

BRICK, TOWNSHIP OF (PLANNING AND ZONING DEPT.)



LDS BR-PZ 10603924

R-18-03

BRICK TOWNSHIP PLANNING BOARD
PRELIMINARY AND FINAL SITE PLAN APPROVAL

Resolution R - 19 -03

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Case No. PB-2428-PSP-FSP-11/02

February 26, 2003

WHEREAS, LAKE RIVIERA CO., L.P. & SMITH & SONS REALTY CO., L.P., having a mailing address of 550 Brick Boulevard, Brick, New Jersey 08723, has applied to the Brick Township Planning Board for preliminary and final site plan approval pursuant to N.J.S.A. 40:55D-46, 50, 51, 60, and 70; and

WHEREAS, proof of service as required by law upon appropriate property owners and governmental bodies has been furnished and determined to be in proper order; and

WHEREAS, a public hearing was held on February 12, 2003 at the Municipal Building, at which time testimony and exhibits were presented on behalf of the applicant, and all interested parties having been heard; and

WHEREAS, the Board makes the following factual findings and findings of law:

1. This property is known and designated as Block 446.05, Lots 3, 4 & 5 on the Municipal Tax Map.
2. The property is located in the B-2 General Business Zone.
3. Applicant proposes to demolish existing Riviera Realty/Coldwell Banker Building which exists at Brick Boulevard and Duquesne Boulevard, and construct a Taco Bell Restaurant with drive-thru, of approximately 2400 square feet. In the southeast corner of site, adjacent to the Voyager Way/Duquesne Boulevard intersection, the existing one story building, currently used as a law office/limousine service, will be demolished and replaced with a proposed two story Riviera Realty/Coldwell Banker Building of approximately 6000 square feet.

FILE-2
APP
APP ATT
APP ENG
PB ATT
PB ENG
ZONING
TAX A
COAH
ENG-2

Applicant, Lake Riviera Co., L.P. & Smith & Sons Realty Co., L.P., testified through its Engineer, Charles Lindstrom, P.E., P.P., who recited that the changes proposed by applicant were arrived at after much consideration and deliberation. Mr. Lindstrom further testified that the demolishing of the existing one-story Riviera Realty/Coldwell Banker building and replacement of same with the Taco Bell Restaurant with drive-thru as well as the construction of the new Riviera Realty/Coldwell Banker building is a reasonable and effective plan which will make the site more efficient.

Applicant next presented the testimony of Patrick Shields, representative of El Rancho Corp., the "area coach" and franchisee of owner/operator of Taco Bell in this geographic area. Mr. Shields testified that, in answer to certain concerns of the Board and its professionals, that the food and materials supply deliveries to Taco Bell would be made by tractor-trailer approximately twice a week, and always at off-peak times. Mr. Shields testified that delivery to the thirty-four New Jersey restaurants usually starts about 5 a.m. and continues through a last delivery-time of about 11 a.m. or before lunch traffic starts. Mr. Philip Neuer, Esq., general counsel for El Rancho Corp., then testified as to Board inquiry as to the size of the proposed signage. Mr. Neuer recited that the "standard" Taco Bell signage in the northeast area, for the last eight to ten years, has been no less than sixty-four square feet, and applicant's preferred and usual request is for ninety-seven square feet signage.

The proposed preliminary and final site plan is shown on plans entitled "Preliminary & Final Major Site Plan, Riviera Plaza, Block 446.05, Lots 3, 4 & 5 situated in Brick Township, Ocean County, New Jersey," dated October 17, 2002

last revised January 23, 2003 consisting of seven (7) sheets. as prepared by Lindstrom, Diessner & Woodcock, L.L.C. The parcel is comprised of 4.528 acres and within the B-2 General Business Zone.

4. Birdsall Engineering, Inc., the Board's Engineer, prepared a report to the Board dated February 5, 2003. The Board hereby adopts the findings in that report and incorporates that document into this resolution by reference.

5. Michael P. Fowler, Municipal Planner, prepared a report to the Board dated February 11, 2003. The Board hereby adopts the findings in that report and incorporates that document into this resolution by reference.

6. The Bureau of Fire Safety prepared reports to the Board dated December 10, 2002. The Board hereby adopts the findings in those reports and incorporates that document into this resolution by reference.

7. The Traffic Safety Officer prepared a report to the Board dated January 6, 2003. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

8. The Shade Tree Commission prepared a report to the Board dated December 16, 2002. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

9. Applicant has sought variances for:

a. In accordance with Section 190-96, area, yard and building requirements, bulk variances are required as follows:

i. The required front yard setback in the B-2 Zone is 50 feet. The application requires setback variances as follows:

- * Taco Bell – 34 feet to Duquesne Boulevard
- * Taco Bell – 45 feet to Brick Boulevard
- * Strip Mall – 20.9 feet to Voyager Way (existing)
- * Strip Mall – 44.5 feet to Cedar Bridge Avenue (existing)
- * Boston Market – 42.8 feet to Brick Boulevard (existing)

ii. The percentage of impervious area should be no more than 65% which the B-2 Zone permits applicant proposed 85.7%

- iii. The percentage of landscaped area in the B-2 Zone should be a minimum of 20% of lot area, applicant proposed 14.3%.
- b. In accordance with Section 190-20, detached accessory uses must be located to the rear of the front building line of the principal building, whereas trash enclosures are proposed and existing within the front yard setback areas (because site is surrounded by Brick Boulevard, Duquesne Boulevard, Voyager Way and Cedar Bridge Avenue).
- c. In accordance with Section 190-160, the minimum number of required parking spaces is 243, whereas 196 spaces were proposed. (Applicant's engineer testified he anticipates no parking problems at site)
- d. In accordance with Section 190-161B, parking facilities shall not be closer than twenty feet (20') to any street right-of-way line, or easement dedicated for roadway purposes, whereas ten feet (10') has been proposed along Voyager Way and zero feet (0') exists along Voyager Way. (Problems of existing site)
- e. In accordance with Section 190-161C, adjacent residential zones shall be shielded from site lighting and automobile headlights. There appears to be no shields on the site lighting, and parking and driveways are within the required buffer to the residential zone. (Applicant will comply)
- f. In accordance with Section 190-161G, all commercial truck loading and unloading areas shall be provided in sufficient amount to permit the transfer of goods and products. It appears this requirement has not been met. (Applicant's engineer recited that delivery will be accomplished during off-peak hours)
- g. In accordance with Section 190-161J, parking stalls shall be 10' x 18' whereas 9' x 20' are proposed. Additionally, it appears the existing parking stalls are 9' x 18'. (Applicant agreed to hairpin striping to maximize the number of parking spaces)
- h. In accordance with Section 190-161M, a minimum three foot (3') high landscaped berm is required along Brick Boulevard, Duquesne Boulevard, Voyager Way and Cedar Bridge Avenue, adjacent to the parking lots. No berms exist. (Applicant's engineer testified berming would infringe into sight triangle)
- i. In accordance with Section 190-164, the required sign setback is ten feet (10') to the property line, whereas zero feet (0') is provided to the "Taco Bell" sign. (Applicant agreed to comply with 10' setback)
- j. In accordance with Section 190-164, the maximum sign area is 50 s.f., whereas 64 s.f. is proposed. (After much discussion, 64 square feet signage will be permitted)
- k. In accordance with Section 190-258H, the minimum buffer requirement adjacent to a residential use or zone is sixty feet (60'), whereas only ten (10') is proposed along the R-7.5 Zone Boundary. (Applicant will work with Board's engineer and planner as to acceptable buffer plantings.)

10. Applicant has sought design waivers for the following:

- a. In accordance with Section 190-243, a traffic report is required for this project. No report has been submitted. (Applicant's engineer recited site is in operation, and based on synergy of uses, traffic should not be a problem.)
- b. In accordance with Section 190-207, sidewalks and curbs are required on all municipal streets. No curbs and sidewalks are proposed along Voyager Way. (Existing conditions: none in immediate area.)

c. In accordance with Section 190-220, stormwater management shall be required for all residential and commercial development and shall be designed in accordance with N.J.A.C. 5:21-7 Stormwater Management for all aspects of stormwater management design. Stormwater reductions are required. (Applicant agrees to comply with RSIS standards.)

d. In accordance with Section 190-257, all turf areas located in the front yard and all planted landscape areas must be irrigated with an underground irrigation system. (Applicant will comply.)

Each of these variances and design waivers may be granted as appropriate after testimony and applicant's revisions to its original proposed plan. Each of these variances and design waivers are of limited nature particularly given the applicants' concessions and improvements as well as the changes to the original plan, they do not do substantial detriment to the public good zone plan or zoning ordinance. With these circumstances, these variances and design waivers may be granted.

11. With the exception of the variances and the waivers granted hereinabove, the applicant has complied with the requirements of the site plan ordinance. The plan is consistent with the intent and purpose of the Master Plan and the Municipal Development Ordinance. Accordingly, the Board finds that the benefits of the proposed development outweigh any detriments, and the relief requested can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Township Zoning Ordinance or Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Township Planning Board on this 26th day of February, 2003, that this application be approved subject to the following conditions:

1. The applicant shall comply with all standard Planning Board conditions for preliminary site plan approval as set forth on Attachment 'A.'
2. The applicant shall comply with all representations and agreements made by the applicant or its attorney during the presentation of this case.

3. The applicant shall comply with the following paragraphs contained in the report of Birdsall Engineering, Inc., dated February 5, 2003 including: 4, 5, 6, 7(a) (Boston Market trash enclosure will be repaired), (b) (Applicant will discuss with Board's engineer and planner as to reduction of site triangles, with a view toward utilizing ASHO standards as opposed to country standards), (c) (Applicant agreed to work with Board's engineer to attempt to widen the drive-thru lane, although applicant's engineer testified that same was adequate), (d) (Applicant recited that the site traffic circulation works, within limitations of existing conditions), (e) (Applicant agreed to low level landscaping to satisfaction of Board's engineer and planner to enhance visual impact of Taco Bell and drive-thru window as to Duquesne Boulevard side), (f) (Applicant recited that trash enclosures as follows are all necessary and needed: 1. Chinese restaurant; 2. behind existing building; 3. Boston Market; 4. behind proposed office building; 5. behind proposed Taco Bell), (g) (Applicant agreed to restripe entire parking lot with hairpin striping), (h) (Applicant agreed to reconfigure existing handicapped stalls for existing strip mall, and provide ramps at existing walks), (i) (Applicant will provide a loading zone and fire lanes around Taco Bell), (j) (Applicant will provide walkways and crosswalks from the parking areas designated for Taco Bell to site entrance), (k) (Applicant will provide dimensions showing pavement width and right-of-way width, measured from centerline of Brick Boulevard and Cedar Bridge Avenue, and noted on plan), (l) (Applicant advised proposed Coldwell Banker freestanding sign to be 18 square feet, at ground level, and will comply with setback), (m) (Applicant agrees to provide "Stop Sign" at Brick Boulevard exit), (n) (Applicant agreed to Taco Bell signage as 64 square feet freestanding identification sign; three Taco Bell façade signs will be 19.3' each—applicant agreed to eliminate signage at rear of Taco Bell towards Voyager Way; Coldwell Banker/Riviera Realty façade sign attached to building will be shown on two sides: Duquesne Boulevard and Brick Boulevard), (o) (Applicant will supply, to

satisfaction of Board's engineer and planner, specification as to all directional signage details), (p) (Applicant requests a waiver, as there are no sidewalks in the immediate area along Voyager Way; and same is a de minimus exception from RSIS standards), (q) (Applicant testified that Ocean County has not requested same), (r) (Applicant agreed to add note to plan that existing curb and sidewalk shall be removed and replaced as directed by Township engineer), 8 (a) (Applicant represents Ocean County has approved applicant's plan, and further represents that site runoff is collected in Brick Township's system), (b) (Applicant has recited that drainage plan is acceptable and efficient; further specifics to be supplied to satisfaction of Board's engineer and planner), (c) (Applicant agrees to an enhanced buffer behind existing strip mall, adjacent to Voyager Boulevard, to satisfaction of Board engineer and planner), (d) (Applicant agrees to convert existing inlets to bicycle safe grates), 9 (a) (Applicant agrees to provide further site lighting details to the satisfaction of Board's engineer and planner), (b) Applicant will use best efforts to reevaluate sight triangle along Duquesne Boulevard and Voyager Way frontage, so as to permit low-level landscaping and berming), (c) (Applicant agrees to irrigate with an underground irrigation system all front yard and landscape areas), (d) (Applicant agrees that anticipated hours of Taco Bell will be from 10 A.M. to 1 A.M. and that dining room will close at 11 P.M. Further it is possible the hours may be extended to include breakfast and additional evening hours. If hours do change, Applicant will appear before the Planning Board at an informal hearing to discuss same. Further, there is anticipated to be nine employees per shift—and outside lights will be turned off one hour after close of business. Coldwell Banker/Riviera Realty office anticipated normal business hours of 9 A.M. to approximately 9 P.M., if meetings or work demands same; otherwise 6 P.M.), (e) (Applicant agrees to provide supplemental), 10, 11, 12, 13, 14.

4. The applicant shall comply with the following comments contained in the report from Michael P. Fowler, Municipal Planner, dated February 11, 2003: IV. Comments: A (applicant proposed one ground sign for Riviera Realty building in addition to the façade signs on building), B (Applicant will add additional landscaping to satisfaction of Board engineer and planner), C (Applicant agreed to supply proposed curbs), D (Applicant agreed to change these five (5) parking spaces to a 9' x 18' with hairpin striping), E (Board hereby restricts left turn into site from Cedar Bridge Avenue pursuant to the recommendations of Township Safety Officer Robert Appello) F (Applicant agreed to stop sign and stop bars after close of business lighting/signage turnoff), G (Applicant agreed to lighting/signage turn-off one hour after close of business) H (Applicant to supply architectural), I (Applicant presented testimony through its professionals, as to its relief requested).

5. The applicant shall comply with the comments contained in the report from the Bureau of Fire Safety dated December 10, 2002.

6. The applicant shall comply with the comments contained in the report from the Traffic Safety Officer dated January 6, 2003.

7. The applicant shall comply with the comments contained in the report from the Shade Tree Commission dated December 16, 2002.

8. The applicant represented that satisfactory cross-access agreement and easements are recorded as to parking and traffic circulation, as well as utility and maintenance.

9. Applicant agrees to provide a fence (to satisfaction of Board Engineer and Planner) along the rear of proposed Coldwell Banker/Riviera Realty Building to start at the corner of Duquesne Boulevard and run one-hundred and fifty feet (150') along Voyager Way.

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MOVED BY:

Mr. Kelly

SECONDED
BY:

Mr. Dockery

VOTING IN THE

AFFIRMATIVE: Mr. Kelly, Mr. Dockery, Mr. Petoia, Mr. Reilly,
Mr. Scherer

VOTING IN THE Mrs. LaDuke
NEGATIVE:

INELIGIBLE TO
VOTE:

Councilman Underwood, Mr. Aiello

ABSTAINING:

ABSENT: Mr. Vespi, Mr. Fredo, Mr. Higgins

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 the foregoing resolution was duly **ADOPTED** by the said Planning Board of the Township of Brick at a regular meeting held on the 26th day of February, 2003.

IN WITNESS WHEREOF, I have set my hand this 28th day of February, 2003.


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 VB (Mandatory Development Fees) of Chapter 190 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.