

**BOROUGH OF TUCKERTON LAND USE BOARD**

**September 16, 2021**

In accordance with the provisions of the Open Public Meetings Act, Calvin Morey opened the meeting of the Tuckerton Land Use Board on Thursday, September 16, 2021, at 7:00 p.m. in the Tuckerton Borough Complex.

**FLAG SALUTE:** Calvin Morey led the flag salute.

**SUNSHINE STATEMENT:** Carol Scurman read the provisions of the Open Public Meetings Act.

**ROLL CALL:**

Members of the Land Use Board in attendance were Mayor Marshall, James McAndrew, Keith Vreeland, Greg Brojack, Mike Dupree, Peter Gioiello, Don Rocheskey. Wayne Tonnesen and Calvin Morey. Robert Rue was absent.

**MINUTES**

Keith Vreeland made a motion to accept the minutes of the August 19, 2021 meeting as written. Mike Dupree seconded the motion. On roll call, all voted yes with the exception of Don Rocheskey. The motion was carried.

**INVOICES**

**T & M Associates totaling**

8/26/21	SE410878	Lokal 3 Penny, LLC Wood St. B46 L3.01	559.50
---------	----------	---------------------------------------	--------

**Woodland, McCoy & Shinn totaling \$1,400.00**

9/10/21	69263	General Board Representation – August	100.00
9/10/21	69264	Lokal 3 Penny, LLC Wood St. B46 L3.01	1,300.00

A motion was made by James McAndrew and seconded by Keith Vreeland to approve the payment of bills on the availability of funds. On roll call vote, all members agreed. The motion was carried.

**CORRESPONDENCE**

OC Soil Conservation Dist., Soil Erosion & Sediment Control Certification dated August 30, 2021, re: Demolition of Residential Properties – Site Plan; Block 13, Lots 15, 16

**NEW BUSINESS - Application**

**LOKAL 3 PENNY, LLC  
USE VARIANCE  
(23 UNIT HOTEL & ACCESS DRIVE THROUGH RESIDENTIAL ZONE)  
ZONE R100 / B2 (SINGLE FAMILY RESIDENTIAL /HIGHWAY BUSINESS DISTRICT)  
BLOCK 46, LOT 3.01 / 322 WOOD STREET**

Mr. Shinn addressed the board. The application to be heard tonight involves both use and bulk variances. Mayor Marshall and Councilman Vreeland must stop down. The use variance requires five affirmative votes out of seven members eligible to vote. The applicant's attorney and the board chairman agreed we will recess at 10:00 pm if it does not get finished tonight, it will be carried to the October 21, 2021, 7:00 pm meeting in this room. The applicant and the witnesses will go first; the board members may ask questions at any time. When the applicant rests, there is an attorney representing several people present. She will have unlimited time to ask all the witnesses questions. Anyone not represented by counsel will then have a chance to ask questions of the applicant's experts with a 5-minute time limit. The objector's attorney will then have a chance to call any witnesses with no time limit. Then counsel for the applicant will have a right to cross examine those people. The board will then consider the evidence only taking into consideration what was heard in this room.

Mark Rohmeyer, Land Use Board Engineer, was sworn in by Robert Shinn. Mr. Rohmeyer has represented this board for many years and is recognized as an expert in his field by the board.

Exhibit B-1: Engineer review letter (5 pages) dated 7/29/21, signed by Mark Rohmeyer, P.P, P.E., C.M.E.,

Exhibit B-2: Tuckerton Volunteer Fire Company No.1 review letter (2 pages), dated August 17, 2021, signed by Chief Dale W Eggert

#### Applicant's Exhibits

Exhibit A-1: The applicant's application dated 7/2/21

Exhibit A-2: The notice and cover letter for this meeting

Peter Chacianas, the applicant's attorney from the law firm of Hyland Levin Shapiro, 800 Sagamore Drive, Marlton, NJ, 08059, addressed the board. This application concerns 322 Wood Street. The applicant is seeking use variance approval to construct a 23-unit eco-friendly hotel, including site amenities which will include food and beverage.

This application involves a split zone, with a portion located in the R-100 Zone and the majority of the lot located in the B-2 Zone. The use variance does not involve the hotel. The location of the hotel, the site amenities and parking will be located in the B-2 Zone which is a permitted use. To access the site, there is a small 28-foot strip of land that provides access to the site off Wood Street. The use variance is being sought to permit the construction of an 18-foot-wide access driveway through the R-100 Zone.

The applicant, Chad Ludeman, 611 Jonathan Hoffman Rt., Cape May NJ 08204, was sworn in by Robert Shinn. Mr. Ludeman and his wife have owned this company for about 4 or 5 years. Prior that that, they were building homes for about 10 years. They currently have 3 hotels and one vacation home. Two apartment style hotels are located in Philadelphia with 6 units each; their third hotel is in Cape May which is also apartment style and can be called a mini resort. They also have an A-frame cabin vacation home.

They were looking in the LBI area for their next hotel. This piece of property is suitable for an eco-resort retreat hotel because it is wooded with fully mature trees and is unnoticeable from the street. They plan on a pool and saunas in the middle and facing all the rooms outward. It would be available to adults only, with one bed. Their focus is reducing carbon footprint, using carbon negative products and solar heating.

Exhibits A-3 and A-4, The Landscape Hotel Site Plan, and Photos prepared by the applicant, his interior designer, and the assistance of a friend who does renderings, were entered into evidence.

They will have no liquor license and offer a small food and beverage component for guests on site. There will be a couple of hot tubs, a sauna, possibly a cold plunge, and a small building for massages. There will be no large events such as weddings and no live music. The sound system will be facing the pool at a low volume.

Employees would include cleaning people, pool maintenance. landscaper and a general manager that would live in town and be on call. First shift will be 10 am before 11 am checkout. There will be cameras outside and noise sensors in the room. Booking will be made by emails in lieu of a front desk.

Wayne Tonnesen asked if the rooms had fireplaces as shown on the exhibit. He was told there are no fireplaces.

Mark Rohmeyer asked what type of vehicles would enter the site other than guest vehicles and what type of signage would be on Wood Street. He was told trash vehicles (3<sup>rd</sup> party), cleaners, laundry, food and beverage vehicles. There would be a small sign on Wood St.

Mike Dupree asked the source of energy for the hot tub. He was told no natural gas, possibly a heat pump. He asked where the electricity would run. He was told off Wood Street down under the driveway.

Mr. Tonnesen questioned the close locations of trees against the buildings. The NJ Forest Fire Service recommends a 100-foot buffer. He said their engineer would address that with testimony from the Fire Chief.

This design is meant to fit within the environment of the area as opposed to a larger hotel chain. It will be open year-round except for the pool.

Mr. Dupree said there are other properties with easier access, why this location? He was told It was the only one permitting hotels. They also would rather be secluded in the woods than be located on a main road.

John Kornick, K2 Consulting Engineers, Inc., 36 Tanner Street, Haddonfield NJ, was sworn in by Robert Shinn and accepted as an expert in his profession as both engineer and planner by the Land Use Board Engineer, Mark Rohmeyer.

Exhibit A-5, Use Variance Plan, prepared by John Kornick, P.E, dated 6/29/21 was entered into evidence.

Mr. Kornick testified the proposed is a 23 unite single story hotel/motel concept integrated in the wooded area. The plan also identifies delineation of the wetlands on the property, which they physically surveyed March of 2021. They took Mr. Ludeman's concept and married it into the plan, looking at the environmental constraints, with regards to wetlands and wetland buffers and looking at the conditions of access from Wood Street to the property, Over the years, this property has had a significant change of ownership. The Borough at one time owned a portion of the property and sold it back to the estate. It is a tract of about 7.1 acres. We are describing a proposed project in the B-2 Zone which is fully permissible under the zoning ordinance. The former lot was 5.03, which is why they are before the board. It is a portion of the overall tract of land that is the access route to Wood Street, a 28.38-foot-wide lot, roughly 387 feet deep on the south side and 386 feet, more or less, on the north side. That affords us opportunity to access the rest of the tract. The area in the R-100 Zone is about .25 acres, roughly 10,000 square feet. They did research on this tract. It is shown on a former minor subdivision plan before a board in Tuckerton in 1981. The prior owner owned a significant land mass in this area.

If they get use variance approval this evening, they will come before the board with a fully engineered plan, which they do not have at this time.

They are strictly before this board for a use variance for access. If that access is not permissible, they essentially render the entire tract unusable.

With regards to the application and what they are presenting before the board, they do show access all the way to the hotel/motel use They have evaluated the DEP regulations regarding Freshwater Wetlands, wetlands buffers. That access meets the criteria of one of their general permits. They will be working with Mr. Ludeman to work his hotel/motel into the land. He is familiar with fire breaks; it is his understanding a 20-foot break is required around a structure. But they will coordinate this with the Fire Department and any of the UCC components in the design phase. From an engineering perspective, we will be utilizing and having to abide by the most recent changes to the NJDEP Stormwater Management regulations which includes finding ways of preserving areas of trees and lessen the footprint of stormwater management basin which ties into Mr. Ludeman's plan for an eco-friendly development. They have evaluated the access point from Wood Street and utilized a fairly large fire truck to come in and do a turning movement. With our 18-foot-wide access, we would put permeable pavers on the side which would permit that fire truck access into the facility. This will be included in detail at the time of site plan.

Regarding the Tuckerton Fire Company's suggestion of a second access through an easement at the back of the property that runs along the common property line of Block 14, that is an Ocean County and Verizon easement. They would work with those utilities and owners of the easement for a secondary means of access for firefighting purposes.

The property is in the sewer service area and also has the opportunity to connect to public water. We do have water infrastructure in the street, and a fire hydrant near the proposed driveway to enter. They would work with the utility and the Borough Engineer with regards to service. A formal sewer analysis has not been done, but to bring sewer out to the public utility, we will have to use a small pump station. Regarding the comment of water looping, making sure we have enough capacity from a service perspective, we would work with the utility.

Mr. Dupree asked where sewage would be tied in. Mr. Kornick said all utilities would come in through the access road.

Mr. Dupree asked if the three existing mature trees must be removed. Mr. Kornick said one silver maple tree is on the property corner. They are working on ways to preserve it. The other two are white pines, close to the property line and rare to the area. They will evaluate them and get an arborist in to study them.

Mr. Dupree said there is a well head to the right of the house closest to the street. Mr. Kornick said they have public water on the street so they will coordinate with the utility to see if that well is appropriately positioned and permitted.

Mr. Kornick testified they did design the B-2 portion of the site in accordance with the borough's ordinance. There is a cul-de-sac at the end on purpose for vehicles to come in and turn around on site and come back out. They also evaluated the turning movement as you come from west to north.

Mr. Tonnesen asked if there is access from any other road other than Wood Street to this property. Mr. Kornick said there is not. Lot 3 and Lot 15, located in the B-2 Zone, are landlocked. Lot 5.03 is the only means of access.

Regarding parking, Mr. Kornick testified as per ordinance, adequate parking has been provided.

Mr. Rohmeyer asked for description of circulations in any loading areas. Mr. Kornick testified they anticipate smaller sized vans or trucks. Load / unload is essentially in the circle. Vehicles delivering small portions of food park in the parking lot.

Regarding another access to the site, Mr. Tonnesen pointed out the possibility of Rt. 539. Mr. Kornick said they do not own any land connecting to Rt. 539. Lot 15.01 is owned by somebody else.

Mr. Rohmeyer asked for the dimensions of the access road and how he feels they are adequate. Mr. Kornick testified borough ordinance affords the opportunity to take the width of an access road for commercial use down to 18 feet. It provided a buffer between the two sidelines. It is the applicant's desire to avoid pavement.

Mr. Rohmeyer asked if there are issues with site at the intersection. Mr. Kornick testified from a site triangle perspective, this driveway is acting like a residential driveway. They do not see any site issues looking south and north on Wood Street.

Mr. Rohmeyer asked, from an environmental standpoint, for a description of the general process how they must provide an application to the state DEP and how the lot is uniquely situated with the wetlands. They have an active application in for a General Permit 10-B and the LOI to verify the physically mapped points to delineate the uplands and wetlands. At some point the DEP will want to review the Storm Water Management of that road. They do not trigger CAFRA requirements.

They will provide an Environmental Impact Statement should the application be approved.

Mr. McAndrew expressed concern regarding the possibility of removing a mature tree just to allow for a greater width to the access road. Mr. Kornick assured they plan on designing around the mature trees if they can.

Mr. Dupree said with that tree, that would bring the utility line to the right side of the access road. He questioned if there would be enough room. Mr. Kornick said the utility would be the one to dictate that and they do have the possibility to run it through an easement on the north side of the project. This issue would be addressed in the site planning phase.

Mr. Tonnesen asked where the AT&T right-of-way is located. Mr. Kornick said it was at Block 14. There is an existing asphalt drive there that runs along the north property line all the way back to the site. They may be able to tie into Ocean County's trunk line. Mr. Tonnesen asked if it's a matter of getting permission from the property owner. He was told it is not.

Regarding buffers to the residential zone. Their closest building is 40 feet from the residential zone. The buildings are set back another 100 feet. A lot of the houses on Wood Street except for Lot 5.01, are up tight against Wood Street.

Addressing the bulk variances suggested in the Engineer's review letter, with regards to lot frontage, they have 28.58 feet where 100 feet is required, which is an existing non-conforming condition. They can't overcome the maximum lot coverage of 40%. They will ask for bulk variances at the time of site plan, or they can assume those within the use variance, and don't look at them at all. That is the board's decision.

Mr. Tonnesen asked when the 28.58-foot-wide lot was established. Mr. Kornick said a search of Ocean County records shows in the 1981 Subdivision of the original Lot 5. Mr. Tonnesen asked Mr. Rohmeyer when the parameters of the borough ordinances were established. Mr. Rohmeyer advised 1974.

Exhibit A-6, Proposed Minor Subdivision for Tax Lot 5, Block 46, dated July 3, 1981 was entered into evidence.

It shows the new lots, 5.01 and 5.02, and identifies the 28.58-foot lot that was known as 5.03. Mr. Shinn advised, further research of common ownership needed to be tracked down and how this undersized lot was created. This results in the need to carry this hearing into next month. Mr. Kornick responded they have a survey that identifies those 3 former lots that have since been consolidated. There is title and deed. Mr. Shinn responded, if this is a self-created hardship, created by your client or the previous owner of the property, the board will look at this application differently. Mr. Chacanas agreed a more intensive search needed to be done to determine how this lot was created.

David Shropshire, Shropshire Associates LLC, 277 White Horse Pike, Suite 203, Atco NJ, was sworn in by Mr. Shinn and accepted as an expert in his profession as a Traffic Engineer by the Land Use Board Chairman, Calvin Morey.

Mr. Shropshire testified the Traffic Engineer Report regarding Eco Lodge, Tuckerton, was prepared by one of his partners, Nathan Mosley, P.E., C.M.E. and was reviewed by Mr. Shropshire before finalized.

Exhibit A-7, Traffic Analysis Letter, dated September 15, 2021. 4-page report with additional 17 pages, was entered into evidence.

They looked at the potential trip numeration not only from this proposed use, but also from permitted uses within the B and R Zones utilizing the Institute of Transportation Engineers. The result with regard to 23 units was 11 trips in the morning, 12 in the afternoon, and 17 on Saturday which is a very low volume. Other permitted uses: churches would generate less morning and afternoon traffic during peak hours and much more on the weekends and a school with 100 students would generate 91 trips in the morning peak hour and 26 during the afternoon peak hour. They also looked at other permitted uses permitted in the business zone that would generate significantly higher traffic.

Their conclusion is this particular use, because it's so low in trip generations and the frequency of truck traffic, is one of the better permitted uses with regard to the extension of that 28-foot lot with an 18-foot driveway because it is not an intense traffic generator. From a traffic perspective and a planning perspective, this won't impair the intent and purpose of the zoning ordinance and won't be a detriment to the Master Plan or the public good. This can be designed in accordance with general accepted traffic engineering standards safely.

Mr. Tonnesen asked what time frame would be for the 17 trips. He was told one hour. That would be during a peak hour on a weekend. In this case, it may be outside the general street peak hour. A single-family home may generate 1 to 2 trips during peak hours. Mr. Shropshire was asked if he did a traffic study of Wood Street itself. He said he did not.

Mr. Dupree said Wood Street is a major thoroughfare now, especially with the schools. This added traffic could cause some issues especially in the southern portion that is barely two lanes leaving not enough room for a truck and a car to pass.

Mr. Rohmeyer asked for testimony on the impact of traffic light and noise. Mr. Shropshire testified It would be significantly less than other possible permitted uses.

Mr. Kornick testified the purpose of the application is not to evaluate the consistency of the ordinance in the B-2 Zone of the proposed use in that property, but merely access through a portion of the lot out to Wood Street. As a professional planner, we try to reconcile that against the borough's Master Plan intent of the zone, intent of the property as it was created. The use variance is for a driveway. A use variance would be required for development of any permitted use. The proposed hotel/motel is a relatively low intense use. Some of the other uses include churches, public schools and institutions, public libraries, public parks, restaurants, food service establishments, retail / wholesale establishments, professional offices. Most are high intense uses which would be difficult getting use variance approval. They hear the concerns. The applicant is trying to come in and integrate within the environment, not upset the zone and the environment. We need to balance things around with regards to the ordinance – the positive and negative criteria. Testimony has been heard from a traffic perspective; it do not provide any negative impact.

Part of his job under the Municipal Land Use Law is to identify special reasons. If we were to refuse the allowance of an access point to this property, that would propose an undue hardship and they will be asked to further discuss that undue hardship through additional information. We do have a traditional irregularly shaped flag lot with environmental constraints. If access is denied in this particular application, and further applications down the road, we are creating a inutility, rendering the property unusable, nondevelopable and not equitable in any form. With regard to the positive criteria and special reasons, this development hits four major Municipal Land Use Law's special reasons including development which will promote the public health, safety and morals of general welfare, provides sufficient space in appropriate locations for a variety of uses including recreational, commercial, industrial and residential uses and open space, both public and private, reducing the footprint as much as possible being sensitive to the carbon footprint, promote a desirable visual environment through development techniques and good civic designs and arrangements. Regardless of ownership and chain of ownership, the fact is this is a split zone and an undersized lot. He believes the hardship was created when zoning came into play.

Regarding the bulk variances mentioned in the engineer's review letter which he addressed earlier, Mr. Kornick said we can assume the bulk variances within the use variance. In some other applications where there are existing nonconformities, the board does not grant variance, they just acknowledge they are nonconformities which allows the board to review the property if there is any change of use or structures on that common property.

If they need to obtain a bulk variance, it would be a C-1, a hardship case where they would have to show peculiar and exceptional practical difficulties or exceptional and undue hardship raising out of exceptional narrowness, shallowness, or shape of a specific piece of property, which they can.

Regarding the negative criteria, and it will not substantially impair the intent and purpose of the zone plan and the zoning ordinance. From a traffic perspective, there has been testimony there will not be an impact. From a civil engineering perspective, it's his task to be sure grading, drainage, lighting, all the components of the design will not have an impact on neighboring properties. He believes the use variance requested along with the bulk variance (should it be consumed with the use variance) can be granted without a substantial detriment to the public good and it will not substantially impair the intent of the zone.

Mr. Chacianas submitted that was the conclusion of their testimony, reserving the right to recall witnesses and additional witnesses to the extent necessary.

Mr. Morey asked if the zoning requirements were initiated in 1974. Mr. Rohmeyer said that is when the ordinances in general were adopted. A subdivision was found approved by the board of Lot 5 in 1981 creating Lot 5.01 and 5.02. Lot 5.03 is shown on that plan as a separate parcel. Mr. Shinn said we know that Howard Butensky created a deed about 11 years ago that we can't follow. We don't know where he came up with the information for that deed. That's the first deed we have on file. That is why we informed the applicant's attorney we need more information before the board can make any kind of determination.

Mr. Rohmeyer asked Mr. Kornick if the applicant would be willing to mitigate some type of engineering landscaping or fencing to lessen negative impacts that the driveway might have to the neighboring properties regarding light or noise. He was told they would. Their plan is for it to look like a residential driveway.

Mr. Rohmeyer continued, a variance would go with the land so should this current property get approved with the access driveway, and then sold in the future, he advises the board to put a condition that the driveway would only be permitted for this specific use which would avoid this becoming a more intense use in the future.

Mr. Shinn said he will need a chain of title search and maps.

Mr. Shinn advised there is an objector's attorney present. Robin LaBue with the law firm of Rothstein, Mandell, Strohm, Halm & Cipriani, addressed the board. She named the people she represented.

Using Exhibit A-5, Ms. LaBue cross examined the applicant's planner, John Kornick. You testified regarding the positive criteria, and said the hardship was the special reason. The special reasons to get a C Variance under the MLUL is there is nothing else that can be done with the property, particularly undue hardship which is proof that the only way to access this property is through the 28-foot flag portion. However, this property was not like this until about a year ago. In 2006, Old Bay Properties LLC purchased the part that the hotel is going to be on. In 2010 two individuals purchased the flag portion, which was not part of any other lot. In 2012 the wetlands Lot 3 was purchased by one of the owners of the LLC

Objector's Exhibits 0-1 through 0-7 were marked into evidence - Documents regarding deeds to referenced property  
In July of 2020 one of the owners of the flag lot purchased an additional acre that directly abuts the hotel piece of property. About a month after that they consolidated all three lots. This is a self-created hardship. They assembled a bundle of property; she has copies of the deeds.

Regarding the applicant's requirement to prove the negative criteria which should show the variance can be granted without detriment to the surrounding neighborhood, the zone plan and Master Plan, Wood Street is a 22-foot roadway in an entirely residential neighborhood. The width of the road is less than what is required by the borough for a minor street. Commercial use in a residential zone will increase the traffic into this neighborhood. She asked Mr. Kornick if he believed 17 cars per hour driving up and down an 18 foot wide strip of land, abutting three houses over two wells (a second well further back was not discussed) would constitute a detriment? She also pointed out several items that proved to be a detriment to the Master Plan.

Ms. LaBue questioned Mr. Kornick regarding the Wetlands Delineation and wetlands situations unique to this property.

Ms. LaBue asked Mr. Kornick to address the Fire Chief's letter that stated 18 feet is not wide enough or sufficient to turn on to Wood Street with on-coming traffic. Mr. Kornick said that turning movements of a firetruck can enter the property without conflict. The easement for the Ocean County Utility Authority and Verizon could be a secondary access to the property for fire-fighting purposes only. Ms. LaBue asked where that easement is located. She was shown it is part of the access of the asphalt driveway on Lot 14, accessing to the rear of the property. She asked if the applicant has talked to owner of Lot 14 about using fire trucks. That is an 18-foot easement that does not permit trucks. Mr. Kornick said that is an easement managed by the Ocean County Utilities Authority and Verizon. They would have to look at the easement and if they could use it, they will approach them for permission.

Ms. LaBue said the Fire Chief said that using the 18-foot access was not sufficient and the use of the easement on Lot 14 is dubious because they do not have permission.

Mr. Chacianas said the characterization of the Fire Chief's letter was misleading regarding the 18-foot access being insufficient. Mr. Chacianas wanted to put on record that his letter refers to it as a concern, not necessarily impossible. He feels that was an inadequate way of addressing it. They are addressing the Fire Chief's concern.

Ms. LaBue asked that the Borough Code Chapter 210, Section 17, Fire Safety Requirements be read into the record: "A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Appropriate fire access, defined as an area 23 feet wide by 15 feet high, shall be maintained in the exterior premises of all properties. Said fire access shall take into account all natural and unnatural potential obstructions, including but not limited to tree limbs, utility wires and lighting fixtures. Said access is necessary to provide geometry suitable for circulation by a Borough fire vehicle, such as a B-40 vehicle." Mr. Kornick said they will evaluate that in the site plan process. Ms. LaBue believed it should be address now. Mr. McAndrew said he agreed with Ms. LaBue's concern.

Dale W. Eggert, Chief of the Tuckerton Fire Department, 111 N. Green Street, was sworn in by Robert Shinn. Chief Eggert said there are variables to this situation. His primary concern would be difficulty and / or ability of turning if there is traffic on the road. For this reason, he suggest establishing an agreement via the owner and Ocean County to utilize the Ocean County Sewer Authority easement that would be located on the northern end of the property as a "Fire Lane" for Emergency Vehicle Use. It would allow apparatus a closer proximity to park near the facility and alleviate any hindering of response from outside sources. Chief Eggert was asked by Mr. Chacianas if he felt using the Ocean County Sewer Authority would be an adequate solution to address his concerns. Chief Eggert said for emergency services, yes. It's a very wide access point, also being an easement, it's not for public traffic, we would have an immediate access point to the location, it puts the fire apparatus in a much closer location to the properties and would make accessibility possible with their larger apparatus. Mr. Chacianas said the applicant is willing to consider a condition of approval to add this emergency access.

Mr. Tonnesen asked Chief Eggert if the fire equipment is or is not designed to go on dirt-access roads. He said that would depend on the condition of the road. It would have to bear the weight of the heaviest fire apparatus in the area.

Ms. LaBue believes asking for a use variance on the contingency they will get a property owner to agree to allow fire trucks drive up the side of their property is a serious safety issue. You can't rely on an 18-foot easement to supply fire support.

Ms. LaBue asked Mr. Shropshire why the analysis submitted to the board was for a motel. He said it fit under the motel trip generation. Ms. LaBue said his analysis was based on the fact the majority of most of the guests were going to stay on the site. However, the applicant emphasized the food was limited to possibly a food truck. Would that impact the number of trips per day and does that include the food truck traveling up and down. He responded that would be included.

Ms. LaBue asked what the light and noise impact of this use would be on the surrounding neighborhood? He responded, 17 cars within the peak hour would be a very minimal impact. It would be far preferable from the light and sound perspective from some of the other permitted uses such as a school or a church.

Ms. LaBue said clarification of the use variance from the site plan is permitted, an applicant still has to show everything that is needed to support the use variance, a lot of which has still not been provided such as the Environmental Impact Statement showing the impact of vehicles and creation of roadway through the area which is all wetlands and includes very highly protected areas. They provided a traffic analysis, but not a traffic study and no storm Water Management, all of which would influence the board's decision about the use of this land. The application does not satisfy the positive criteria. There may be hardship but, itnis definitely created by the



applicant's predecessors. It also does not satisfy the negative criteria. This is an established residential area existing for decades. The Master Plan contemplates protection of these residential neighborhoods, not the imposition of an intense commercial use driving through the back, front and side yards. They are planning running sewer and water through that same roadway containing two wells.

Wayne Tonnesen made a motion to open Public Portion. Mike Dupree seconded the motion and on roll call all members voted yes.

Halvor Skeie, 334 Wood St. was sworn in. When Dave Chilcote sold him his property, approximately 1980, Mr. Chilcote's daughter wanted a little lane to go to the back of his property so that her son could build a house back there. Mr. Skeie warned her they would never be able to build because of the stream back there. Regarding the existing mature trees, digging deep enough to run utilities would cause harm to their roots and kill the trees.

Tom Hartley, 350 Wood Street, was sworn in. Mr. Hartley testified he had a copy of a deed where he's referring to transfer. It was recorded May 20, 1970.

Richard Fitzgibbon, 336 Wood Street, was sworn in by Mr. Shinn. Block 46, Lot 5.01. The subdivision that created Mr. Skeie's lot also created his lot. Mr. Chilcote took a piece of Mr. Fitzgibbon's lot and created Mr. Skeie's lot. Regarding the strip going to the back, it shows on the found map, but does not have a number or deed description on it. If it were a minor subdivision, that would only affect two lots; three lots would create a major subdivision. The intent of Mr. Chilcote was to have that property in the back available for a relative to build in a future date. Mr. Fitzgibbon sat with the Tax Assessor and went over old tax maps. That lot does not exist. He has all the deeds. The Tax Assessor is willing to talk to anyone regarding the situation. Somehow Lot 5.03 appeared a couple years ago. The Tax Assessor normally must tell the Borough Engineer to add or subtract what is on the official map. No notes or correspondence was found to that affect. Somebody put 5.02 as a lot. Mr. Hartley and his partner did a deed of consolidation, taking all the lots they purchased that makes up the whole property and called it 5.03 - Land piracy. Mr. Hartley created his own hardship. He purchased the property down the street and built a house on it. He had 100 feet of frontage and he could have gone right back to where the hotel is proposed. Mr. Fitzgibbon said he didn't know how they were going to get sewer because they would need to go through the wetlands. There is a 100 x100 foot lot that has sewer and water for sale on the back side of the property, close to where the hotel is proposed. It is owned by Corlis. It's still going through a residential zone to get in, but it gives direct access. Traffic on Wood Street is a major problem now. He believes it's a good plan, but they need to come from another direction.

Kim Handel, 122 Wood Street, was sworn in by Robert Shinn. There is a traffic issue. In addition, that is all wetlands. Looking at the width of the building, she doesn't have a problem with the building or the concept, but a better use would be a single-family home. The width of the back of the property 365 feet. The lot from the cemetery that comes off Rt 539 could be subdivided off. There is a flag lot contiguous with this lot.

George Brady, 240 Yorktown Drive, Little Egg Harbor. His property is within 200 feet of the application and adjoins to this parcel, separated by a creek. His concern is from a liability point of view. If the board grants approve to this use variance and the hotel is built, his concern is the people staying there meandering around the property will possibly walk on to his property. He would ask the applicant to address this security issue and let their residents know the boundaries of their property.

Ms. LaBue said a lot has been said about the owner of Lot 14 that has the easement. She informed the board he is one of her clients; he told her he will not consent to allow firetrucks up to the lot. Mr. Chacianas said they had no prior knowledge that the owners were represented by counsel.

Mr. Morey advised the meeting had reached its 3 hour time limit.

Mr. Chacianas waved any time frame for the board to make a decision.

Mr. Shinn advised this meeting will be carried to October 21, 2021, 7:00 pm at this location; there will be no further notices. Anyone who didn't have a chance to speak tonight will have a chance then. Mr. Chacianas advised their traffic engineer has a conflict with October and may not be able to attend.

Mr. McAndrew made a motion to close the public portion. Mr. Dupree seconded the motion and on roll call vote, all members voted yes. Motion was carried.

A motion was made by Jim McAndrew to adjourn the meeting. Peter Gioiello seconded the motion and on roll call vote, all members voted yes. Motion was carried.

Respectfully submitted,  
Carol Scurman  
Land Use Board Secretary