

AMENDED FINAL SITE PLAN
FIVE BELOW, INC.
CHAMBERS BRIDGE RD. & ROUTE 70
Block 701, Lots 7, 8, 9.03, 15 & 16
Zone: B-3 Highway Development Zone
August 11, 2010

Resolution R-40-10
Application No. PB-2673-A-FSP-6/10

RESOLUTION OF APPROVAL
PLANNING BOARD, TOWNSHIP OF BRICK

WHEREAS, an application has been made by Five Below, Inc. c/o Sargenti Architects., for approval of an amended final site plan application for Block 701, Lots 7, 8, 9.03, 15 and 16, as set forth on the Tax Maps of the Township of Brick

WHEREAS, the Planning Board, after carefully considering the evidence presented by the applicant at the Planning Board meeting of July 28, 2010, and considering the reports of its professional staff, hereby makes the following findings of fact:

1. The property is owned by Vornado Realty Trust, 210 Route 4 East, Paramus, NJ 07652.
2. The applicant has requested approval in accordance with the Ordinances of the Township of Brick.
3. The site in question is located at Chambers Bridge Road and Route 70 within the B-3 Highway Development Zone. The site is 23.88 acres in area and is fully developed. The site contains a shopping center consisting of a Shop Rite, Kohl's Department Store and numerous other retail stores, including the applicant's store.
4. The applicant is requesting approval of an amended final site plan for the purpose of removing the existing concrete steps and stoop and constructing a loading dock at the rear of the Five Below unit.
5. The board engineer, Wayne R. McVicar, P.E., P.P., C.M.E., of Remington & Vernick, prepared a report to the board dated July 23, 2010. The Township Planner, Michael P. Fowler, AICP/PP, prepared report dated July 26, 2010. The Brick Bureau of Fire Safety prepared a report dated July 14, 2010.

The Board hereby adopts the findings in the above-mentioned reports and incorporates the reports in this Resolution by reference.

The applicant was represented by John J. Jackson, Esq., of Brick, NJ. The applicant presented the testimony of its professional engineer, Tim Lurie, P.E. The testimony supported the applicant's contention that the proposed loading dock is in keeping with the area and neighborhood and will not be detrimental to the public good.

The Brick Township Planning Board concurs with these representations and so finds.

WHEREAS, the Planning Board has determined that the applicant should be granted the requested relief for the following reasons:

1. The Bureau of Fire Safety has no objection to the proposed loading dock.

2. The granting of the application will not have a substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan, Master Plan, and Zoning Ordinances of the Township of Brick.

3. The positive criteria outweigh the negative, if any.

4. There were no objectors present at the hearing.

5. The safety and well being of the immediate area will not be adversely affected by the proposed preliminary and final major site plan, variances, and design waivers.

6. The application is in substantial compliance with the Zone Plan, and will not unduly impact upon the neighborhood scheme.

7. The applicant has agreed that the driver of the truck making deliveries shall remain with the truck during unloading operations and that no trailers will be left at the dock.

NOW, THEREFORE, BE IT RESOLVED, by the Brick Township Planning Board that the application is hereby approved subject to the following conditions:

1. The applicant must submit proof of payment of all currently due taxes to the Brick Township Planning Board.

2. The applicant must post all bonds and guaranties as required and recommended by this Board and the Township Board Engineer. Moreover, the applicant must post all required engineering inspection fees.

3. All representations and statements made by the applicant, as well as applicant's representatives and witnesses, shall be considered and deemed to be relied upon by the Board in rendering this decision and to be an expressed condition of this Board's actions in approving the subject application. Any misstatement or misrepresentation, whether by mistake or change in circumstance, shall be deemed a breach of this condition of approval and shall subject this application to further review of this Board's own motion.

4. In the event the Planning Board determines that it reasonably relied upon any misstatement or misrepresentation, then and in that event, any approvals previously given may be rescinded and any improvements at the time in place on the premises in question shall not be in compliance with the ordinances of the Township of Brick.

5. The applicant must comply with all conditions as contained in the Board Engineer's Report dated July 23, 2010 and the Township Planner's Report dated July 26, 2010.

6. No building permit shall be issued until the Board Secretary confirms that the Planning Board professional fees have been paid in full. In the event a building permit is issued and there are outstanding Planning Board professional fees, a stop work order will be filed against the applicant/contractor until all professional fees have been paid.

7. In the event there is an *existing* violation, the applicant shall have thirty (30) days from the date the Notice of Decision was published to correct the violation. Failure to correct the existing violation within the time proscribed will result in the issuance of a summons.

8. The applicant must comply with all conditions outlined in Schedule A attached hereto.
9. The applicant shall obtain any other local, state and other regulatory approvals as may be required.
10. The Applicant shall comply with the requirements of the New Jersey Economic Stimulus Act of 2010, effective July 27, 2010, and the Non-Residential Development Fee Act of 2008 effective July 17, 2008. The Applicant must submit a complete and accurate State of New Jersey Form N-RDF, together with an executed copy of this resolution of approval to the construction department as a condition of the issuance of certificate of occupancy even if an exemption to pay a non-residential development fee is being sought.
11. The driver of the truck making deliveries shall remain with the truck during unloading operations.
12. No trailers shall be left at the dock.
13. The tractor trailers making deliveries to the site shall not exceed 50',

NOW, THEREFORE, BE IT RESOLVED, the application, limited to the terms and conditions as set forth more fully in the preamble of this Resolution, be and hereby is approved.

Resolution R-40-10

MOVED BY: Ms. Tabor

SECONDED BY: Mr. Rappoccio

VOTING IN THE AFFIRMATIVE: Mr. Rappoccio, Mr. Marra, Councilwoman Scaturro, Ms. Tabor, Mr. Palmieri, Mr. Coakley, Mr. Beshears, Mr. Hahn, Mr. Catalano

VOTING IN THE NEGATIVE:

INELIGIBLE TO VOTE:

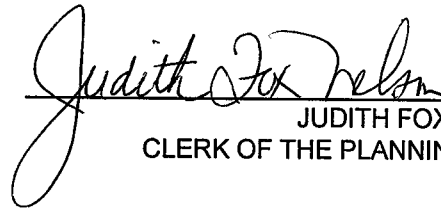
ABSTAINING:

Ms. Brennan, Mr. DiMatteo

ABSENT:

CERTIFICATION

I, **JUDITH FOX NELSON**, Clerk of the Planning Board of the Township of Brick, County of Ocean, State of New Jersey, do hereby certify that I am duly authorized to certify Resolutions. I certify that the foregoing Resolution was adopted by the Planning Board of the Township of Brick at a meeting held on the 11th day of August, 2010.


JUDITH FOX NELSON,
CLERK OF THE PLANNING BOARD

ATTACHMENT "A"

BRICK TOWNSHIP PLANNING BOARD

STANDARD CONDITIONS FOR SITE PLAN APPROVAL

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1. Applicant shall obtain certification by the Local Soil Conservation District of a plan for soil erosion and sediment control in accordance with N.J.S.A. 4:24-39 et seq., commonly known as the "Soil Erosion and Sediment Control Act."
2. All materials, methods of construction and details shall be in conformance with the current "Engineering Specifications and Construction Details" of the Township of Brick, which are on file in the office of the Township Engineer.
3. Applicant shall obtain all approvals required by any Federal, State, County or Municipal agency having regulatory jurisdiction of this development. Upon receipt of such approval(s), the applicant shall supply a copy of the permit(s) to the Board. In the event that any other agency requires a change in the plans approved by this Board, the applicant must reapply to the Brick Township Planning Board for approval of that change.
4. Applicant shall submit this entire proposal for re-approval should there be any deviation from the terms and conditions of this Resolution or the documents submitted as part of this application, all of which are made a part hereof and shall be binding on the applicant.
5. Applicant shall provide a statement from the Brick Township Tax Collector that all taxes are paid in full as of the date of this Resolution and as of the date of the fulfillment of any condition(s) of this Resolution.
6. Prior to the issuance of a construction permit, the applicant shall furnish the Township Clerk with a cash bond and performance guarantee in an amount to be determined by the Township Engineer.

7. Applicant shall post an inspection fund with the Township Clerk in an amount to be determined by the Township Engineer.

8. No soil shall be removed from the site without the written approval of the Township Council.

9. The applicant shall comply with all provisions and pay all fees established under Article VI (Mandatory Development Fees) of Chapter 245 of the Code of the Township of Brick.

10. For all residential uses the subdivider or site plan applicant shall provide for a trash receptacle.

11. In order to insure uniformity of trash receptacles and compatibility with the automatic trash collection system, all trash can receptacles required herein shall be obtained from the Township of Brick.

12. Applicant shall provide proof of application for Title NJSA 39:5 A-1 to the Planning Board.