

**Township of Manalapan**  
120 Route 522 & Taylors Mills Road  
Manalapan, NJ 07726

**Planning Board Minutes**

**April 27, 2023**

The meeting was called to order with the reading of the Open Public Meetings Act by Chairwoman Kathryn Kwaak at 7:31 p.m., followed by the salute to the flag.

Ms. D'Agostino read the TV Disclosure Statement and took the Roll Call of the Board.

In attendance at the meeting: Daria D'Agostino, Barry Fisher, Todd Brown, John Castronovo, Kathryn Kwaak, Jack McNaboe, Richard Hogan, Barry Jacobson, Steve Kastell, Brian Shorr, Nunzio Pollifrone

Absent from meeting: All Present

Also present: Ronald Cucchiaro, Planning Board Attorney  
Jennifer Beahm, Planning Board Planner  
Brian Boccanfuso, Planning Board Engineer  
Lisa Urso-Nosseir, Recording Secretary

Mr. Cucchiaro swore in Brian Boccanfuso, Professional Engineer and Jennifer Beahm, Professional Planner.

**Minutes:**

A Motion was made by Ms. D'Agostino and Seconded by Mr. Brown to approve the Minutes of March 23, 2023 as written.

Yes: Brown, Castronovo, Kwaak, McNaboe, Jacobson, Kastell,  
D'Agostino, Shorr, Pollifrone  
No: None  
Absent: None  
Abstain: None  
Not Eligible: Hogan, Fisher

**Applications:**           **PAS2222 ~ CMP of Manalapan Realty, LLC**  
                                  **363 HWY 33 ~ Block 74/ Lot 13.02**  
                                  **Amended Final Site Plan**  
                                  ***Carried from February 23, 2023***

Mr. Cucchiaro announced that PAS2222 ~ CMP of Manalapan Realty has requested to be carried to the June 8, 2023 Planning Board Meeting. No further noticing will be sent to property owners. The file is in the office of the Planning Board for review.

**PPM2255 ~ LPG Capital, LLC**  
**Kinney Road and Sweetmans Lane**  
**Block 79 / Lots 21.01 and 21.02**  
**Preliminary and Final Major Site Plan**  
***Carried from February 23, 2023***

Jennifer Krimko, Esq. at Ansell, Grimm & Aaron was present this evening on behalf of the applicant. Ms. Krimko explained some significant changes have been made to the plans, most of which addresses almost all of the design waivers that they were seeking at the prior meeting. Mr. Muller, the engineer, will go through the changes to the plans. Mr. Collins is the architect and he will explain his updates to the plans, including the historic architecture design guidelines. Ms. Krimko said she would like to concentrate this evening on the changes, not repeat at length all of the evidence that was gone over at the last two hearings.

Ms. Krimko asked Thomas Muller, P.E., to join her. Mr. Muller understands he remains under oath. Ms. Krimko introduced Exhibit A9, an aerial map exhibit by Dynamic Engineering dated April 27, 2023. Exhibit A10 is the overall site plan rendering also from Dynamic Engineering dated April 27, 2023. Exhibit A11 is the site rendering dated today by Dynamic Engineering. Mr. Krimko stated that in the engineer and planner's review letter, there were two design waivers identified for landscaping and we believe we have eliminated them. There was a potential design waiver related to architecture and we eliminated that. There was a design waiver with regard to the setback of the two basins and we have eliminated one of those. It is an otherwise fully conforming application with no variances and one singular design waiver.

Mr. Muller displayed on the screen the overall site plan rendering, which is Exhibit A10. Mr. Muller said that this exhibit is identical to what was submitted in our layout package. We made a substantial revision to the plans on April 13, 2023. That was in response to many of the comments that we heard at the previous hearings as well as the professional review letters. Mr. Muller said he

worked with the architect to make sure our plans are completely coordinated with his plans. We previously had 25 land-banked parking stalls on the southern part of the building. We are not land-banking them anymore, they will be constructed in concurrence with the overall construction of the overall project. There will not be a variance for parking since we are constructing all the banked stalls; we are fully compliant with the parking requirements. There will be 81 parking spaces which complies with the Ordinance. Also we added some stamped concrete entrances into the building and some areas for benches at all six of the tenant entrances. We also upgraded the Kinney Road and Sweetman's Lane frontage and we will be providing curbing and sidewalk along the entirety of both frontages. We are also increasing the pavement with Kinney Road as well as Sweetmans Lane. The Traffic Engineer will go into more detail about this. We made improvements to the site for fire and emergency access to address some of the comments that we heard from the Fire Commission. Mr. Muller said we are proposing some directional signs on the Sweetmans Lane driveway that just say 'truck access only.' Ms. Krimko handed out to the Board Exhibit A12, 3D rendering perspective.

Mr. Muller explained that Exhibit A12 is a true to scale rendering of the site taking into effect the grading that we are proposing, all the landscape we are proposing, etc. It is an exact replica of the setbacks that we are proposing on our site plan. Mr. Muller said there is a series of 10 still images. The first sheet is simply the location map showing the angling of all of the exhibits. The exhibit he showed was the view from Sweetmans Lane looking southeast; this is the proposed truck driveway. They are proposing three signs that say truck entrance for Kinney Road. The address for the site will be put on this. Instead of a monument sign, we have three directions signs proposed at this driveway. Additionally, we did substantial enhancements to our landscaping design. We spoke with Ms. Spero to work together to revise the landscaping plan. We added more foundation landscaping, shade trees, additional 10' wide landscape islands in the parking area, and more evergreen trees. We added some different grass mixes for the basins and for some of the open space areas. Ms. Krimko said we now have the required foundation plantings along all four sides, except for pedestrian or vehicular accesses or loading areas, where it would be impossible because you'd have to step over a 3' island, or drive over it. In the areas where the amenities are, which are required by the architectural requirements, such as the benches and the pavement. Ms. Krimko asked Mr. Muller in his opinion, are we fully complying with the ordinance and Mr. Muller said yes we are. There is no design waiver required for landscaping in the parking areas. Mr. Muller spoke about the shade requirement and the proposed planting, in conjunction with our 3D renderings, and we confirm that over the course of a year, we have 35% coverage in the parking areas as required by the ordinance and we do not need a design waiver.

Mr. Muller said for stormwater management and grading, we revised the stormwater design to address all of the comments from the Board engineer. We moved the basins from the public roadways.

Ms. Beahm wanted to go back and speak about the foundation plantings. Mr. Muller said we provided the foundation plantings wherever it was physically possible. Ms. Beahm said there are other opportunities to put them below the loading docks. Ms. Krimko read Ordinance 95-8.5, general landscape standards. It states that a minimum 15% of the area of non residential development shall be reserved for landscaping, which shall be reasonably distributed within the site and which shall include foundation plantings within established bedlines, not less than 3' wide on the front, sides and rear of any building. Such foundation plantings shall be suitable to the size of the building. Ms. Krimko said nowhere in this Ordinance does it require that the entirety of all the linear feet of all of the foundations of the entire building get treatment with a 3' landscape bed. It says all sides and where reasonably distributed. Ms. Beahm said we're going to disagree in what constitutes reasonable and she believes there are additional opportunities. Ms. Beahm said so you're asking for relief, but I think they are not compliant. Mr. Cucchiaro said they are not asking for relief, they are arguing that they have satisfied this matter. Ms. Beahm said she doesn't agree. Ms. Krimko said other than in front of the loading docks, is there anywhere else that you believe plantings could be? Ms. Beahm said you can't put plantings by the benches? Ms. Krimko said the Ordinance asks for courtyards, pedestrian friendly and certain amenities. Ms. Krimko said so you want plantings behind the benches and in front of the loading docks - anywhere else? Ms. Beahm said that is correct. Chief Hogan asked for further clarification where the plantings were going to be. Mr. Muller showed on the screen the rear of the site and the drive-in ramps into the building. Mr. Muller said in his professional opinion, the landscaping will most likely not survive at the base of the loading area. Ms. Krimko added that this area will not be seen at all by any customers and it seems counterintuitive to the intent to the foundation plantings, which are purely aesthetic and to bring green space. Ms. Beahm said it is a requirement, and it is up to the Board and she believes they could be more compliant. Chief Hogan asked if she has seen these types of plantings in other towns? Ms. Beahm said yes, underneath the loading docks, around the foundation, etc. Chief Hogan asked if they flourish and grow? Is there maintenance? Ms. Krimko asked if she has been to the site a year later to see if the plantings are still alive? Ms. Beahm said no.

Mr. Muller went back to the stormwater design. The Ordinance requires the basins to be 25' from any public roadway, so we revised the design to set the basins back on Kinney Road 25' from the property line, so there is no design

waiver required for the Kinney Road basins. It is a sloped basin until the sand bottom basin. On Sweetmans Lane, we were able to shift that basin back from the public right of way a bit to provide a setback of 5' to the slope of that basin, so there still is a design waiver required for that basin on Sweetmans Lane. The gentle slope is built safely. Mr. Boccanfuso asked if Mr. Muller has designed a basin that has a retaining wall? Mr. Muller said we did a substantial analysis and we confirmed that to have the same volume for this basin and shifting it over, we would require that 10' wall, therefore we didn't do that. Mr. Boccanfuso asked if the proposed retaining wall in the front yard setback? Mr. Muller said no, it would be in the front yard, but it would be outside the setback line and complies with the front yard setback requirement.

Mr. Muller said we also upgraded the lighting design. We added the hours of operation lighting and we added 3,000 kelvin lighting. On the signage, we added the signage at the Sweetmans Lane driveway to note that it is for truck entrance only and we added the address for the building on those signs. We clarified that there will only be six tenant signs on the building for each of the six tenants. If there are less tenants, there will be less signs. Mr. Muller said we did a noise analysis. We oversaw a detailed noise analysis that was prepared by Russell Acoustics. We worked hand-in-hand with them to provide our site plans and work with their engineers on doing a sound analysis. What it comes down to is, this project will completely comply with the local Ordinance, as well as state code. The Ordinance and state code require that a maximum of 60 decibels be emitted from the site from 7:00 am - 10:00 pm. Ms. Krimko asked Mr. Muller if the compliance with the noise ordinance, Chapter 155 is not the zoning ordinance, correct? Mr. Muller said yes. Ms. Krimko said that is the general code. So the noise ordinance is not reviewed or enforced by this Board, it is actually enforced by its own language under Chapter 155-3, by the noise control officers. Mr. Muller said correct. Ms. Krimko said so this Board does not have jurisdiction over the noise being generated - it's a matter of enforcement that if we do not meet the noise ordinance, we would be subject to a summons by the noise officer and be required to do it. This Board couldn't give us relief from the noise ordinance anyway, because it's not a Zoning matter. It is the applicant's position that we are going to fully conform with the noise ordinance because it is a general ordinance of the Township and we have no choice. This Board doesn't have the ability to grant this relief regardless. That being said, in an effort to ensure, and because it was offered at the prior meeting, we will limit truck deliveries to 10:00 pm, even though the Ordinance does allow us to go to 11:00 pm under the hours of operation. We will stick with that because it was offered at the prior meeting.

Mr. Muller had one last point, we worked with the applicant's LSRP, Partner Engineering and Science. They wrote a letter dated March 24, 2023. They advised

that they did review the site. They do recommend that a reassessment be done after the site is cleared of wooded vegetation so that they can come back in and do a thorough investigation for any underground tanks prior to any grading or excavation of the site happening. Ms. Krimko said that was in direct response to some of the Board members that were concerned that further investigation needed to be done because there was no conclusion. It is the applicant's position that if this application is approved, we would accept a condition that Partners would be required to reassess the site once all of the vegetation is cleared and before any digging is done to confirm that there are no underground storage tanks that could potentially be damaged or disturbed during construction. We are willing to commit that we will have our LSRP come back out and do another analysis as a precondition to doing any digging on the site. Ms. Krimko says she believes that would address any concern of creating a potential leak where one does not exist. If a tank is there and if a leak is found, the DEP has the jurisdiction over ensuring that we clean that up.

Mr. Cucchiaro said he understands the applicants position with regard to the landscaping and their position that they comply. Ms. Krimko said she will go over the standard at some point and make her arguments as to whether or not a design waiver is required. Mr. Cucchiaro said with regard to the areas of landscaping that Ms. Beahm identified, do you find that those areas would cause undue hardship because of peculiar conditions pertaining to the land in question? Mr. Muller said he wouldn't say that the hardship would be on the peculiar nature of the site itself, it would be more of the operation of the access into the building. Mr. Cucchiaro said I guess your statements would go then to this standard talking about the impracticality of the provision, would that be correct? Mr. Muller said certainly it is impracticable. Mr. Cucchiaro asked if he could highlight on the record why he believes that. Mr. Muller said absolutely. Zooming in on Exhibit A10, it is impracticable to provide the 3' landscaping strip around the entirety of the building foundation because we have the loading docks and the drive-in doors at the rear of the building. Trucks or vehicles are required to back into these loading docks. They are also required to drive into those drive-in ramps, sometimes into the building, or right up to the building. It would be impracticable to provide landscaping there. Professionally I would not provide landscaping there, it simply be impossible to maintain and let it thrive. It would constantly be mowed down and driven over. It would have lack of light and water. That landscaping simply wouldn't survive if we provided it at those loading areas, or into the drive-in ramps. It is truly impracticable in his opinion to provide the landscaping along those areas. Mr. Cucchiaro asked about the benches. Mr. Muller said along the front, we do have the entrances into the building which we all agree that you cannot provide landscaping at the entrances. Mr. Cucchiaro said where is the door in relation to the benches? Mr. Muller said they are immediately adjacent. We could move the bench, we could

add the landscaping. Mr. Cucchiaro said Ms. Krimko has asked Ms. Beahm some questions and the Board would benefit from Mr. Muller's take on them as well. Mr. Cucchiaro asked Mr. Muller if he has ever reviewed landscaping in any of these areas in similar projects and how they survive? Mr. Muller said he has never proposed landscaping along a loading area.

Mr. Boccanfuso said we went through the bulk of our technical items at the previous public hearing, my comments are limited to the changes. First, to reiterate for the record to the extent that there are outstanding technical comments relative to stormwater system design, do you have any issue with addressing those as a condition for approval if granted, and if there are any specific items that you take exception to, and can you identify those please. Mr. Muller said he does not take an exception to any of the open comments. He has no problem working with you to address those. Mr. Boccanfuso said with regard to the landscaping, as Mr. Muller indicated his office and Shari Spero did have conversations and there have been revisions. Mr. Boccanfuso spoke with Ms. Spero about the changes. There were a handful of minor technical items that you want to have revised on the updated plans, but the one significant item was some additional four-season landscaping along the easterly edge of the site on top of the retaining wall near the limited clearing for the purpose of filling in gaps and providing an all season buffer. It is her opinion that the bulk of that area is deciduous in nature, so in the depths of winter, you can't see through it. Would you take any exception to providing some supplemental landscaping along the perimeter of the site as requested by Ms. Spero? Mr. Muller said he doesn't see any issue with that. Mr. Boccanfuso said with regard to the supplemental information provided by the LSRP - first of all, just so that the Board and the for the record to be clear - you referenced Partner, so that there is no confusion, Partner Engineering and Science is the company that prepared the report, correct? Mr. Muller said that is correct. Mr. Boccanfuso said in the supplemental letter prepared by Partner dated March 24, 2023 which you spoke about previously, you said that they would be willing to perform some supplemental investigations following the clearing of the site. Would those be limited to just a visual inspection of the site, or would there be ground penetrating radar investigations? Mr. Muller said they would suggest ground penetrating radar once the site is cleared. Ms. Krimko said if they did the investigation and they found any evidence of a UST and it was necessary, they would recommend it. But again, the reason why they couldn't confirm or say whether or not there are USTs, they couldn't do the most important visual inspection because of the growth. So they would do the visual inspection and if they recommended it, we would commit to take whatever steps necessary they suggest. Mr. Boccanfuso asked how they would identify something that is completely underground if there were no pipes sticking up? Ms. Krimko said she was advised that they would look at historic aerials, and they would look for the

location of the prior homes based historical aerials, and they would examine to see if there were any remnants of any type of home or anything that would indicate that there was in fact an oil tank. If nothing were found, or the aerials were clear, or they had any suspicion at all, she is advised that we would do the ground penetrating radar in those areas where the homes were prior; but certainly not for the entirety of the site. Mr. Boccanfuso said he's just trying to understand, is ground penetrating radar only proposed if there is a physical observation of potential tanks? Ms. Krimko said it is only proposed if the LSRP, who is responsible to sign off on whether or not there are tanks, recommends it. We are committed to following the instruction of the LSRP and having them submit their report to you in advance of any digging. Mr. Boccanfuso said he wanted to point out for the Board members, is that we had a similar situation to this on an application that is currently under construction, the K. Hovnanian development on Route 33. There was a very old house that was on the site that was identified in historic aerials and what our Environmental Department recommended was that the ground penetrating radar be performed for the simple reason that if there was something that were there decades ago, there may not be any visible evidence on the surface of the site. In that case, it certainly wasn't deemed to be unreasonable to require the ground penetrating radar throughout the site, which was well over 100 acres, but just in the immediate vicinity of the former home. He believes it would be reasonable for the Planning Board to request, in this case, that the applicant agrees to perform that ground penetrating radar in the immediate vicinity of the home, in addition to any visual inspection that the LSRP undertake on the site. It is their site, they are under the jurisdiction of the LSRP, they are bound by that, but given the potential for some type of tank, or septic system associated with the former home, he believes it would be a reasonable request. Ms. Krimko said your Environmental Department - is that a LSRP? Who was that? Mr. Boccanfuso said he is no longer with his firm, but he was not a LSRP. Ms. Krimko said then his opinion wouldn't be accepted by the DEP with regard to recommendations? Ms. Beahm said they do have an LSRP that works for office, it's not like they don't have one. Mr. Boccanfuso said it wouldn't be accepted as an LSRP, but certainly it would be accepted by the DEP. Ms. Krimko asked where in the ordinance does it authorize the Planning Board to impose conditions relative to construction practices, or anything relative to what is in the DEP's jurisdiction? Mr. Cucchiaro said he would reference the field case and also the Morris County Fair Share case, which both involved matters that fell within the DEP's jurisdiction. One of them happened to have been a dam. It's not a matter of a Board exercising jurisdiction that is vested exclusively with the DEP, it is more a matter of the Board exercising it's jurisdiction in terms of making sure that the structures which are part of the site plan application, which is clearly within the Board's jurisdiction, can be located in the areas that are being proposed. The Board is not talking about a clean up procedure, or how to remediate a site. It is saying



you want to put a building here – can that building go there, show us that it can go there. Ms. Krimko said if there is a tank there, how is this positive that the building can't go there? Mr. Boccanfuso said in his view, it could be a structural issue. If you have a tank, or a void that is below the surface that no one knows is there, there certainly is potential for structural issues in soil, not just for the building, but in the parking area. Foundation design has to be looked at for the building, not necessary the parking or retaining wall area. Mr. Cucchiaro asked are you permitted to build a structure over a UST? Mr. Boccanfuso said not as far as he's aware; he's never seen a design that was considered over an existing UST. Mr. Muller agreed and said not to his knowledge. Mr. Cucchiaro said then the placement of the structure is an issue and that is his legal position. Ms. Krimko said the applicant is saying that we are not going to construct over a UST, if there is one, we will remove it. Mr. Cucchiaro said that looking at an aerial that doesn't show physical evidence of a UST which by its nature, is underground, may not be dispositive of where the USTs are. Ms. Krimko said she is making notes and trying to get a complete understanding of what the Board's position is. She will then speak to her clients.

Chief Hogan asked Mr. Muller about the April 18, 2023 Fire Bureau report and if you are going to be compliant with that, correct? Mr. Muller said we have no problem addressing those comments. Chief Hogan wanted to speak about the plantings locations in the rear loading docks. At the moment, he tends to agree with the applicant that plantings would not work in that area. His experience is those particular locations where we have either the public or employees of the facility, they would utilize that area for smoking. With the vegetation nearby, it could be a safety issue in the winter months. In his opinion, he would not be in favor of those plantings.

Mr. McNaboe said most of his questions will be for the architect.

Chairwoman Kwaak asked for clarification regarding the ground penetrating radar. This Board has had enough applications come before it over the years and a lot of that area was farmland. We had one applicant come before us, and we thought it was an underground oil tank, it wound up being a container of chocolate. She would recommend that the client does it, because even if they don't see it in a photo, she is certain there is something underground there. Ms. Krimko said when you say 'do it', do you just mean in the area where the residence was? Chair Kwaak said no, she is requesting the entire property. Ms. Krimko said Mr. Boccanfuso's recommendation is to do it in the area where the residences are on the historic aerials, but you are recommending to do it where we are proposing the building? Chair Kwaak said yes, that is correct. She stated on page 2 regarding the truck only entrance signs, on the entrance – could there also be something on the driveway saying trucks only since these signs are

small? Mr. Muller said yes we can do that. Mr. Boccanfuso said they can certainly do it, but by the time a trucker saw the pavement markings, they would already be in the site. The sign would probably be more effective. Ms. Krimko said she can agree to both of these requests right now. Chair Kwaak said on page 6 of the drawings, the sign that is there says Sweetmans Lane, but this is Kinney Road. Mr. Muller said that is an error and will be corrected. Chair Kwaak said on page 7, what if you were to move the bench in front of the plantings that are between the doors and then put more plantings where the benches are currently? Ms. Krimko said would there be room to walk in front of the bench? Mr. Muller said he does not see an issue with doing that. Chairwoman Kwaak asked about the hours of the delivery by the trucks. She believes 10:00 pm is late considering this is a residential area; how about deliveries up until 8:00? Ms. Krimko said she understands her concerns with the residences, but the ordinance is very clear about the noise and when it can go until. It says that it can be from 7:00 am - 11:00 pm and even though the ordinance allows us until 11:00 pm, we are offering 10:00 pm.

Mr. Jacobson said the Environmental Commission wasn't aware about the UST and they would want the ground penetrating radar, at least to what the engineer stated, at least where the former home was. A visual of the land is not sufficient. Also, with the truck entrance, he believes this was brought up - you have a Kinney Road address, the trucks are going to be looking for a Kinney Road address, with Sweetmans Lane access. How are you going to ensure the trucks get to the Sweetmans Lane trucks only entrance? Mr. Muller said we added the address to all the signs at the driveway on Sweetmans to include Kinney Road on that.

Ms. D'Agostino agrees that the LSRP should do the ground penetration, but believes it should be done for the entire site.

Mr. Castronovo asked how many homes were on that site in the past? Ms. Krimko said she doesn't know if there any homes. Mr. Boccanfuso said he believes there was one potential identified via historical aerial images. Mr. Castronovo said he doesn't understand the discussion and reluctance to just agree with the Boards wish and do the penetrating up front. Ms. Krimko said if its just with regard to the location where the one or two houses were, that is very different than what Ms. D'Agostino said and do the entire site. The Chairwoman said even if the houses weren't there as evidence by this historic aerials, do wherever the building is going to go. Mr. Castronovo said with regard to the truck entrance, can the Board members clarify why we are restricting that to just trucks only? Ms. Krimko said because it is only a loading dock, there is no access to the building for any cars in that area, nor is there any parking. Mr. Castronovo said they can't drive around all the way to the east side? Ms. Krimko

said no they cannot; it is an emergency access lane. Ms. Krimko said we also don't want customers coming in where the truck access is and interacting with any deliveries because there is no parking. Mr. Castronovo said in relation to the truck entrance, we have that sign on the left that has the address for Kinney, to him it seems like a driver would be confused and think that the left hand side of that entrance is an entrance, rather than an exit. Ms. Krimko said you are suggesting a do not enter sign there, and a trucks only sign on the entrance. Mr. Muller said that is an excellent suggestion and we have no problem doing that. Mr. Boccanfuso said the County had the same request.

Mr. Brown said this application has evolved in regards to the public not being permitted on site, truck on site, etc. He is trying to figure the lighting. Is this going to be a 24 hour operation? Ms. Krimko said the public will not be invited for 24 hours since the ordinance does not allow it. There may be employees there, but there will be no public access and no truck deliveries 24/7. Mr. Brown said would it be the opinion that operation hours would be when the public would be on site? Ms. Krimko said the ordinance doesn't define operational, but she stated that it won't be open to the public 24 hours. There may be people there overnight, but it won't be truck deliveries and it won't be the public. Mr. Cucchiaro said Mr. Brown asked about the lighting. Ms. Krimko said the lights on the loading area will only need security lighting at that point since there won't be any deliveries. The lighting in the parking lot would be for security and we would could work with the Board engineer as to what lights should be on or off after hours. Mr. Brown said façade sign lighting would be turned off? Ms. Krimko said the minimum amount of lighting will be there for employee safety when there is no public or outside people coming. Mr. Brown said there isn't going to be any storage of trucks overnight, correct? Ms. Krimko said there cannot be any storage of trucks.

Mr. Fisher said you'd be surprised what could be buried. As part of the Environmental Commission, I strongly agree with searching the property thoroughly. He suggested a sign that states no idling of vehicles at any time. There is a state ordinance and asked if this will be posted. Ms. Krimko said if that is a state requirement, then absolutely we will abide by the requirement. Mr. Boccanfuso said the no idling is a state law, he doesn't know if that law requires signage, he thinks that it does not. Whether or not the signage is posted, it is still a state law. Mr. Fisher asked if there were going to be any charging stations for EVs? Mr. Muller said there will be three electric vehicle charging stations, which is compliant with the state legislation.

Mr. Kastell believes it is more effective to have signs at Kinney Road that say all trucks go to Sweetmans Lane entrance, rather than the other way around. Ms. Krimko said we are happy to work with your professionals on matters such as

this. Mr. Kastell said are your tenants going to abide the 10:00 pm delivery cut-off? Ms. Krimko said the noise ordinance would control that and there will not be deliveries after 11:00 pm because there is the potential to violate the noise ordinance. Mr. Kastell said coming from Millhurst Mills is very narrow, a few hundred feet coming around that corner. He is concerned that there is no separate truck lane for the trucks to get up to speed. Ms. Krimko said our traffic engineer will address your concerns.

Mr. Shorr asked about car deliveries at night. Ms. Krimko said there can be no public, only employees can be there. Mr. Shorr said what is going to stop a truck from making an illegal left turn onto Sweetmans Lane? Ms. Krimko said she is going to defer to the traffic engineer for further clarification on this County road.

Mr. Pollifrone asked if the acoustical engineer was present? Ms. Krimko said we have no intention of presenting an acoustical engineer. We are committing to complying with the state law as enforced by the noise officer and this Board couldn't grant us relief, even if we wanted it. Mr. Pollifrone said however, if there is anticipation that there would be an issue, that is something that this Board would want to bring to your attention. Should I direct the questions to Mr. Muller then? Ms. Krimko said but I don't know what the questions are. Mr. Pollifrone said, so the work by Russell Acoustics, is that something that was completed since our last meeting? Mr. Muller said yes. Mr. Pollifrone asked if that study was submitted to the Board to look over so we could comment? Mr. Muller said no, it was not submitted. Mr. Pollifrone said at a minimum, he would want to know what those assumptions were, because as we pointed out at the last meeting, there are delivery trucks that have back-up horns with sound intensity that exceeds 100 decibels. It's within a couple hundred feet of the nearest residential property line and, I think you quoted before, that the ordinance states that the maximum A weighted sound level between 7:00 am - 10:00 pm needs to be 65 decibels. He would be very interested in how that would be achieved. That is actually something that should have shown up in the Environmental Impact Statement Checklist. The only thing that I see is that the proposed project will not significantly impact the current ambient noise levels. There is no discussion of operational noise levels in terms of decibels, time of noise, duration source and discussion of any noise control methods to be used. That is something the Board needs to hear about. Ms. Krimko said she understands, but respectfully disagrees in that the noise ordinance is not part of the Zoning ordinance, so it is not something that this Board implements. The noise ordinance is an entirely different chapter. There is nothing in the Zoning ordinance, which this Board is limited to enforcing, the site plan ordinance and the Zoning ordinance. She understands your desire to hear it, but when you look at the MLUL, and that the Planning Board's job is to ensure that we meet the

Zoning ordinance and the site plan requirements, there is nothing in either that speaks to noise. Mr. Cucchiaro says he has discussed this in other applications. The noise ordinance is not in our land use or zoning ordinances. It is a requirement, there's no option - it has to be complied with. If the applicant doesn't comply with it, they can functionally be shut down. At best, it is something the applicant should be aware of. They need to understand that a building or property can function, but it is not really within our ordinance requirements that we can delve too heavily into.

Mr. Fisher asked Mr. Muller when he met with Ms. Spero, did she request deer resistant plants? Mr. Muller said that was a comment and we did adjust some of the evergreen trees.

Mr. Castronovo said on page 6 of the 3D rendering, there is a sign that has a truck do not enter sign. Is that meant to prevent trucks from coming to the facility, and/or could that be construed as FedEx has to go to the truck entrance to make their delivery? Mr. Muller said it's really for tractor trailers. Ms. Beahm said what flex user requires a tractor trailer? When she looks at flex she thinks of an electric contractor, a HVAC contractor, etc. So, what flex user that you are anticipating is going to have a tractor trailer? Ms. Krimko said a manufacturer would be using flex and depending on their machinery or materials they need - there may be a delivery on a truck. Ms. Krimko said there is no definition of flex that prohibits tractor trailers; whether or not we are a permitted use, the zoning officer will not allow that tenant in the location. Ms. Krimko said to Mr. Castronovo that they will work with the Township professionals to come up with a better depiction of what kinds of trucks are not permitted there, whether its no tractor trailers.

The Board took a ten minute recess at 9:02 and returned at 9:12.

Ms. Krimko displayed Exhibit A13, a photo of the historic Millhurst Mill and attached to it are the plans that were already moved into evidence. David Collins, Architect, remains under oath. Ms. Krimko explained that Mr. Collins took a deep dive into the architectural historic guidelines and made quite a bit of substantial changes to bring it into compliance. Mr. Collins reviewed the Master Plan, we reviewed the historic buildings that were noted in the Master Plan and came to the conclusion that this is the Millhurst Mills zone and the most significant structure near this site is Millhurst Mills. It is also somewhat compatible in terms of use, it was a commercial grist mill. What we did is we started to look at that structure and how we could nod to that building and nod to the architecture of the building as much as possible with the current constraints. This building is a utilitarian purpose building, there is nothing really flashy about the building. The windows are traditional 6 over 6 double hung windows. We have hayloft

doors on two of the floors, the second and third story and at the ridge we have an overhang for block and tackle to build pull materials up to the upper floors. It is a pretty tall building, four stories tall with a gable pitched roof which is very common in historic architect. What we've done is try to pick up on a lot of those architectural details and incorporate them into a revised design. Mr. Collins referred to the rendering. We are limited to 35' high. The parapet is the highest point of the roof as measured. We tried to recall the lap siding that it is on the grist mill. We have done horizontal score lines which helps us capture the scale of the lap siding and give the illusion of that kind of horizontal feel that we saw on the mill. We changed all of our windows to be residential scale size windows. We have created the look of the doors of the haylofts with the cross trim towards the top, and we've boxed out the ridge area. The entry doors have been changed to a more colonial traditional style, a panel door with nine lights and two side lights. We are trying to mimic the same details in our building. We can't use the exact type of architecture that was used in the mill in this type of building under our current codes. Ms. Krimko said the ordinance does not require that we replicate historic buildings, they require that we are compatible and draw in those architectural features. To address Mr. Brown's question, we don't have internally illuminated façade signs. We have building mounted fixed signs with goose neck lighting which is also part of the attempt to make it more historic.

Mr. Collins said there are some enhanced guidelines for these types of zones. The building volume should be architecturally coordinated and we comply there because we are a single building. We are not proposing multiple buildings, such as Millhurst Mills. We are a compact arrangement, or only one building on the site. The next would be to emphasize the pedestrian environment. We focused on the entry areas and grouped the offices together, so there will not be a long walk from the parking area. By having these recessed entry ways, we have created some space between the parking and the actual entry doors where we have landscaping and added the benches to create a courtyard feel. Ms. Krimko said she spoke with the applicant and they are willing to add the foundation plantings in the area where the benches are and we would be willing to work with Ms. Beahm to come up with a plan subject to her approval. She added that the applicant will do ground penetrating radar based in the area of the footprint of where any structures previously existed on the property. Mr. Collins continued and stated it is our opinion that with this new design that we don't require a design waiver and that we have met the intent of these sections of the code.

Mr. Collins said we are complying with the ordinance. We are meeting the height requirements. We have lowered the gutter lines down. We have changed to a gable configuration and done what we could to try to satisfy our needs for more

volume while still respecting some of the comments that we have received. The bulk of these walls is gutter lines. The profile is 31.5' above grade, the reality of how that building is perceived by people driving past the building. There has been discussion as to why we want this clear height. Ms. Krimko says we are entitled to that height as dictated by the ordinance. Mr. Collins said in the name flex space, we are trying to maximize that flexibility, we're trying to keep ourselves open to largest pool of potential tenants. It allows for a more efficient use of storage of materials for the tenant. It could be raw materials, and as the products are made, they need to be stored before they are sent out. Our clear height would be 28'. Ms. Krimko said we do not need a height variance. The concern of the height up against the residential area is not a realistic concern when you consider the perception and the fact that we are buried in a well a good 15' lower than the residential structures.

Ms. Beahm said you've revised the façade, but only on the one side. Mr. Collins said the two office elements wrap the corners, so it is really three sides. Ms. Beahm said the north elevation has nothing? Mr. Collins said we do address the issues of the basic design requirements, we do have a rhythm of openings and we did mark our entries. Ms. Beahm said but it's not historic and doesn't match the architecture that you're talking about with the mill, etc. You have the two corners and then you have these two façade area along this massive wall. Mr. Collins said the wall is 535'. Ms. Beahm said so you have two little areas that have features that could perhaps be identified and the corners, barely. In your opinion, is this in keeping with the intent of the historic architecture? Mr. Collins said in his opinion, yes. The ordinance says that we have to respond to those buildings, and he believes he has. Ms. Beahm said she will defer to the Board, but she thinks the lion's share of the building is warehouse-esq. It's flat roof, tilt-up concrete, the whole back where the loading bays are - there's been nothing done. While she understands there has been an attempt to try to incorporate these designs, she believes the ordinance requires compatibility and she believes it is going to be up to the Board to decide whether or not what you have done is enough to be compatible. Ms. Krimko said she does not believe that is what the ordinance says. Ms. Beahm said yes it is what it says. Ms. Krimko said there is no definition in the ordinance for warehouse-esq to us. This is flex space. Mr. Cucchiario said the testimony was what Ms. Beahm felt it looked like in her professional opinion. Ms. Beahm quoted from the ordinance, 'integrate into the design traditional architectural forms and materials characterized by the inventory of historic structures of the Manalapan Township Master Plan'. Ms. Beahm said the minimal effort to create this façade given the size of the building and the balance of the façade where this treatment has not been imposed, in her opinion, may or may not conform with this, but it is up to the Board to decide whether or not you have complied with that requirement. Ms. Krimko said she agrees that this is what the ordinance says. She was just objecting to the use of

the term compatible, because it isn't written there. It talks about integrating traditional architectural forms. Ms. Beahm said it says coordinate buildings; that is verbatim from the ordinance. You're saying that the modifications that you have provided, in your opinion, comply. Ms. Beahm said she is not 100% convinced and it is up to the Board to decide whether or not they feel like what has been done to the front façade and these minimal areas meets that intent. Ms. Krimko said this is a single building, so we can't architecturally coordinate with other buildings on our site because there are none, correct? Mr. Collins said that is correct. Ms. Krimko said so it doesn't require architectural coordination with an historic building, it says if you have multiple on site, they have to be architecturally coordinated. It doesn't say we need to replicate a historic building, or even design it in the architectural style or any historic building, we merely have to integrate the design traditional architectural forms and materials. Could you explain what an architectural form is? Mr. Collins said forms typically relate to masses, and geometries and shapes on a building and in his opinion we've addressed that by recalling these gable forms in our panels and again all of the other smaller architectural detailing here. We also across the front carried these double hung windows to try to make the entire front of this façade cohesive. Ms. Krimko asked Mr. Collins how many warehouses he has designed and he said 100s. Ms. Krimko have you ever put on the entire façade, double hung 6 over 6 residential windows? Mr. Collins said he has never done it.

Ms. Beahm said we have worked together many times. Has she ever required similar architectural requirements around the frontage - four facades? Mr. Collins said he believes they have on all four sides in Manalapan. Mr. Collins said this is unique and that there are really two sets of standards here in this zone. You have the standard zones where there are guidelines on creating relief, having compatible materials, similar colors around all four sides. In those basic design guidelines, he believes we have achieved that. We have created those vertical elements on the north side, the warehouse side, we have done complimentary colors and we did our best to try to get those things to be organized in a responsible way.

Mr. Boccanfuso asked about the building elevations. As shown on the south elevation, just as an example, there is a vertical dimension of 33' 10 <sup>3</sup>/<sub>4</sub>" which is roughly 33.88' and it looks to be measured from the average adjacent grade as calculated by Dynamic. However, in the zoning table on the site plan, that 33.88' is measured from the finished first floor. Could you please clarify the measurements? Mr. Collins said we tried to give you three dimensions to look at the overall size and profile of this building; 35' is measured from the average grade to the highest point of the building, which happens to be the parapets. The 33' 10 <sup>3</sup>/<sub>4</sub>" is measured from that average grade to the ridge of the main roof of the building. It is lower than the office element, so it really doesn't have any



impact on building height. He wanted everyone to understand how big the building was at the highest point of that gable, the main mass of the building. Then we gave you the dimension that the bulk of the building would appear to be from grade to the top of that gutter line. Mr. Boccanfuso asked if he reviewed the building height calculation that is indicated on the Dynamic site plan on Exhibit A10, item number 6. Mr. Collins said after speaking with Mr. Muller, there is a math error on the engineer plans and they will correct it to match the architectural drawings, therefore we do comply. Mr. Boccanfuso said the math error, when corrected, will result in a slightly lower building height than what is represented.

Mr. Cucchiaro said to Mr. Collins that at the last meeting you said it would be impossible to comply. Mr. Collins said, no it would be very difficult, but not impossible. Mr. Cucchiaro asked Mr. Collins if it was his decision not to put the design on all four sides? Mr. Collins said our request for the design waiver initially was based on the enhanced rules, not on the base rules. We had always treated that back area the same way; we didn't change the design on that. The only change we made on the north side, the loading dock, was the elimination of several loading docks doors. Mr. Cucchiaro said he thought the testimony before was that there was one façade that didn't have any of the historic architectural treatment at all. Mr. Collins said yes, the north load dock side does not. Mr. Cucchiaro said when you put together the new architectural before us tonight, you made a professional decision to leave that north elevation side without any treatment? Mr. Collins said yes, he did. He was not directed to do that by anyone. Mr. Cucchiaro said in terms of historic architecture, what is your experience? Mr. Collins said we have designed structures in historic towns where the whole town was historic. He's worked in NYC in landmark zones, Allenhurst, Ocean Grove, historic synagogues, etc., and is an expert in the field of historic architecture by Historic Preservation Commissions.

Mr. McNaboe said he went by 300 Madison Avenue, Mr. Collins other project in Manalapan. That is a single tenant building. Mr. McNaboe said if you lower the roof, the building will be more energy efficient. Ms. Krimko said our building is not in a residential neighborhood. It meets the height requirement, and there is no requirement in the Ordinance for energy-efficient building. Mr. Cucchiaro said Mr. McNaboe should finish his statement. Mr. McNaboe said he could withdraw that, he was trying to make a comment for why we have a lower roof. On the back of this building, for height alone, with the loading docks, what is height as we measure from the concrete pads at the loading dock? Mr. Collins said he will give his best estimate on that number. The front gutter line from grade is 31.5'. The loading dock is 4', at that loading dock doors you're talking about is 4', so that would be in those locations 35'6" from top of gutter to the concrete. Mr. McNaboe said so you did it by averaging, correct? Mr. Collins yes it

meets the requirement. Mr. McNaboe said he is going to correct what he said earlier - this zone abuts to a residential neighborhood. It is built in a bowl and if you look at the actual Dynamic Engineering plans on page 2 you'll see that the house that is Kinney, immediately adjacent to your property, you can see the driveways. That house is at ground zero, so you don't have the full bowl effect, although the wall is starting to climb at that point, we're not at the highest point of the wall. So at that point, you are looking at a building that is 31'/32' in the air and whatever the retaining wall is, 5'/6' certainly not 17'. Mr. Collins said that is correct. Mr. McNaboe said this is a lot of building to look at from that house. Mr. McNaboe said you have this split up to be six different tenants. What would be the minimum that we would envision? Mr. Collins said two is the minimum. Mr. McNaboe said is that a 50/50 split? Mr. Collins said it could be any number of splits, but at least one of those tenants spaces needs to be there as a standalone as a minimum, so there are two tenants in the building. Mr. McNaboe asked if he was aware that we have been down this road already where we start considering what is a de minimus use of that other tenant. In other words, one person taking over 80% of the building, and the last one only being 20%. Ms. Krimko said that is the Zoning Officer's determination. Mr. Cucchiaro said first of all that was a question for the architect. Mr. Collins said the way we have this laid out into the six spaces, they are each roughly 10,000 sq ft, so pretty substantial areas in their own. Mr. McNaboe said we have a problem if it has to go down to the Zoning Officer and noise, etc. A lot of that is dealt with at Board level. We don't need to have an owner and a tenant in later on that we're having an adversarial relationship with. We'd rather work it out here and make everything right. Ms. Krimko asked Mr. Collins in all of the residential zones in Manalapan, that is RAG4 - R5, what is the maximum height allowed? Mr. Collins said it is 35'.

Mr. Jacobson echoes Mr. McNaboe's comments. He added that the maximum height is 35', it's not a minimum height. We are looking to be reasonable.

Mr. Cucchiaro said there has been a lot of talk about the height ordinance. Mr. Boccanfuso has confirmed that the height is at 35'. Mr. Cucchiaro said that the way this Board is looking at height, is having to do with the testimony you heard from Ms. Beahm concerning the architectural and whether it satisfies the architectural requirements. That could bear on the height if you determine that they are not compliant because when you read the Ordinance, you need to read all the sections together so they then fit together into one cohesive document that the 35' height is based upon the building looking a certain way, and having a certain architecture. Just desiring that the building be shorter he doesn't believe is a legal rationale. If you find that they have not satisfied it, that is a legitimate way to look at height. He would recommend that is the lens you may wish to choose to review that issue. Ms. Krimko asked Mr. Collins in the design

requirements anywhere, the historic requirement and the architectural requirement - is there anything with regard to massing of the structure of height? Mr. Collins said no, nothing to the height. Ms. Krimko said so the portion for which what was offered that Ms. Beahm doesn't know if we complied, that has to do with integrating traditional architectural forms and materials, correct? Mr. Collins said yes. Ms. Krimko said that Mr. Collins indicated that the historic grist mill is four stories. Mr. Cucchiaro said Section 95-8.6b1 has a reference to the inventory of historic structures of the Master Plan; did you review that Mr. Collins? He said he did review it. Ms. Beahm said we have a landmark design requirement, which would be applicable to this section and it says, number one: height; number two: bulk and scale. Ms. Krimko said but this isn't a landmark building and she's not sure how those would apply; it's not in your review letter or any of the letters. Mr. Boccanfuso said it is specifically cited in the Limited Business District requirements. Ms. Krimko says you need to read it in its entirety of the paragraph - the paragraph talks about architectural forms and materials characterized by the inventory. It doesn't say we have to comply with that requirement as it relates to those historic buildings. Ms. Beahm said respectfully it says Limited Business/Millhurst: the Township Master Plan identifies Millhurst as a historic place of early settlement of the Township. Consequently, the design standards of 95-8.4, landmark design requirements shall apply to applications for site plan approval in the Limited Business Millhurst district. Ms. Krimko said which section are reading from. Ms. Beahm said it's in section 5.5, which then goes to 8.4 which she cited earlier which talks about height and masses. To say that height and massing has never been part of it, she doesn't agree. Ms. Krimko said with regard to the section you indicated we need a waiver from; it's not in that section. Ms. Beahm said you are in the Limited Business Millhurst District.

Mr. Cucchiaro said Ms. Beahm has placed what she thinks is relevant on the record. We have the response from the applicant. There is not going to be reconciliation of the two views. Ms. Krimko asked if Ms. Beahm could please repeat those sections. Ms. Beahm said 95-5.5, Limited Business District Standards, which then refers to 95-8.4, which talk about height and massing. Ms. Krimko asked if she could please read that into the record what it says about height massing. Ms. Beahm said she did already. Mr. Cucchiaro asked Ms. Beahm to just repeat it. Ms. Beahm said Landmark Design Guidelines, Section 8.4-the design of the development proposed on any landmark site or on property abutting or within a corridor designated in the Manalapan Master Plan, shall be arranged to conserve where practical, the landmark and preserve visually compatible building and site design. The municipal agency shall review the capability of the following when evaluating the development proposals that impact height, building, bulk and scale. Ms. Krimko said right, but again you're talking about a landmark site. Mr. Cucchiaro said this is just repeating the

arguments that have already been made. The Board has heard it, there is going to be a summary at some point. Ms. Krimko said she would like the opportunity to dissect that provision. Mr. Cucchiaro said you are welcome to submit a legal memorandum in advance as well so that we can have opportunity to digest it.

Mr. Brown said in the traditional areas, he is confused on the actual materials that are being used. He believes the testimony started out that it was going to be lap siding. Mr. Collins said he was referring to the lap siding that is on the historic mill and we are trying to incorporate that with horizontal score lines to give this scale and the appearance of lap siding. He doesn't see the connection that this would be compliant with that design intent. In prior meetings, parapets were being provided with screening for HVAC mechanicals. Today, where are the mechanical equipment on the revised architectural? Mr. Collins said we had to remove the equipment screens because it was determined by the professionals that those counted towards building height, so we eliminated those. Our parapet is shorter than what the screen would have provided. If we use very small condensing units for the small office area, we should be able to make sure those are not visible. We have also provided HVAC equipment areas that are screened on the north side of the building. That HVAC equipment will be in the back and it is already designed to be screened. Ms. Krimko said we have allocated an area on the site plan with ample space to provide HVAC for the entirety of the building, even if it is refrigerated 24/7 within the north side within a screened area; it's fully compliant.

Mr. Fisher asked about the siding, they are 4' panels that are vinyl, correct? Mr. Collins said we are actually making grooves in the concrete so that it appears to be like wood. Mr. Fisher asked about the interior walls. Are they going to be flexible for different spaces? Mr. Collins said the interior walls will be stud and sheet rock which can easily be demolished, if needed. Mr. Fisher asked but how will the HVAC work then? Mr. Collins said our engineers will design it so that it works.

Mr. Kastell asked Mr. Collins when've designed buildings like this in the past, do you design them with multiple flex space with only one set of A/C units? Mr. Collins said no, we have dedicated areas for mechanical units for each of the units; each one will have their own unit, there will be six altogether.

Mr. Pollifrone had a question regarding the Environmental Site Assessment. You indicated that the subject property is in zone one for purposes of radon zones. Are you contemplating putting in a ventilation system beneath the slab as part of your design? Mr. Collins said assuming that we get beyond this phase, we will comply with all the building codes. If that is required in the zone, then we will.

Mr. Castronovo said page 8 of the 3D rendering, it appears to be an emergency access lane, but that has grass on it. How many emergency access lanes does this facility have? Mr. Muller said there are two emergency access lanes, one on the west side and one on the east side of the building. The one on the west side is stabilized turf; he provided some testimony on that. It is going to look like grass, but it is stabilized and it allows vehicles to drive on it. Ms. Krimko said the one east side is asphalt at the request of the Fire Bureau. Mr. Castronovo said both those accesses will be restricted with gates, correct? Mr. Muller said there will be gates on both ends of both of them.

Chairwoman Kwaak said the applicant needs to work out some logistics and we can carry this application, and also open it up to the public.

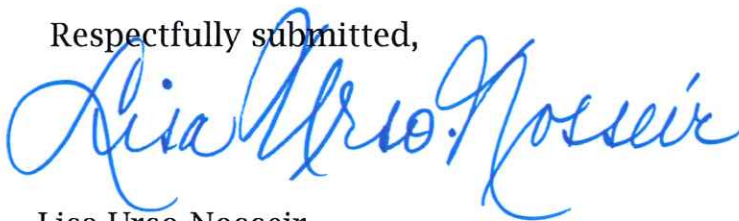
Mr. Cucchiaro stated that the application of PPM2255, LPG Capital, LLC will be carried to the Board's June 8, 2023 meeting. It is a live meeting beginning at 7:30 pm in the courtroom. There will be no further notice to property owners. All materials are on file in the office of the Planning Department for review and inspection during normal business hours.

Chairwoman Kwaak opened the floor to the public for any non-agenda questions or comments, seeing none it was closed.

Mr. Cucchiaro stated the Board was entering into Executive Session. The regular meeting of the Planning Board will discuss no further matters following the Executive Session. Therefore, under the Open Public Meetings Act, we have to first read a resolution and then take a motion to memorialize it. Ms. Urso-Nosseir read the Resolution allowing the Board to enter Executive Session to discuss a matter involving litigation. Chief Hogan made a motion to enter Executive Session and was Seconded by Mr. Jacobson and all were in agreement.

The Board ended Executive Session at 10:45 pm and all exited at the time.

Respectfully submitted,



Lisa Urso-Nosseir  
Recording Secretary