSEY  
REFERRING THE AMENDED AND RESTATED  
REDEVELOPMENT PLAN FOR THE FORMER INGERSOLL  
RAND PROPERTY COMMONLY KNOWN AS BLOCK 100,  
LOT 1 AND BLOCK 101, LOT 1 ON THE TAX MAP OF THE  
TOWNSHIP TO THE PLANNING BOARD FOR REVIEW  
PURSUANT TO *N.J.S.A. 40A:12A-7(E)*

WHEREAS, the municipal council of the Township of Lopatcong, in the County of Warren, State of New Jersey (the "Township"), a public body corporate and politic of the State of New Jersey (the "State"), is authorized pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law"), to determine whether certain parcels of land within the Township constitute an area in need of rehabilitation and/or an area in need of redevelopment; and

WHEREAS, in 2006, in accordance with the criteria set forth in the Redevelopment Law, the Township identified and designated the former Ingersoll Rand property commonly known as Block 100, Lot 1 and Block 101, Lot 1 on the tax map of the Township as an "area in need of redevelopment" (the "Redevelopment Area"); and

WHEREAS, in 2006, the Township adopted a redevelopment plan for the Redevelopment Area (the "Original Redevelopment Plan") which was later amended on May 2, 2007 (the "Redevelopment Plan Amendment"); and

WHEREAS, the Town Council has determined that substantial changes to the Original Redevelopment Plan and the Redevelopment Plan Amendment, in the form attached hereto as Exhibit A (the "Amended and Restated Redevelopment Plan"), be considered to accommodate and facilitate development within the Redevelopment Area; and

WHEREAS, pursuant to *N.J.S.A. 40A:12A-7(e)*, the Township seeks to refer the Amended and Restated Redevelopment Plan to the Township Planning Board for recommendations in accordance with the Redevelopment Law.

NOW THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN, STATE OF NEW JERSEY AS FOLLOWS:

1. The Township hereby refers the Amended and Restated Redevelopment Plan to the Township Planning Board for review and recommendation in accordance with the requirements of the Redevelopment Law, including *N.J.S.A. 40A:12A-7(e)*.

2. The Township Planning Board is authorized and directed to prepare a report of its recommendations (the "Planning Board Report") to the Amended and Restated Redevelopment Plan within forty-five (45) days of the date hereof.

3. The Planning Board Report shall identify any provisions within the Amended and Restated Redevelopment Plan that are inconsistent with the Township's Master Plan, the recommendations concerning those inconsistencies and any other matters the Township Planning Board deems appropriate.

4. If the Planning Board Report is not transmitted to the Township Council within forty-five (45) days of the date hereof, the Township shall be relieved of the requirements to obtain a Planning Board Report for the Amended and Restated Redevelopment Plan in accordance with *N.J.S.A. 40A:12A-7(e)*.

5. The Clerk of the Township shall forward a copy of this Resolution and the Amended and Restated Redevelopment Plan to the Township Planning Board for review pursuant to *N.J.S.A. 40A:12A-7(e)*.

6. This Resolution shall take effect immediately.

#### CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk for the Township of Lopatcong, do hereby certify that the foregoing is a true copy of a Resolution adopted by the Township Council of the Township of Lopatcong at Council Meeting held on Monday, December 14, 2015.

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M. BETH DILTS

Motion by Council President Ciesla, seconded by Councilwoman Schneider. Roll call vote:  
AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.  
NAYS: - None

**Payment of Bills:** Mayor McKay sked for a motion to pay Lopatcong School District \$783,513.67. This payment is significantly less because it was imputed incorrectly on the purchase order (typo). The school received \$67,000 extra each month since July. Motion to approve by Councilman Belcaro, seconded by Councilwoman McCabe. Roll call vote:  
AYES: Councilman Belcaro, Councilwoman McCabe, Councilwoman Schneider, Council President Ciesla, Mayor McKay.  
NAYS: None

#### **Audience Participation:**

Motion by Councilwoman Schneider, seconded by Councilwoman McCabe. All in favor.

Juniper Leifer – Congratulated the Council for working well together.

Dan Gural – Thanked the Council.

Motion to close Public Session by Councilwoman Schneider, seconded by Councilwoman McCabe. All in favor.

Mayor McKay asked for a motion to adjourn the meeting. Motion by Councilwoman Schneider, seconded by Councilwoman McCabe. All in favor.

Respectfully submitted,

Margaret B. Dilts  
Clerk/Administrator

Thomas M. McKay