

**Township of Egg Harbor
Planning Board**

December 17, 2012

Solicitor: Christopher Brown, Esq. – Stanley Bergman, Esq., fill-in Solicitor

Engineer: James A. Mott, P.E., of Mott Associates – Robert Watkins, P.E., P.P, (representative)

Planner: Vincent Polistina, P.P., of Polistina and Associates – Not in attendance

A regular meeting of the Planning Board of Egg Harbor Township was held on the above date, 5:30 p.m., prevailing time, Egg Harbor Township Hall, Egg Harbor Township, New Jersey. The Chairperson opened the meeting by reading the statement in compliance with the Open Public Meetings Act.

Roll call taken as follows:

Manuel E. Aponte, V-Chairman, present
Committeeman John Carman, present
Milas Cook, Alt.#I, present
Charles Eykyn, present
James Garth, Sr., Chairman, present

Robert Levy, present
Mayor James J. McCullough, Jr., out-of-town
Peter Miller, Township Administrator, present
Paul Rosenberg, Alt. #II, not in attendance
MD Shamsuddin, Alt. #II, present

PUBLIC HEARING(S):

**1. SP 10-11 (Amended)
Jersey Outdoor Media**

Zone: MC, 5.85 acres, applicant received minor site plan approval in September, 2011 to construct a double sided billboard to be setback at a distance of 25' ft. from the R-O-W of Margate Boulevard. The existing billboard is 60' ft. in height and has one (1) 20' X 30' digital sign facing west and two (2) 10' X 30' non-digital signs facing east.

**Amended Minor Site Plan
9801/13**

114 Margate Boulevard
Waiver of Time – Not Granted

Applicant is now seeking to amend the minor site plan approval in order to relocate the billboard to an area outside of the wetlands. The billboard will be mounted on a single pipe column and will be cantilevered over the wetlands area. No other improvements are proposed on site. CAFRA

Checklist Waiver(s):

- 1. Item #12:** Vehicular access
- 2. Item #15:** Location of all wetlands area, transition area, or buffers
- 3. Item #18:** Stormwater Management Plan
- 4. Item #19:** Water and sewer connection
- 5. Item #20:** Method of solid waste
- 6. Item #21:** Location of existing wells and septic systems
- 7. Item #23:** Landscaping plan
- 8. Item #24:** Lighting and signage plan

Nicholas Talvacchia, Esq., introduced himself as attorney for the applicant, Jersey Outdoor Media. He asked if the Board would recall the applicant was before them in September, 2011, at which time they had sought minor site plan approval for an outdoor advertising sign. Attorney Talvacchia advised the Board had approved that sign. He continued by saying there were no variances associated with the sign and it was a permitted use, by-right, subject to site plan review.

Attorney Talvacchia stated, as the Board may know, however, the sign was constructed within the wetlands. He indicated in order to address this concern the applicant did apply to the Department of Environmental Protection. He advised the applicant did obtain a CAFRA permit, but the permit requires the pole of the sign be relocated out of the wetlands.

Attorney Talvacchia explained the amendment being reviewed today is to change the mounting design and to go to a cantilever design. This will allow the mounting part, the pole, to no longer be within the wetlands and the sign itself, as approved, to remain in the same location. He further indicated the sign will stay the same height and size. Attorney Talvacchia advised the sign is a 60' ft. high double sided billboard. He indicated one side will be LED, which is permitted and the other side will be static.

Attorney Talvacchia advised each side is 600 sq. ft., however, the Township Ordinance allows for a 1,000 sq. ft. each side, so the applicant is 40% smaller than what is permitted per the Ordinance. Attorney Talvacchia then asked the CAFRA permit be marked as Exhibit A1. Attorney Talvacchia advised that in addition the applicant had received their second Department of Transportation permit, which he asked to be marked as Exhibit A2. He explained the reason why the applicant had to obtain a second permit was due to the physical design of the sign changing, however, again, the sign is in the same location.

Attorney Talvacchia explained to the Board when the Department of Transportation examined the second application the objector, through Attorney Hankin submitted two (2) reports claiming the sign was unsafe. He advised the Department of Transportation went through an extraordinary effort to determine whether or not there was a problem with this location. Attorney Talvacchia advised the Applicant then submitted a traffic study to the Department of Transportation. He indicated after the Department of Transportation studied this situation they issued the applicant a permit.

Attorney Talvacchia advised after the permit was issued by the Department of Transportation they then sent a letter to Atlantic County specifically noting they looked at crash data for this area and found nothing that would cause them to think of this as an unsafe condition. Attorney Talvacchia also advised that the Department of Transportation cannot issue a permit for an outdoor advertising sign unless they determine it is safe. Therefore, the Department of Transportation has found this location to be safe.

Attorney Talvacchia advised the Department of Environmental Protection has determined this application has met all applicable State requirements for environmental impacts including wetlands, waters and migratory birds, as well as, other items the Board is familiar with in terms of a CAFRA review of a project.

Attorney Talvacchia advised tonight's amendment is an application that has no variances and some minor waivers. He indicated he does expect there will be discussion from the objector's attorney, Mr. Hankin, as to what they feel the applicant does not meet, which he indicated will be addressed. Attorney Talvacchia advised his client is convinced they meet all requirements of the applicable Township's Land Use Ordinance.

Attorney Talvacchia further noted, the Governing Body made the proposed a permitted use. He advised the applicant is not present this evening to discuss that a billboard is an appropriate use for this site. The issue is the role of the Planning Board in a non-variance; non-use variance case to determine compliance with the Township's site plan ordinance and other applicable Township ordinances. He advised it is not to determine whether billboards should be on this site or not. This determination was

made by the elected officials of Egg Harbor Township after a lengthily process of master plan adoption, master plan review, zoning adoption and public hearings.

Attorney Talvacchia advised based upon this the use issue has been decided and the hearing tonight is for the site plan review to determine compliance with the applicable standards. He then asked if he could present Engineer, John Barnhart

Attorney Hankin asked Attorney Talvacchia if he could address the Board. Attorney Talvacchia agreed.

Stephen Hankin, Esq., introduced himself, he advised he would like the Board to know that he is present this evening representing the opposition, Dr. Richard Levitt and his wife. Attorney Hankin advised his client does have a presentation this evening. He further noted, he disagrees the use is allowed. He advised his client does not believe it is permitted in the marine commercial zone and they will explain.

Attorney Hankin also advised even with the change his clients believe the billboard requires a bulk variance because it does not meet the 1,000' ft. separation requirement under the Township Ordinance, given the fact of the pole and cantilever. Attorney Hankin asked that the Board just keep in mind that his clients are present, as well as, their experts.

Attorney Hankin stated he would also like to respectfully to remind the Board that they are not bound by anything the Department of Environmental Protection or the New Jersey Department of Transportation has ruled. He indicated these agencies are not preemptive and they will also explain this.

Attorney Talvacchia stated before he moves forward he asked to introduce Exhibit A3: a letter from the New Jersey Department of Transportation sent to Joseph Maher, who is the County Planning Official, dated November 29, 2012. He advised he would like to read one passage from this document.

May the record reflect: Attorney Talvacchia read the following: *"The Department has reviewed these reports, Attorney Talvacchia interjected this means the reports submitted by Attorney Hankin and the applicant, and crash history at this site. I am advised that, notwithstanding the general conclusions contained in the reports regarding the safety of curved roads, there is no indication of a crash history pattern related to the existing curvature at this specific location. Absent this data, it is this office's decision to approve this application for a State outdoor advertising permit"*. Attorney Talvacchia advised he has extra copies of this document if anyone would like a copy.

Attorney Talvacchia introduced Engineer, John Barnhart, whom was duly sworn by Solicitor, Stanley Bergman. Attorney Talvacchia asked Mr. Barnhart, by way of background if he was New Jersey Licensed Planner and Civil Engineer. Engineer Barnhart advised this is correct. Attorney Hankin advised he stipulates Engineer Barnhart's credentials, Solicitor Bergman also stipulated Engineer Barnhart's credentials.

Attorney Talvacchia asked Engineer Barnhart if he, through his firm, prepared the original site plan and the current site plan. Engineer Barnhart advised this is correct. Attorney Talvacchia asked if this plan is the exact plan that was submitted to the Board for review. Engineer Barnhart indicated this plan was the original exhibit that was used for the first application. Attorney Talvacchia asked if this was September of 2011? Engineer Barnhart stated yes. Attorney Talvacchia advised he is using this plan for illustration purposes and it should be marked Exhibit A4: prior approved site plan. Solicitor Bergman

asked Attorney Talvacchia to also include today's date on Exhibit A4.

Attorney Talvacchia asked if Engineer Barnhart was familiar the Egg Harbor Township Zoning Ordinance and the related ordinance(s) of site plan and design standards. Engineer Barnhart advised yes. Attorney Talvacchia asked Engineer Barnhart to identify the Northfield-Margate Boulevard and the subject property.

Engineer Barnhart advised he will be illustrating from Exhibit A4, which was the exhibit utilized during the prior hearing that gained approval for the outdoor advertising sign that is being discussed this evening. Engineer Barnhart advised the Exhibit demonstrates the subject property known as block 9801 lot13 and is occupied by Hackney's Boat Yard.

Attorney Talvacchia asked Engineer Barnhart to reference on the plan presented where the Margate Boulevard and the subject parcel is located. Engineer Barnhart advised to the bottom of the plan is Northfield Margate Boulevard, which is the corridor that leads from Northfield, located to the left of the plan through Egg Harbor Township and toward Margate.

Engineer Barnhart stated all the way to the right of the plan, which would be south, there is a red illustration showing the sign. He indicated the plan also shows the next existing outdoor advertising sign on the Boulevard heading toward Northfield. He noted the separation requirements from that sign and the setback meet the requirements. Engineer Barnhart advised this plan received approval with design waivers and no variances relief was sought. He indicated the sign was constructed and had begun operating.

Attorney Talvacchia advised shortly after it began operating a lawsuit was filed because the sign was constructed within the wetlands. He advised the applicant filed an application for a CAFRA permit, which was issued, however, the design of the sign changed in order for the applicant to meet the requirements based upon the CAFRA approval.

Board Solicitor Bergman marked **Exhibit A5:** site plan for billboard which was plan submitted in Board package for this application. Attorney Talvacchia asked Engineer Barnhart what has changed based upon the New Jersey Department of Environmental permitting. Engineer Barnhart advised the steel pole has been moved 25' ft., which takes it out of the wetlands. He indicated the sign itself will be cantilevered to remain in its current location.

Attorney Talvacchia asked Engineer Barnhart to refer to the general requirements of the zoning ordinance, specifically section 225-59(d) asking if this section of the ordinance describes the digital display the applicant has? Engineer Barnhart stated yes. He advised the applicant is a digital display and would not be considered a high intensity illumination devise.

Attorney Talvacchia asked Engineer Barnhart if within the MC zone are signs and billboards permitted. Engineer Barnhart stated yes, but with certain conditions. Attorney Talvacchia then referred to section 225-63(c), which he indicated is the section within the Township Ordinance that refers to the billboard and off premise outdoor advertising requirements. He asked Engineer Barnhart what the requirements are? Engineer Barnhart stated the regulations include the gross surface area cannot be more than 1,000 sq. ft. he indicated the sign in question has a surface area of 30' sq. ft. x 20 sq. ft. or a total of 600 sq. ft. on each side. Engineer Barnhart noted the proposed is 60% of what is permitted.

Engineer Barnhart advised the sign height is 60' ft., which is the maximum permitted. He stated the applicant does conform to the requirements. He also advised the sign cannot be located closer than 25' ft. from a property line or R-O-W. He indicated the applicant is 26.4' ft. from the Northfield Margate Boulevard and is 40.5' ft. from the side property line with adjacent lot 14.

Engineer Barnhart advised billboards or off premise advertising signs cannot be located within 1,000' ft. of any other sign on the same side of the road. He advised the plan shows the next closest sign heading toward Northfield going toward Margate. He stated once some is at the bridge there is no other sign for a great distance on the applicant's side of the road. Engineer Barnhart advised the applicant is showing they meet the 1000' ft. from the sign structure and that comply with the ordinance.

Attorney Talvacchia asked how Engineer Barnhart measured the sign. He asked if it was from along the roadway? Engineer Barnhart advised he measured from the closest point of the sign structure to the roadway and then measured along the roadway to the closest point of the sign to the next sign. Engineer Barnhart advised under the Department of Transportation the measure from the mid-point and extend along the roadway. He advised if the distance calculated was based upon their standards the distance between the signs would be 1010' ft. to 1012' ft., however, as measured for this application it was recorded from the closest face of the sign to the closest fact of the existing along the road way and that measurement is 1003' ft.

Attorney Talvacchia asked if there are any other standards? Engineer Barnhart advised the applicant cannot be within 500' ft. of any residential district. He advised the applicant is located within the MC zone and is in excess of 500' ft. from any residential districts. Engineer Barnhart stated the sign can not be within 1,000' ft. of an interchange or intersection, which it is not.

Attorney Talvacchia referred to Section 225-61 of the code concerning illumination. He read into the record this specific section. Attorney Talvacchia than asked Engineer Barnhart what this provision means. Engineer Barnhart stated that by his reading of the ordinance there is no definition to determine a ray of illumination. He indicated it is suggestive. There is no way to measure.

Engineer Barnhart he indicated the ordinance discusses flood lights. He advised by his reading of the ordinance you do not angle them in a direction that would be shining into someone's home or in a drivers eye. Engineer Barnhart stated with this case there are no flood lights. He advised this is a digital sign that is internally illuminated and this section (225-61) was written well before digital signs were thought of. Engineer Barnhart advised he believes within Section 225-59 (D) specifically says digital lighted display panels shall not be classified nor considered as flashing, exposed, or exposed high intensity illumination devises.

Attorney Talvacchia stated Mr. Hankin believes the 1,000' ft. separation requirement should be measured from the pole. Engineer Barnhart stated yes. Attorney Talvacchia stated if the measurement is taken from the pole the applicant does not meet the 1,000' ft. requirement. He asked Engineer Barhart what he believes is the land use purpose of these separations.

Engineer Barnhart stated in his opinion the land planning purposes is so there is not a proliferation of signs along roadway. He indicated this is to make certain there are not too many signs along the street frontage as motorist drive.

Engineer Barnhart stated he believes the intent of the 1,000' ft. separation requirement, as referenced

in the ordinance, would not say that it has to be on the same side of the highway. He indicated you could have a sign across the street and it would be allowed by the ordinance. He indicated the ordinance is concerned about spacing along the roadway.

Attorney Talvacchia asked Engineer Barnhart if measuring from the actual advertising sign makes sense. Engineer Barnhart stated yes. Engineer Barnhart then read into the record from the Township Design standards concerning the definition for sign. Engineer Barnhart advised it is his opinion based upon the definition that any part of the structure that is used for advertisement, whether it is the pole with painted words on it for advertising or the face that has advertisement it would count based on the definition. He indicated with this case the support structure is not used for advertising, therefore, he indicated it is not counted.

Engineer Barnhart advised with this situation it is proper to measure the 1,000' ft. not from the pole but from the base of the sign. Engineer Barnhart then read into the record the definition for sign area. Engineer Barnhart advised John: again read section of definition concerning sign area. He advised this is where it discusses the support structures that are not considered in the sign area. Nick: in opinion: reading of definition support belief, it is supported as how signs are looked at in other towns and how the dot reviews.

John read the checklist waivers from the agenda. He indicated all elements are part of a building and parking spaces. Not a signs. He indicated item #15 has been addressed and we are eliminating since CAFRA permit has been issued. All others were part of previous approval and were granted.

Nick: Would like mr. Hankin.

Peter: no residential district within 500' ft. of property, where is the closest? John Barnhart do not have a full zoning map, however, the closest are within northfield and they are over 3,000 ft. away or more.

Peter: residential zone begins at border between northfield and Egg harbor Township was not sure if it were scaled. Nick: would like Mr. Hankin advise of complaints and will go forward.

Hankin: firm that presented A4. John was William Ponzio. Hankin: the plan did not show the sign in wetlands. So it was in error. Nick; have objection. Know it was and it has been taken out. No sure what purposes. Hankin: not a waste and goes to credibility. Garth: stay on point. Hankin: did you examine site? Stan: will be supplying exhibits. Hankin: will supply them currently. Stan: the applicant supplied a package.

Hankins: any reason why you did not determine in wetlands? John: not a surveyor. Hankin: Exhibit A4 is actually our Exhibit H. He asked if there was any wetlands on it. John: indicated this is correct. Hankin: A4: does not show a setback from the property? John: the pole from the sign could be in setback. Hankin: why did the pole not move into the 25' ft. setback? Why did he not move closer to Gifford. John: would be encroaching on adjacent parcel. The total structure is 60' ft. high. Hankin: the pole is 36" in diameter, but for the sign face it could go into a setback. The cantilever is how wide? John: the cantilver is 25' ft. wide and the arm is 36" wide. This is something that is allowed in the setback.

Stan: is anything in the setback? John: not in setback. Hankin: known the sign ordinance....referred to . Hankin then asked if a environemtnal impact ordinance was submitted? John: not from my office.

Nick: one was submitted in August. Hankin asked if this is the highest billboard and only digital billboard. John: yes. Hankin: not bound what dep or dot says. Nick: no, but bound by the Township ordinance.

Hankin referred to Exhibit E, which is the Township Ordinance 225 which gives definition for billboards and then it also discusses the districts. John: in my opinion of this ordinance billboards are permitted in a business zone. Hankin: where does it specifically state this. Other than a marina and marina stores businesses of other types are not allowed. John: correct. Hankin: billboard is in a zone that does not outline is allowed. John true statement.

Hankin: Refer to Exhibit 225-63 subsection c: do you believe sign is a billboard? Hankin referred to Exhibit F: a large display showing section 94-3. He asked if a billboard is a sign and then he went on to read sign definition in section 94-3 where it discussed structure is the sign correct? Hankin: the Township restricts the size of sign face and the ordinance, exhibit F: under sign area, area included within the frame and excludes the support frame work. He indicated on one hand billboard is for the 1000 sq . ft. restrictive area, does not say sign face. Hankin: it says the billboard, which is a sign. Barnhart: the pole is not used to advertise a billboard is a sign. Does the Building become part of the billboard. He indicated this is not correct. Hankin: this is our position, that the monopole this 36" with 40' ft. and is part of advertising sign. Frank: sign area shows it highlighted. Hankin: the 1000 ft. restriction is for the billboard not the sign area, it is the pole supporting structure the whole package. Stan: want to keep the professionals on site. Hankin: from the closest point of sign face, do you agree one of the reason for setback and the 1000 ft. is aesthetics to rid the area of clutter. John: agree. Hankin: position that has not addressed lighting standards for billboards. John: there is no standards or criteria that a sign must adhere too. Hankin: can any bill board or sign cast into homes. John: not a lighting engineer and will defer. Hankin: testified to one standard. Go to Exhibit C: section of ordinance that is in the Township Zoning Ordinance where it discusses highlighted sections. Nick: this applies to subdivision(s) not site plan. Hankin: speaks of fixtures what it says. Hankin: is correct not asking for an opinion. Hankin referred to Exhibit? Where it discusses the changes of the messages. This sign simulates movements because it changes every eight (8) seconds. Stan: prefer to board. Hankin: the township is interested in the resident's just because you have a billboard and you have not cared about light trespassing into someones home. Hankin: part of the objective 2008 master plan, exhibit k was to promote general welfare to other townships and to encourage decisions makers to .

Peter: is this the 2002 master plan or the 2008 re-examination report. Hankin: is the 2002 Master plan not the 2008 as referenced within exhibit K in booklet. Hankin: no previous applications for billboards in a marine commercial. Exhibit L: a letter. Stating no others. Nick: object. The lighting discusses the subdivision and Mr. Hankin is looking through and cherry picking we are doing something wrong. Not going to chase down items all night. Will present a professional that meets industry standards and to say we can not meet section 23 because it is a subdivision. Hankin: understand a week before Xmas and is not intention to waste time of board or mine. We do not think. Garth: no other applications on margate billboard. And they pre-date. Can not use that because it was not theirs. Hankin: point this use is not permitted in the marine commercial and just because they other ones were there does not mean anything. Hankin: comes down to legal questions. We have positions Nick and I both and no variances have been applied for and this pole and cantilever is not part of the billboard and they got to come back. Stan: solicitor may have an opinion and board can interpret their ordinance. The court remand they can interpret their ordinance. The Board has made conditionally complete and burden as to why objections can be sustained. There is a going to be a use and bulk variance and need a record of this and would like to hear your reason. Carman: would like to hear the rest of testimony. Solicitor is

advisory and we are bound by them.

Hankin: what is the nearest point of the nearest billboard? To the other billboard to the north? Not at the road, as the crow flies? John: 980 ft. as the crow flies. From the monopole would be 970 ft. away. Hankin finished with cross examination.

Stan: will redirect and cross one more time. Nick: reiterate one more time the definition and support . John: read into the record definition of sign had to read whole section. We have a unique situation and it is cantilevered have a large pole and does not meet definition of sign. Nick: sign is a permitted use. Nick referred to sign section article 8 where it discusses signs John: looked at definitions and referred to signs Nick: signs are not permitted in a commercial zone, which includes all commercial districts and it would mean all commercial signs would not be permitted. Hankin: does not apply in a marine commercial zone where other uses are permitted. Levy: does it say it is not permitted. Nick: not specifically referenced, and believe commercial signs are permitted. The long term interpretation that allows for signs in commercial and would exclude them. And is without merit. Nick: as a planner read provision of 63 for signs in commercial and business district that says signs not permitted. Barnhart: signs are permitted in commercial district and this is permitted and this board was previously approved. Nick: in your experience as a planner has anyone argued signs not permitted in commercial district. John: can not fairly answer the question. Hankin: certain permitted uses by right. Board asked if signs permitted. In Marine commercial zone can something be unrelated to the mariane. John: no, marine commercial zone does have a list of specific list of items not permitted. But billboards are not listed in as being prohibited. Hankin: what about a dentist or grocery. John would argue, the land use ordinance has business and commercial uses are one and the same. Hankin: for some reason the Township used billboards in a industrial and commercial zone.

Nick: would like to have dr. John Tobias.

John Micheal Tobias, ssown in, ba in physic and amsters in electrical and doctorial at njinstitute of technology. Expert in electomatical magntic through light, electrical, magnetical.

Hankin: know lighting expert.

Dr.Tobias: did you review the brightness to undertake after the objectors complaint, in at the middle or end of april did a surveyor and one was adjacent from the objector and went to the end of the street and took measurement some distances away in the boat yard. Nick: lighting standards that applied to sign. Dr. Tobias: questions that not to project rays of illumination and rays of projection. Only two issues. Nick: does street light apply? Dr. No. Nick: read to Dr. section of the ordiance concerning definition for billboards and then additional for the signs.

Dr. Tobias: we had intensity street lights with sodium lamps and shading places lights into widow and violates the ordinance and is at close range. Nick: is there a brightness standard for signs. Has the industry done a standard. Tobias: any standard that exist from organization, such as UL and these are formed by consensus and are decided for what should be. So yes, there are standards.

Tobias: the illumination engineer's of America set standard. Did report on May 3rd, 2012, and did study on recommended practice. Was designed to address the standard of billboards and have only began becoming economical the past few years. Did a survey at rosedale ave, which is farther then standard.

He indicated he was 3,300 ft. away. Nick: exhibit A6: measurement of report showing location of where they were in distances. Exhibit A7: is showing observation at the end of Rosedale Avenue and then the place showing location. The Jersey outdoor media sign is at the corner of the boat yard. Tobias: A6 shows the location of where the observation occurred, so within 100' ft. of objectors. Took instrument a model 31 meter and is an illuminance meter and does lux and footcandles. Lux is metric. Did a measurement of the horizon. Nick: the ordinance speaks of rays of illumination being cast. Tobias: full moon, flash light, Nick: can not mean any light. Tobias: would have to outlaw all other types of light. Tobias: looked at industry standard is illumination of engineering standard. The distance is based on size of sign, this sign would be 250 ft. the sign is .31 difference between it being lit and not lit. Tobias: found the illuminances found scanning the horizon were at lower range and were .01 foot candles.

Exhibit A8, photograph of photo with Tobias report. He advised there is a 10' ft. tape measure at the end of pavement. At 88 degrees from the observer is a casino's which is 35,000 ft., next is the signs along boulevard sign and the other is Jersey outdoor media sign.. Dr. Tobias Exhibit A9: shows again the 10' ft. marker and shows casino, cutting edge sign and the Jersey outdoor media, this picture was blurry. Tobias: no industry standard at this distances. It is actually giving off less than 1/10 to 1/20 from a street light at that level. Peter: the street light at 124 Bay Drive is greater than Exhibit A9. Tobias: this is correct by at least 1/10 to 1/20. Nick: the white board is brightest. Tobias: is greatest look and the police athletic was below 1/10th of a foot candle. If .3 with a 0 with sign off, there is some residual with other billboards, lights and towns. The limit at this location is one third less than industry standards.

Nick: illumination devices can not be -0- because you can not shut off moon. The casino is the same at 35,000 ft. then the billboard at 3300 ft. from the objectors property. Exhibit A10: Cutting edge sign and is a projection lit sign and has 4 flood lights. Measured signs with same for LED signs and the range of the Rosedale Avenue observation and is comparable with PAL add which is the brightest sign at Jersey outdoor. Exhibit A11: Dr. Tobias' report of May 11, 2012. Peter: different illumination for evening and day. Dr. Tobias: if same intensity as the same luminance in the evening would not be visible during the day. Exhibit A12: Jersey outdoor media sign. Tobias: there is standards for evening and day. Nick: have to be brighter during the day versus the evening.

Nick: A13: presented a case to the Board.

Hankin: Does digital lighted display panels flash. Tobias, nothing stopping them. Hankin how do they flash. Tobias every 8 seconds. Hankin: how does it work. Does it flash? Tobias: does not flash. Hankin: changes color, the moon does not flashes nor a flash light. Tobias: as far as intensity yes Hankin: what about coloring. Tobias subjective. At 3300 ft. it does not cast shadow. Hankin: did you call them. Did you go into the bedroom. Tobias: would you not call to go into their bedroom. From the observation point is in the same area. Hankin: had a picture where you were at. Do you know where the bedroom is? Tobias: center on the second floor. Hankin: make a difference. Tobias: may. Hankin: when a clear night, was it clear. Tobias: was possibly an overcast night. Do you have report? Report says it was clear. Hankin: when overcast it intensifies the light in order to see. Tobias: the intensity is set by the operator. Know for a fact had two settings day time and night. Hankin: does it not change with atmosphere? Tobias: could go to a lower ambient setting Hankin: do you know it was? Was it done manually to make more or less intense. Tobias: is set by the operator and there is a sensor on the sign and they can be set. The industry standard and I saw it change and it dipped from a higher level to lower at a certain time. Hankin: your client knew you were there? Tobias: yes, new I was there. There

is no animation on the sign. One would appear and then another and meets the transition period. Hankin: the message changes every 8 seconds but do the colors change. If the white light were eliminated and the billboard would be less intense. Tobias: yes. Hankin: do not know where the Levitt's bedroom is. Tobias: within 2204 Bay drive. Mr. Zupponi's report stated on second floor. Dr. Levitt Showed where his bedroom.

Dr. Levitt, was sworn in, 2204 Bay drive, testimony gave and will give is correct. Bedroom is from second floor. Levy: is it further away? Hankin: is different direction then where information from Mr. Tobias was. Hankin: the billboard is not unique in application and is adjacent to other signs in brightness and forms. Tobias; yes. Hankin referred to Exhibit U. he asked mr. Tobias if he heard info of Mr. Barnhart and this billboard is 60' ft. Mr. Tobias: yes, Hankin: any other billboards along margate blvd. that are digital. Tobis: no. Hankin: Exhibt u is the brightest bill board and is the intense and is white one. Tobias; have to take word that it is the billboard in question. Hankin: asked fir the other billboard is the cutting edge billboard. Tobis: can not tell.

Hankin: asked the exhibit V be marked and is not part of booklet, to be authenticated. Look like an accurate photo of what existing whenyou were there. Tobis: that it is the sign. Can see the Boat yard behind. Does it refresh recollection that is not unique and is similar to brightness and form. What is meet by form. Height? Tobias: not height. With computing the illuminaus of the sign and the white brightness and similar in application and form. Hankin: not in height and not similar as a dignital billboard. Tobias: illumines aere the same. Hankin: based on the night you were there and not in Mr. and Mrs. Levitt's bedroom. Tobias: given.

Hankin: looked at ordinance? Tobias: looked at the ordinance. Hankin: any peritnant. No eht site plan for permits flashing into someones bedroom. Tobias: could not find one flashing Hankin: changes lights and no other billboard changes along margate blvd. what if he wants to change brightness can do it. Tobias; yes.

Hankin: do you remember date of Mr.Zaponni going to site? Tobias: not sure but based on date. Hankin: the night he was there was overcast and the night he was there he was in bedroom and night he was there not sure someone was controlling intestiyt. So the measurements found in report in terms are corrector or incorrect, accurate or not. Tobias: could not.

Peter: terminonly as for picture changing and it changes between picuture and commercial. Tobias: no white screen but it goes from one add to the next. Peter: go ones after the other like a commercial. Tobias: 8 seconds is dot standard and can not be any animation or scrolling. This is a transition from one screen to the next. May I add AC Casino's at 35,000 ft are animated and do scroll.

Garth: mentioned can be controlled at home. How is the billboard controlled and who? Sure not set in home, more likely someones office.

Jessie Atkins,Sworn in: Jersey outdoor media, vice president. Can not sit at home. Is controlled out of illionios and set at the standard. Would like to see the difference between the others. Garth: so it can not be changed at home. Jesse: not at the inllunminateion or intensity. Garth: advertising. Jessie: the add has to be approved and then sent to north Dakota and then set to illionis. Jessie: standards are typical for any given road ways. Aponte: there is a standard. Dr. Tobias: is .3, and indisutricity calculates on illuminims. When I did measurements and he is 1/3 of the standard. The NJ DOT allows double. NJ does not have requirement. Cook: general location? Jesse: is at illiios. Is all done through

the internet. The sign does recognize the climate control. Hankin: can make a call to change the illumination . What about ridding of white light? Jesse: can not do that.

Peter: where do you live? Jesse: Burlington county. Peter: can not call illinois to brighten lights to annoy someone. Jesse: never done one. There is a sensor on the sign to adjust with whether. Peter: does the sign have a barametic sensor? Tobias: has a ambient setting and it also has a camera. Peter: has a dusk setting regardless if raining, foggy. Tobias: the sign has a sensor that will knock down. Peter: what about from 6 to 5 in morning is there a sensor. Tobias: needs a source of ambient light. If someone wanted the play with sensor could change the setting. Peter: does these signs react to whatever setting s they work at or does someone work on them. Tobias: part of the allure of the sign is labor cost. Now can design an add to south Dakota to illinois back to NJ rather than having labor intense with placing billboards up. Hankin: can still do manually. Tobias: can do and did do it. Hankin: want to make it clear...no one is annoying that it is intentional. Does not know the applicant. And no one is saying this or inferring. The impact is that it annoys them and can be operated manually.

Cook: fog, what if you have a low level fog does it increase? Tobias: the area around the fog would diffuse it or increase the intensity. Tobias: illuminate the fog more like shining a search light and illuminating the fog. Hankin: would depend on the color of the light? Factor the type of background light change the issue. Tobias: the fog lights are yellow because it is a wave lengthy and there is less intensity to see the fog.

Shamsuddin: ultra violet light used? Dr. Tobias: no ultra violet light. Hankin: asked cancel and advisery and there is members of the public and would like the members of the public speak. Mr. Tellavecchia agreed. Aponte: how many do you have? Hankin: have 4 and nick has 4.

Peter: make motion that this is public commentary and waiving rights to speak now and not come back. Hankin would agree. As long as everyone stays on point. Aponte second.

Garth: keep comments to this and do not repeat each other.

Kurt Bopp, Mill road, lived in northfield for 49 years and use the blvd. during the week. Not sure I wanted to look at sign and I veered off to the double yellow. Want to read. I know Dr. and Mrs. Levit. They need to live a quality to life. If we have the one sign will we have more out there. Will not look too good and not an appropriate deal. Peter: where is 16 Mill Road, Mr. Bopp: 6 houses down from shore road and is two houses from the monument. Peter: can you see sign. Bopp: on my second floor can see tip.

Chirstian James Heirs, 190 Bay Drive, Northfield, NJ., live closest to sign. My site line can see from second and first floor can not see with garage. To compare with with moon. Effects my quality of life. I have entertainment technolocay for over 30 years. Was for theater. With respect to expert they are not accurate. This is LED technonoly designed to be in your eye. Want to meet an advertiser that says turn down light. The other side of the billboard will not be turned on. The wall caught fire and they generate heat. If they did finish and the margate, longport both sides would burn up. This interferences with my sleeping. We have sliding glass doors and curtains drawn and still comes through. This effects my quality of life. His measurements were taken down Rosedale Avenue. mY home was there before the sign. When I can not sleep at night. I think you are opening a can of worms. This is the benefits of the advertisers. Not the resident's of northfield. You do not want this in your back yard. This is critical and the other side of sign will not be finished do not want to go into the other side of maragate and

longport. And what advertiser going to call and say this is too bright and I am awaking up looking a a 20' ft. man. Direct lamp light is shielded. Looking at 10,000's of lights on my bedroom wall keeping me up at night.

Vince Mazzeo, 2001 Sheppard Drive, sworn in: mayor of northfield. Want to thank the Board for the job they do. Sometimes things come up and brings resident's up. Do not want to come into town with issues. On april 14, 2012, resolution was put together with the bill board and the CAFRA permit. The CAFRA permit has passed. Would ask the Board this is a marine commercial and the permitted use? For placing this type. Stan this is an issue and will decide when hearing is over. Mazzeo Mr. Bopp raised an issue with placing more up. With doing interlocal. We know you were not required and to be built and constructed. Here for residents. If lived on street will be a different view and sky line. This is something and will support the residents and we placed something together 6 months ago to oppose. Do not want signs lined up on margate blvd. Northfield resident's are against this.

Michael Virga, live on Bay avenue, regarding of lighting expert. I have cream color walls so my room changes color. Not as bad as the Levitts. Welcome all members to come here to look at sign and it invades our privacy and is difficult to live there. We wish to work together. The lights are beautiful in AC. They do not change. When they flash they distract us. Please consider.

Ann Juggles, 135 east oakcrest avenue, live about 1 mile. For an add to change every 8 seconds captivates your attention. Been chairman of after prom at mainland.. you are no longer looking on the road. The road is dark at night. The bridge is not best place and takes eye balls off road. Is a Beautiful road. See blue herons and egrets. Lights will cause a problem with environmental. Do you want the margate blvd. to retain beauty and natural.

Sonny McCarthy, 2002 Bay Drive, we did not know about sign. Easter weekend we see something on skyline. Was a surprise was the illumination the sign goes on and goes through. The light goes through the blind. Times it gets brighter. Even now it does flash and at 3:00 a.m.. it will send out a flash. Welcome everyone to come into our home. It is flashing every 8 seconds. Violates the illujination and agree with my neighbors. It is not just levitt's fight it is atlantic county's fight. Not maragate cause way its also longport but also Avalon. When you speak with Children that you helped pass something with sign.

Paul Phillipe, 2000 Bay drive, sworn in: We are neighbor's and none of us want to impose. We work hard and work for days. Want to live in piece and not one bothers each other. This is our homes and when they tell us the lights are the same and the low profile signs are the same. The light effects us on Bay drive. Everyone should come over to fire this billboard up. My house abuts this against us. The impact of the light. Someone should take a look at this take a look at this and you have us in your hands that effects our life. When it is tested in middle of night it wakes you up. The sign is on. Take time on and look at impact and you would see. Know in your heart what you are facing.

Glenn Sharpe, 105 Circle Drive, northfield, vice-chair of northfield, planning Board. Sign in wrong place and lights up living spaces. It is obnoxious. If I had chance to vote I would not and I would not do on tilton Road. Work at ceasar and maintain their signs.. So I am familiar.. Mr. Sharpe flashed his small flash light. He indicated just to think of seeking this light every 8 seconds. Can I asked the Dr. a Question?

Sharpe: used a illumines meter? Dr. Tobias: yes. Sharpe: at this distance can not accurately

determine. Tobias: yes. Sharpe: everyone in northfield is against this . Garht: please turn light off. I have an eye condition. Sharpe: if you have a cataract then yes the light will bother you.

Close public prtion: Eykyn/Aponte.

Talvacchia: I have other witnesses but reserve to bring them forward.

Hankin: would like to give an opening statement and we do have three (3) experts and Dr. and Mrs. Levitt. At beck an call. You are here. Our first witness will be our planner.

Stan: can this be done at closing. Normally do at end.

Alex Zepponi, P.P., New jersey engineer planner and engineer, north college of engineering 1985 and formed a company in 1985. Do become involved with Billboards and have testified in court and testify for bill board owners. , offered and no objections.

Hankin: did you have oppl to examine levitt's home. Heard from you in april, 2012, provide light meter readings for a board that was a concern. Visited levitt's home. Exhibit A6: was this levitt's ome.

Zepponi: yes. The day was overcast the street and pavement were wet and we did measurements 200' from sign and then went to house and took meter readings in bedroom. The Dr.'s wife was present and another member of my staff. We looked to the east you see ac skyline and is not part of visual scape. The rest of what has been presented does exist. Can see marina, marsh, billboards and other lights. Applicant's billboard was lighted. We used the light meter and we used one that was not digital was a needle. Hankin: took any readings from Tobias location. Zepponi: no. Was in the bedroom to the rear of the home as depicted in A6. Was surprised at 3,300 feet the amount of light. Comes to the window and looked off the back wall of there room. The drapes were not drawn. Hankin: see the pattern change when the sign changed. Could see every time it changed pattern on wall changed. Hankin: any other aspect of this application reviewed. The readins the .3 foot candles is right off the board. White is the highest out put. When you measure signs in compliance with standards take a reading at a distance. Gives light reading for an ambient light and then turn the board on and it will be a white light so the ambient will come back on. The light is a bulbus construction. If you are 200' ft. away has to be from an all white billboard. From this if you are 20 degrees could be a degredation. The standards in part using a light meter was to allow adminstrator's to have a convience way to see if someone was in compliance if someone felt a light from a billboard was over the limits. Beyond this part of the standard do not use a white background to take down the sign lighting. We had very high readings at night with the white. The pavement area was well lit with the white terms.

Aponte: thank you for the historic readings. What were the readings.

Zepponi: were in report. Hankin: was not going to do an exhibit with report because of testimony. Exhibit x is the report from Zepponi and Exhibit W: is Zepponi's resume.

Zeponni: The display with white had foot candles at .3 , this is within 250' ft. Aponte: where was the light meter taken? Zepponi: was from the windows. Peter: at 250' was a half a foot candle and there was a white foot candle at .3. but when you are at house there was no reading. Zepponi: lights display on wall. Hankin: regardless of meter reading Zepponi: if I went west of the sign average was .2 when I went east or west was .24 and had to go to patio and shoot around house. Peter: greater reading for

atlantic City. Zeponni: when the white face goes out there . Expectation would be zero. Aponte: if you are up higher or lower would it make a difference? Zeponni: if you are off to the side then you will be zero at 100' ft. until you go at full tilt.

Aponte: take readings from Bedroom and rosdale. Zeponni: did only from house where client asked.

Bob Watkins: Can you place up Exhibit A7: which way is the board facing? Zeponni: is perpendicular. And took 250' ft. and then had taken readings from Dr. 's house. Hankin: illumination to Exhibit U and Exhibit V: they are are the same photographs and represents conditions saw that evening . Garth: taken from the bedroom. Zeponni: assistant took pictures from the bedroom. Peter: who took picture and what type of camera was taken? Talvacchia: want to know the type of light meter was used.

Peter: do you have info with for u and v. Mr.Zeponni: will provide this information.

Motion / to grant requested checklist waiver(s). Vote: Aponte, Carman, Cook, Eykyn, Kearns, Levy, McCullough, Miller, Rosenberg, Shamsuddin, Garth

Motion / to grant amended conditional minor site plan approval. Vote: Aponte, Carman, Cook, Eykyn, Kearns, Levy, McCullough, Miller, Rosenberg, Shamsuddin, Garth

MEMORIALIZATION OF RESOLUTION(S):

1. <u>SPPF 32-02 (Amended III)</u>	Amended Preliminary/Final
Major Site Plan	
Shore Mall Associates	2302/10 & 20
	6725 & 6727 Black Horse Pike

Motion / to memorialize resolution granting requested checklist waiver(s), design waiver(s), variance relief: §225-55F: Curbing and §225-56A(36): Shopping center parking requirement and conditional amended preliminary and final major site plan approval. Vote: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Shamsuddin,

2. SPPF 14-12

Plan

JESC Holdings, LLC

Preliminary/Final Major Site

5510/1, 4, & 5

3393 Bargaintown Road

Motion / to memorialize resolution granting requested checklist waiver(s), design waiver(s), variance relief: §225-63B(2): Freestanding sign – Area: 118.6’ permitted; 152 sq. ft. proposed and §225-63B(3): Freestanding sign – Quantity: one (1) freestanding sign permitted along each frontage; four (4) freestanding sign(s) proposed conditional amended preliminary and final major site plan approval. Vote: Aponte, Carman, Cook, Eykyn, Levy, Miller, Rosenberg, Shamsuddin

SUMMARY MATTER(S):

Discussions of matters pertaining to the Board:

SECTION I:

a. Discussion: to set date and time for January, 2013 Re-organizational and Regular Meeting

Motion / to set Monday, January 14, 2013, 5:30 p.m. prevailing time, as the Re-organizational and Regular Meeting for the Egg Harbor Township Planning Board. Vote: Aponte, Carman, Cook, Eykyn, Kearns, Levy, McCullough, Miller, Rosenberg, Shamsuddin, Garth

SECTION II:

a. General public discussion

The next re-organization and regular meeting of the Planning Board has been will be held on Monday, January 14, 2012, 5:30 p.m., prevailing time.

Motion / to adjourn at P.M. Vote: Aponte, Carman, Cook, Eykyn, Kearns, Levy, McCullough, Miller, Rosenberg, Shamsuddin, Garth

Theresa Wilbert, Secretary