

Approved 5/12/10

**REGULAR MEETING OF THE  
TENAFLY PLANNING BOARD  
April 28, 2010**

Chairperson Wilmit called the meeting to order at 8:00 p.m.

The announcement was made regarding compliance with the Sunshine Law.

The secretary was asked to call the roll:

Voting members present:	Mayor Rustin	Councilman Jon Warmes
	Mary Beth Wilmit	Jeffrey Toonkel
	Eugene Cho	Charles Lipson
	Kevin Tremble	Mark Zinna
	Marc Harrison	

Voting members absent:	Gus Allen	Steven Greene
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Others present:	Jeffrey Zenn, Esq.
	David Hals, P.E.
	Dee Lorberbaum, MLUL Officer

A motion was made by Mr. Tremble and seconded by Mr. Zinna to approve the minutes of the Regular Public Meeting of March 24, 2010. All voted in favor of the motion; none were opposed.

Attorney Zenn announced that the hearing for the application for Michael F. Parlamis (Axia Restaurant), Block 1005, Lot 17, 18 Piermont Road, would be continued to the evening of May 12, 2010. No further notification is required.

Mrs. Lorberbaum will send out notice of this meeting. The Work Session will be converted to a Public Meeting for this hearing. It was also noted that the Historic Preservation Commission will be present at the Work Session to discuss the Draft "Policy Review of the Historic Preservation Plan Element of the Master Plan of the Borough of Tenafly".

**NEW BUSINESS**

The following representatives for JMP Tenafly, LLC, were present to discuss an amendment to the zoning ordinance that covers Block 1309, Lot 2.01, specifically to allow for the addition of medical and dental offices: Gail Price, Esq., Richard Fernicola, JMP Tenafly, LLC, Jeff Fiore, Atlantic Traffic engineer. The board reviewed Ms. Price's letter of April 8, 2010, regarding this zoning ordinance change. There was testimony that 57 parking spaces are provided on the site, which would be more than adequate for this use. There will be no additional parking requested from TD Bank. The commercial parking would also be separate from the residential parking on the adjacent lot.

Borough Engineer David Hals commented that the parking may be determined by what type of practice the doctors are engaged in, i.e. surgical center would generate more patients, a

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psychiatrist may generate fewer spaces, etc. It is his opinion that this use of medical and dental offices is reasonable and good use for the zone.

There was some concern regarding the traffic which might be generated by the facility. All issues were addressed by Mr. Fiore to the board's satisfaction.

A motion was made by Mr. Zinna and seconded by Mr. Lipson to recommend that the Mayor & Council move forward to amend the permitted uses in the AHO-1/C.2 zone district to include medical and dental offices. The roll was called and the motion carried. All voted in favor of the motion; none were opposed. Voting YES: Mrs. Wilmit, Mr. Tremble, Mr. Lipson, Mr. Toonkel, Mr. Cho, Mr. Zinna, Mr. Harrison, Councilman Warms and Mayor Rustin. Mrs. Lorberbaum will prepare and forward the memorandum to the Borough Clerk.

There was much discussion on the memo from Borough Clerk Nancy Hatten re: Ordinance No. 10-14/Rescind Ordinance No. 08-16/Establish a Parking Trust Fund. The Mayor & Council wish to rescind the parking trust fund ordinance that the Planning Board had previously forwarded to them and which they had approved in 2008. The Borough Council is requesting that the new ordinance be reviewed by the Planning Board for "identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate."

Janice Talley, Planning Board Planner, noted in her memo of April 28, 2008, "The 2005 Master Plan Reexamination Report included a recommendation that a Parking Capital Trust Fund be created, specifically to address situations where developers are unable to meet the parking requirements due to property constraints (2005 Master Plan Reexamination Report, p. 41). The parking trust fund ordinance only applied to properties in the B-1, B-2, C. M-1 and SR/B zone districts. Since the creation of a parking trust fund was a specific recommendation in the Borough's Master Plan Reexamination Report, proposed Ordinance 10-14 is inconsistent with the Borough's Master Plan.

It was noted that the Planning Board had reviewed two applications where the ordinance should have been enforced; however, in both circumstances, the Board chose to waive those fees. Fuel Fitness had been operating for approximately three (3) years without additional parking which would have been required. The board believed that was a significant a reason to waive the fee. In the other application, County Tiger, the board had requested that the applicant work with an adjacent neighbor and permit an easement to add additional parking on that site. The applicant lost parking spaces on his site with this easement. The board granted a waiver of parking trust fund fees because the board had requested the applicant work to get the easement.

There is presently a lawsuit against the Borough regarding this ordinance. If the Mayor & Council rescind the ordinance, the lawsuit will dissipate. Mrs. Talley commented that there is no Capital Improvement Program in place for the Parking Trust Fund. There should be one

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implemented. Mr. Zenn will speak with Borough Attorney William McClure regarding the pending lawsuit and will determine if there are other reasons for the Mayor & Council wishing to rescind this ordinance. Board members did not wish to see this ordinance rescinded at this time; but wanted an opportunity to see if there are certain challenges that should be addressed.

A motion was made by Mr. Tremble to advise the Mayor and Council that the Planning Board believes that the rescinding of Ordinance No. 08-16 with Ordinance No. 10-14 is currently inconsistent with the 2005 Reexamination Report of the Master Plan. The Planning Board would like to have thirty (30) days to examine the Ordinance and to make additional recommendations before Mayor and Council takes further action. This motion was seconded by Mr. Cho and carried with the following roll call vote: Voting YES: Mrs. Wilmit, Mr. Tremble, Mr. Lipson, Mr. Toonkel, Mr. Cho, Mr. Zinna, Mr. Harrison, Councilman Warms and Mayor Rustin.

Mrs. Lorberbaum will provide copies of Planning Board minutes for meetings at which the Parking Trust Fund Ordinance was discussed to all new board members for their review.

Mrs. Wilmit noted that a meeting took place to discuss the board's proposed revisions to the LDR. In attendance at the meeting were Planning Board Vice Chair Gus Allen, Planning Board Attorney Jeff Zenn, Board of Adjustment Chairman Benny Lorenzo, Board of Adjustment Attorney Harold Ritvo, Mayor Rustin, Dee Lorberbaum, MLUL Officer, and Frank Mottola, Zoning Officer, Mrs. Lorberbaum has prepared some additional revisions to the proposal. Mr. Zenn will have several more changes and this proposal will be ready for discussion at next month's meeting.

There is no additional information on COAH developments at this time. It was noted that Mr. Lee has approval from DEP to proceed on his application for developing his site on Dean Drive. The State has not approved Tenaflly's COAH plan as of yet. Mr. Lee's development was part of that plan. It was decided that once an application is received from Mr. Lee, the COAH Committee will meet with its COAH counsel and planner.

Mr. Toonkel noted that he had received correspondence from Gary Fogelman from SAGA Electronics wishing to appear before the board with a presentation on reduced electric costs. He was advised to have Mr. Fogelman contact Bob Beutel, head of the Borough Green Team.

A motion was made by Mr. Lipson and seconded by Mr. Toonkel to adjourn the meeting at 9:18 p.m. A voice vote carried the motion. All were in favor; none were opposed.

Respectfully submitted,

Valerie B. Nicolosi  
Planning Board Secretary