

RESOLUTION

NEW BRUNSWICK PLANNING BOARD

WHEREAS, 986 Jersey Avenue, LLC has made application to the New Brunswick Planning Board, File No. PB-2008-24 for preliminary and final site plan approval so as to construct a waste transfer station on property in the I-2 (General Industrial) zone located at 986 Jersey Avenue and designated on the Tax Map of the City of New Brunswick as Block 598, Lot 6; and

WHEREAS, the proposed use is a permitted use in the zone; and

WHEREAS, there are no variances requested. A design waiver is requested so as to provide landscaped plantings on one side of the building instead of all four (4) sides of the building; and

WHEREAS, at the commencement of the hearing, the applicant advised that they were the successful bidder of a federal government auction to purchase the property. The United States of America, Department of Energy, Office of Legacy Management, prior to the auction, prepared and recorded a Deed Notice, which set forth certain environmental issues regarding the property. At the hearing in this matter David Himmelman, Esq., attorney for Frank Greek, an adjacent property owner, objected to the Planning Board having jurisdiction to hear the application. The basis of the objector's objection was the argument that the environmental remediation work set forth in the Deed Notice needed to be performed prior to any development of the site. The objector argued that the Board did not have jurisdiction to hear the matter until the remediation work set forth in the Deed Notice was satisfied. The applicant's attorney, Thomas Kelso, Esq. argued that the Deed Notice was not relevant to the issue of the Planning Board's jurisdiction to hear the

matter, but rather, was relevant to a condition for development of the site. The applicant's attorney argued that the Board could proceed with hearing the application and that if the application was approved, development of the property would be subject to the terms and conditions set forth in the Deed Notice. The Board agreed with the argument set forth by the applicant's attorney and determined that they had jurisdiction to hear the application for preliminary and final site plan approval; and

WHEREAS, this matter was the subject of a public hearing which occurred on March 10, 2009; and

WHEREAS, the applicant submitted the following documents in support of the application:

- 1) Preliminary and Final Site Plan prepared by Meridian Engineering Group, Inc. dated November 6, 2008 revised through February 20, 2009; and

WHEREAS, the following witnesses testified in support of the application:

- 1) William Lund Professional Engineer; and
- 2) James DeBarbieri Architect; and
- 3) Ron Morriello Applicant Representative; and
- 4) Frank Miskovich Traffic Engineer; and

WHEREAS, after considering the evidence presented in support of the application, and after considering public comment, and after considering the reports and comments from the Board's professionals, the New Brunswick Planning Board made the following findings of fact:

- 1) The subject property is an irregular 244,296 s. f. site located on the east side of Jersey Avenue opposite Jules Lane.

- 2) The site is vacant except for the concrete remains of former buildings, fencing and a fire hydrant.
- 3) The site has a history of industrial use in connection with the United States Department of Energy and other private industrial uses.
- 4) The property abuts a variable width rail right-of-way, located on the municipal boundary between New Brunswick and North Brunswick.
- 5) The applicant proposes to construct a 72,224 s. f. waste transfer station. Four (4) rail spurs will be added from the abutting rail right-of-way along with two (2) rail switches in order to bypass the site.
- 6) There are two (2) separate driveways to provide access to the site. No tipping is proposed outside the building and the applicant proposes fifteen (15) vehicle on-site parking stalls.
- 7) A small office space is proposed inside the building.
- 8) According to the review made by the Board's professionals, there are no bulk variances requested with this application.
- 9) The applicant's traffic engineer testified that there is safe and adequate access to the site and that the access points have safe and adequate sight distance. Furthermore, the on-site traffic flow is designed in accordance with generally accepted traffic engineering standards.
- 10) The applicant requested to only have landscaped plantings on the front of the building. Due to the nature of the use, the Board agreed that the request was reasonable and that it would be impracticable and be an undue burden on the applicant if there was literal enforcement of this ordinance provision.

- 11) The applicant agreed that they would comply with the report of Bignell Planning consultants dated March 9, 2009; and
- 12) The applicant agreed that they would comply with the report dated March 9, 2009 prepared by Hatch Mott McDonald, the Board's Engineer.
- 13) The applicant agreed that construction for the site would be consistent with all applicable ordinances and state statutes as well as the preliminary and final site plan submitted in accordance with this application.

WHEREAS, after making the above findings of facts, the New Brunswick Planning Board made the following conclusions:

- 1) In accordance with the review of the Board's Professionals, and in accordance with the testimony provided at the hearing, the proposed preliminary and final site plan consists of a permitted use and conforms to all applicable City Ordinances with the exception of a design waiver from the requirement of providing landscaped plantings on all sides of the building. For the reasons set forth before, the waiver is minor in nature, the Board's professionals have no objection to granting the waiver and thus the Board grants the waiver. As a result, the application for preliminary and final site plan approval should be granted.

NOW, THEREFORE, be it resolved by the New Brunswick Planning Board that the application by 986 Jersey Avenue, LLC for preliminary and final site plan approval so as to construct a transfer station on property in the I-2 (General Industrial) zone located at 986 Jersey Avenue and designated on the Tax Map of the City of New Brunswick as Block 598, Lot 6 is hereby granted subject to the following conditions:

- 1) Compliance with the terms of the Hatch Mott McDonald Engineering Report

dated March 9, 2009 for the above project.

- 2) Compliance with the terms of the Bignell Consulting Group Report dated March 9, 2009 for the above project.
- 3) Submission of all necessary easements and/or cross access agreements for review by the Board Counsel prior to filing of same.
- 4) Payment of a site performance bond to the New Brunswick Department of Engineering.
- 5) Submission of a site inspection escrow deposit for engineering inspection fees in an amount to be determined by the City Engineer.
- 6) Payment of all water connection fees to the New Brunswick Water Utility.
- 7) Payment of all sewer connection fees to the City of New Brunswick.
- 8) Issuance of a road-opening permit from the City Engineer, if required.
- 9) Planning review escrow funded for all anticipated post-approval reviews.
- 10) Payment of any other fees due to the City of New Brunswick, if applicable.
- 11) Middlesex County Planning Board approval or waiver of same.
- 12) Freehold Soil Conservation District approval, if applicable.
- 13) Final landscaping plan to be subject to T.A.C. review and approval.
- 14) All utilities and other site improvements to be maintained by the applicant at their sole expense.
- 15) All utilities to be constructed underground.
- 16) All temporary encroachments into the public right-of-way shall require City Council approval.
- 17) Tracking pads shall be installed at all construction exits and all street cleaning

shall be performed as per the directive of the Director of Public Works.

- 18) Replacement of damaged streets, curbs and sidewalks as per the direction of the City Engineer.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE COPY OF A RESOLUTION PASSED BY THE PLANNING BOARD FOR THE CITY OF NEW BRUNSWICK AT A MEETING HELD ON THE 14th DAY OF April, 2009.



NAME	YES	NO	ABSTAIN	ABSENT
Drulis				X
Fitzhenry	X			
Garlatti	X			
Harding	X			
Hunter	X			
Jones	X			
Ludeke				X
Ludwig	X			
Torrise	X			
Colonna (1A)	X			