

# TOWNSHIP OF BRICK

OCEAN COUNTY, NEW JERSEY  
401 CHAMBERS BRIDGE ROAD, BRICK, N.J. 08723

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**Division of Land Use Planning**

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March 20, 2019

Brick Township Board of Adjustment  
401 Chambers Bridge Road  
Brick, New Jersey 08723

RE: BA-3132-PSP-FSP-D-12/18  
Vilamoura, LLC  
Block 69, Lots 8 & 8.01  
29-39 Mantoloking Road  
Preliminary & Final Site Plan  
W/Variance ~First Review

Dear Board Members:

The Applicant, Vilamoura, LLC, proposes to construct an elevated 42,011 square feet, 4-story restaurant and banquet facility with outdoor deck areas on a footprint of 17,100 square feet at Block 69, Lots 8 & 8.01, 29-39 Mantoloking Road at an existing, operating marina in the B-2 General Business Zone and Marina Overlay Zone. The proposal requires a d (6) variance for exceeding height restrictions in the zone for the restaurant/banquet facility building that is proposed at nearly twice the height allowance in the B-2 zone. Significant planning testimony is required to justify the grant of this Use Variance.

We have reviewed the above referenced application for Preliminary & Final Site Plan approval and offer the following information and comments for your consideration:

I. Description:

- Title -Preliminary & Final Site Plan w/Variance
- Owner -Vilamoura, LLC
- Applicant -Vilamoura, LLC
- Engineer -Dynamic Engineering Consultants, Joshua M. Sewald, PE, PP
- Attorney -John Jackson, Esq., KKJM, LLC
- Plan Date -November 1, 2018
- Existing Use -Marina
- Proposed Use -Marina, Restaurant & Banquet Facility
- Zone -B-2 General Business Zone
- Adjacent Uses -Commercial
- Tract Size -18.852 Acres
- Location -Frontage along the southerly side of Mantoloking Road  
Just west of the Mantoloking Bridge and directly opposite Brick Township  
Municipal Marina Park, Mantoloking Bridge County Park/Trader's Cove.

*File App.  
Jackson  
Sewald  
J. Miller  
CME  
3-24-19  
LH*



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II. Applicable Zoning Requirements: The proposed marina, restaurant with banquet facility, dock master quarters and marina accessory uses are permitted uses in the B-2 General Business Zone §245-213, as a conditional use in the Marina Overlay Zones §245-287 and subject to the §245-272.7 Mantoloking Road Corridor Streetscape Overlay Zone, subject to the following bulk zone requirements:

	B-2 Zone	Marina Overlay Zone	Mantoloking Road Corridor Streetscape Overlay Zone	Proposed
Min. Lot Area	20,000 sq. ft.	1 acre		18.852 acres
Min. Lot Width	125 ft.			194.6 ft.
Min. Lot Depth	125 ft.			630 ft.
Min. Front Yard Setback	50 ft.		25 ft.	13.7 ft. <sup>ext - CVariance</sup> (trailer restrooms) & 146.1 ft
Min. Side Yard Setback	10 ft.			69.7 ft.
Min. Rear Yard Setback	50 ft.			218.4 ft.
Max. Lot Coverage	30%			3.7 %
Max. Impervious Coverage	65%			44.3%
Min. Floor/Building Area	2,000 sq. ft.			33,960 sq. ft.
Max. Bldg. Height	35 ft. from grade			Not provided
	Elevation 41 ft. from N.A.V.D 1988			
Max. Bldg. Ridge or Peak	38.5 ft. from grade	48 ft. (Marina related building)		78 ft. <sup>DVariance</sup> 84 ft. <sup>DVariance</sup> to Spire
	Elevation 45 ft. from N.A.V.D. 1988			
Max. Bldg. Story	2			4 <sup>DVariance</sup>

Accessory Building:

B-2 Zone	Required	Proposed
Min. Rear Yard Setback	50	Not Provided
Min. Side Yard Setback	10	Not Provided
Min. Bulk Head Setback	15	Pool - 13 feet <sup>CVariance</sup>

### III. Variances/Waivers:

- A. The Applicant requires a d (6) variance under the NJ M.L.U.L. 40:55D-70-d (6) a height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by affirmative vote of at least five members. This proposed development requires a d (6) variance for exceeding the Building Height, Building Ridge or Peak and Building Story requirements in the Township of Brick Land Use Code (see table above).
- B. The Application also requires a NJ M.L.U.L. 40:55-c (1) variance for the location of the proposed in-ground swimming pool setback 13 feet from the bulkhead, rather than 15 feet from the bulkhead; and
- C. The Application requires a NJ M.L.U.L. 40:55 -c(1) variance for the location of the existing bathroom trailer setback 13.1 feet from the front property line where 25 feet is required under §245-272.7 or 50 feet is required under §245-213.
- D. A clarification is required to be provided by the Applicant to determine if a portion of the building height can be considered as a Permitted Modification and Exception under §245-299 that applies to spires, cupolas and domes not intended for human occupancy.

### IV. Applicable Zoning Standards:

- A. The Applicant should address compliance with the applicable zoning standards provided below (please pay special attention to the noncompliant items):

#### 1. §245-287 Marina Overlay Zone:

A. Purpose: The purpose of the Marina Overlay Zone is to recognize and encourage the continued existing resources of marinas within the Township of Brick as a conditional use within all zones. Marinas are encouraged to provide water dependent uses such as boat slips, docks, upland boat storage, bait and tackle shops and maintenance facilities and dock master's quarters.

B. Applicability: Marinas shall be a conditional use in all zones provided that the following conditions and requirements are complied with:

1. The marinas shall be located on a lot of not less than one acre:
2. Marinas shall contain one or more of the defined uses established in 245-3; provided however, that no residential development other than a dock master's quarters and/or one single-family dwelling shall be permitted.
3. **A maximum ridge height ft. 48 feet shall be permitted for a building in a marina, provided that the building is utilized for marina-related purposes such as, boat storage, maintenance or repairs and further provided that the marina is located in a Business Zone.**

#### 2. §245-272.7 Mantoloking Road Corridor Streetscape Overlay Zone

##### Purpose and Intent

##### A. Purpose.

(1) The purpose of the Mantoloking Road Corridor Streetscape Overlay Zone article is to encourage development and redevelopment of commercial and residential properties along this roadway to reflect architectural cohesiveness as well as aesthetic and practical improvements and encourage installation of sidewalks to improve opportunities for pedestrian amenities. These improvements shall include pedestrian and vehicular connectivity, internal circulation, and sidewalk construction, creation of public spaces, such as courtyards and common landscaped areas, and beautification through landscaping and consistent design, nautical in nature, throughout the corridor.

(2) This article will encourage the redevelopment of commercial uses that is neighborhood serving and that are not intrusive to the connected neighborhoods. These areas, such as cafes, restaurants, bookstores, floral shops, retail shopping, small personal and convenience service stores, bakeries, travel agencies, child-care facilities, art galleries, and offices, are meant to generate pedestrian activity.

**B. Intent.** It is the intent of this article to encourage applicants to utilize the design standards provided in this overlay zone to improve the aesthetics and functionality of this area when redeveloping through site plan applications. All site plan applications shall comply with the contents of this article. If a proposed application does not meet the requirements, design waivers may be requested. In cases where variances are required from the bulk standards in the underlying zone, variances still must be sought. Applicants who seek variances from underlying zone requirements are encouraged to meet the majority of the design standards set forth in this article to justify the granting of those variances.

#### §245-272.8 Commercial applicability

All new site plan development and redevelopment applications for commercial uses that have front, rear or side yards along the corridor of Mantoloking Road shall be subject to the following streetscape and design guidelines:

**A. Building setback line: minimum of 25 feet from the property line.**

**B.** Parking location shall be concentrated at the rear or side of the buildings or central to the proposed development and shall utilize shared parking and driveways with adjacent uses.

**C.** Sidewalks and landscaped areas shall create an area in which walking is encouraged between uses. Installation of sidewalks perpendicular to the right-of-way is encouraged when buildings have entrances parallel to the roadway to make it easier for pedestrians to access buildings without having to walk through parking areas. Sidewalks shall be a minimum of six feet wide.

**D.** Decorative treatments such as pavers shall be included in sidewalk construction to delineate and enhance public areas. Crosswalks shall be delineated and designed to create a pedestrian-friendly area for walking; these areas shall be constructed with brick pavers, slightly elevated walkways and signage to ensure safety and visibility.

**E.** Cross access to adjacent commercial sites shall be required for vehicular and pedestrian connectivity. Barriers between commercial sites shall not be permitted.

**F.** Landscaping is to include street trees planted at a minimum of 20 feet separation on center (refer to § 245-405, Selection of street trees, for species specifications) along all roadways, including internal drive aisles and major arterial roads if applicable.

**G.** Grassed areas are to include native and low-maintenance species to reduce water usage and maintenance.

**H.** Landscaped planters or beds shall be located in public spaces such as sidewalks and landscaped areas.

**I.** Access to buildings is encouraged from the front of the buildings adjacent to the sidewalks as well as permitted at the rear of the buildings adjacent to the parking facilities.

**J.** Decorative lighting, such as lamp posts or walkway lighting, shall be used in the public areas to enhance the pedestrian realm.

**K.** Balconies and awnings eight feet or less in size are not to be considered in the building setbacks as to encourage architectural interest and differentiation between uses.

**L.** For visual interest at the pedestrian level, at least 50% of the total ground-floor building frontage of any new or reconstructed building facing the public realm shall have the following: windows with clear untainted glass, recessed entries, residential stoops, or recesses for outdoor dining areas.

**M.** The total ground-floor frontage is the length of the building frontage along the pedestrian realm times the first floor height from finished floor to ceiling.

#### §245-272.9 Design

New development and major renovations in the Mantoloking Road Corridor shall be subject to approval by the Township's Architectural Review Committee to encourage design creativity, flexibility, and quality design that is sensitive to the surrounding context and unique site conditions. The Architectural Review Committee shall make recommendations based on the design guidelines outlined in § 245-272.10. Design guidelines should reflect the historically nautical, seashore colonial architecture of Jersey Shore towns.

#### § 245-272.10 Design guidelines.

A. the Mantoloking Road Corridor typifies the architectural themes found in seashore colonial settlements in the Monmouth and Ocean County area. Homes and businesses in this area were designed with gabled roofs, widow's walks, colonnades and cupolas in the mid to late 1800's and dot the scenic corridor of Mantoloking Road. Seashore colonial architecture dominates the style of these buildings and is encouraged to be carried out in the implementation of redevelopment in this overlay zone.

B. The Township's Architectural Review Committee shall utilize the following design guidelines in reviewing all new developments and major renovations in the Mantoloking Road Corridor.

C. Mantoloking Road Design Guidelines. The desired design theme should be "timeless" and mimic the homes and businesses that dot the historic New Jersey shore corridors. The specific characteristics of these desired structures include:

(1) Building materials, including, but not limited to, wood and clapboard shingles or modern replications in more durable materials.

(2) Muted or natural colors and signage that coordinates with building facade.

(3) Buildings greater than one story with clear delineation of the boundary between each floor of the structure through belt courses, cornice lines or similar architectural detailing.

(4) Pitched or gabled rooflines.

(5) Overhanging eaves.

(6) Utilization of awnings, covered walkways, open colonnades or similar weather protection where applicable.

(7) Main pedestrian entrances must face the street and be clearly articulated through architectural detailing; however, access is also encouraged at the rear of the buildings adjacent to parking areas.

(8) Other architectural features should include corner towers, cupolas, clock towers, spires, balconies, colonnades or similar features.

#### V. Planning Testimony:

A. When a height deviation reaches a level of nonconformity, the resulting structure arguably could be seen as something out of character with the structures permitted in the zone and thus should be reviewed under the enhanced standards. The applicant shall provide testimony to justify the grant of the d (6) "height" variance. A d (6) variance must show (1) "Special Reasons," or how the site meets the positive criteria; and (2) that the variance can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and ordinance or the negative criteria. A balance test must be provided.

B. When addressing the positive criteria, the applicant shall provide proofs that the proposed height would not offend the purposes of the height restriction in this zone. Therefore, the Applicant should provide testimony in support of why the proposed height of this structure (78 feet) does not offend the required B-2 height limitation (38.5 feet), Marina Overlay height limitation (48 feet) or Elevation measured from NAVD 88 (45 feet). It should be noted, that the proposed height is nearly **twice** (+39.5 ft.) the allowable height.

C. The Applicant shall discuss ***how and if*** the proposed height is consistent with the surrounding neighborhood including the nearby residential neighborhood of Mantoloking Borough. The Zoning Board of Adjustment is obligated to consider the impact that the structure would have on more than the municipality itself or the immediate vicinity of the structure.

D. The Applicant should address if this site could accommodate a conforming or reduced height with the same square footage. Can this site reasonably accommodate a structure that conforms to, or only slightly exceeds the height permitted by the ordinance? Does the height ordinance prohibit utilization of the property for a conforming structure?

E. Relative to the d (6) variance for height, *the Applicant must show that the site will accommodate the problems associated with a proposed use.* Would the site accommodate the parking and traffic generation on the site produced from the added height and square footage?

The negative criteria must be provided so the Board can weigh the positive aspects versus the negative aspects of the proposal.

F. A zoning analysis of the proposed height should be performed for the purpose of the height restrictions and the land use problems that could be caused if the variance were granted. Please address the following and indicate how this site is designed to address each item:

1. The relationship between height restrictions and the public welfare is directly related to the fact that the height of a building could impact traffic congestion, fire hazards, public health, adequate air, light, open space and population density.
2. Height restrictions like restrictions on density, bulk or building size have also been used in zoning ordinances as a technique for limiting the intensity of a property's use.
3. Height restrictions are designed to promote a desirable visual environment, preserve skylines and trees, avoid the appearance of overcrowding, preserving property values and to protect views.

#### VI. Site Plan Comments:

- A. A site visit was conducted on 3/21/19 and the site was found to be in good condition. The site was tidy and neat, well maintained and in good operation.
- B. The Applicant should provide testimony relative proposed hours of operation, number of employees, traffic impacts on the surrounding community, etc.
- C. Please provided detailed testimony regarding all the proposed uses including the bar, restaurant and banquet facility spaces in the proposed building. It is noted that there appears to be a bar area on the ground floor, as well as in the proposed restaurant balcony/deck area. Please indicate if these areas were included in the parking calculation.
- D. The site was observed to house dozens and dozens of boats in upland storage. Please indicate how many boats are currently housed in upland storage and how the impact of the development of the site for the restaurant and banquet facility will be accomplished. It appears the current number of boats stored upland will not be able to be accommodated after the facilities and parking lot are constructed. Will they be stored off site?
- E. Provide testimony regarding how the marina site will operate simultaneously with the restaurant and banquet facility. Specifically discuss storage trailers, marina equipment, trucks, boat ramps, haul out area, marine mechanics, boat maintenance, fueling and winterization that will take place on-site.
- F. Please delineate areas for the upland storage of boats.
- G. Will there be delineated parking for marina customers, marina employees and restaurant employees?
- H. Please provide information relative to the upland portion of the property and the delineated wetlands. Indicate what the impervious cover and building cover calculations are for the "usable" area of the site. The parcel acreage is 18.853; however, much of that area is taken up with bulk-headed lagoons, open water and wetlands. To adequately determine if the proposed uses are appropriate, a practical assessment of how much land can be used on the property is needed.
- I. What is the status of the CAFRA permit for the proposal? What is the impact to the permit on the upland boat storage from the permitting standpoint?
- J. Please indicate if a NJDEP Basic Industrial Stormwater Permit approved boat cleaning station is located on the site and how it will operate in compliance with the proposed plans.
- K. Please describe the proposed vehicular circulation on-site and include how vehicles will travel underneath the building.

- L. It is noted that a signalized intersection is proposed at the driveway entrance. Please discuss the traffic anticipated to be generated by this use, how it will impact the surrounding area and what, if any, measures the applicant is taking to manage the proposed traffic.
- M. It appears there will only be one entrance and exit on the site. Please discuss if there is opportunity to provide alternate exits and entrances for emergency vehicles and/or marina operations.
- N. It appears a fence is depicted on the plans surrounding the proposed pool. Please indicate the height and type of fence as only 4' high see through fences are permitted within 200' of the waterways. A variance may be required.
- O. Please discuss how and if noise and light from the restaurant and banquet facility will be managed.
- P. Please provide details as it relates to commercial trash collection, storage and management in addition to recycling and trash removal. Please revise the plans to include the required 5' landscaped buffer around the enclosures.
- Q. Please revise the plans to improve crosswalk and pedestrian circulation around the site. Every attempt should be made to increase connectivity, provide bicycle racks, improve pedestrian access to the site, include benches and add directional signage to enhance pedestrian and bicycling patrons to the restaurant use.
- R. Please discuss the stormwater management design as it relates to retention, detention, treatment and description of the landscaped areas. It is recommended, wherever practical, that low-impact design standards be utilized and rain garden technology be installed to reduce parking lot and roof runoff into storm drains and encourage infiltration. This may be difficult to accomplish due to the high winds and salt in the area from the bay; however, please discuss how more landscaping can be accomplished.
- S. Please discuss the signage proposed in detail. It is strongly recommended that any signage proposed meet the Township's signage requirement for monument signage. Will any signage be located on the new building facade?
- T. Under Part 5, Landscape and Buffer Requirements, Article XLIX, street trees, minimum landscaped area and trees in parking lots are required to be met; please revise the plans in accordance with the requirements of this part. If requirements are not met; application will require a waiver.
- U. Please indicate and note on the plans if the landscaped areas will be irrigated, as required.
- V. The Applicant should discuss all lighting and security lighting on-site and ensure they are shielded.

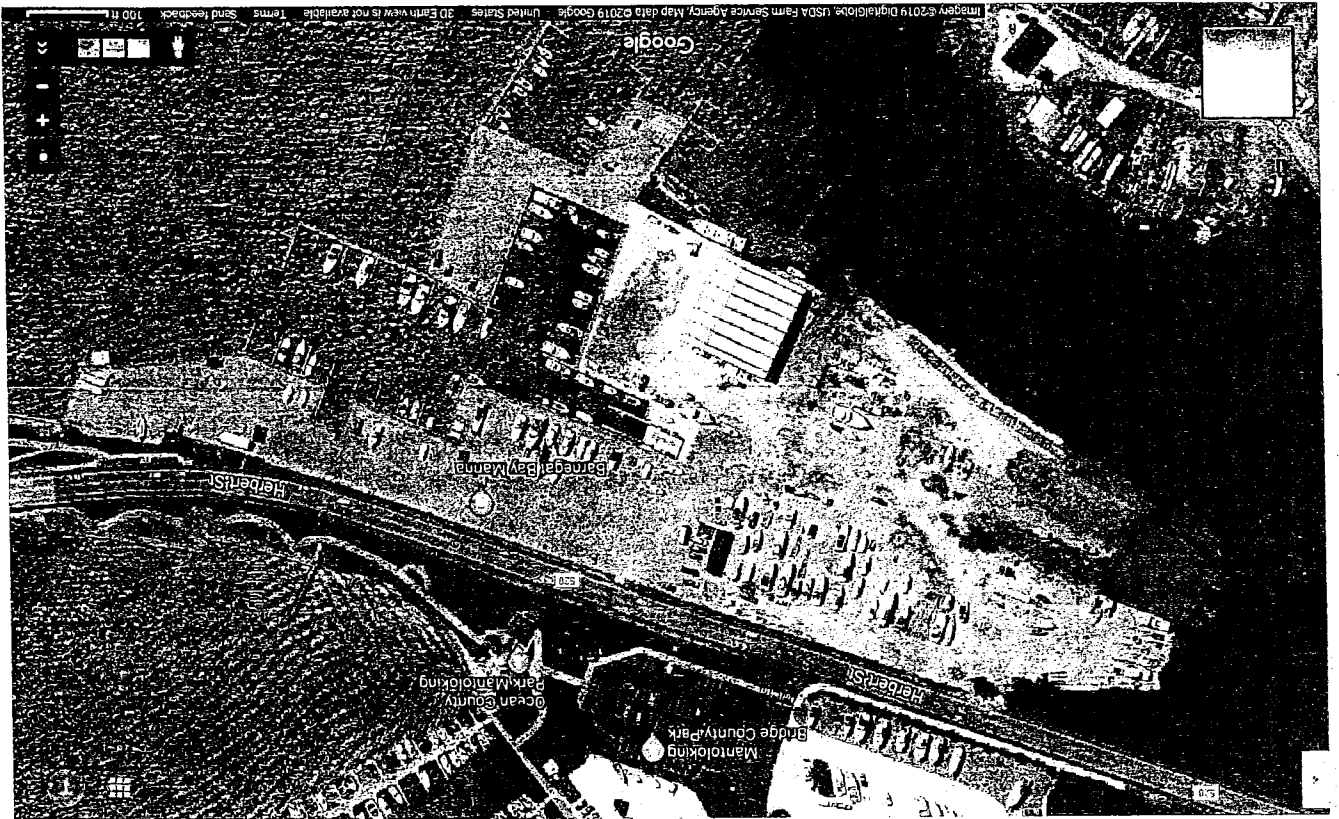
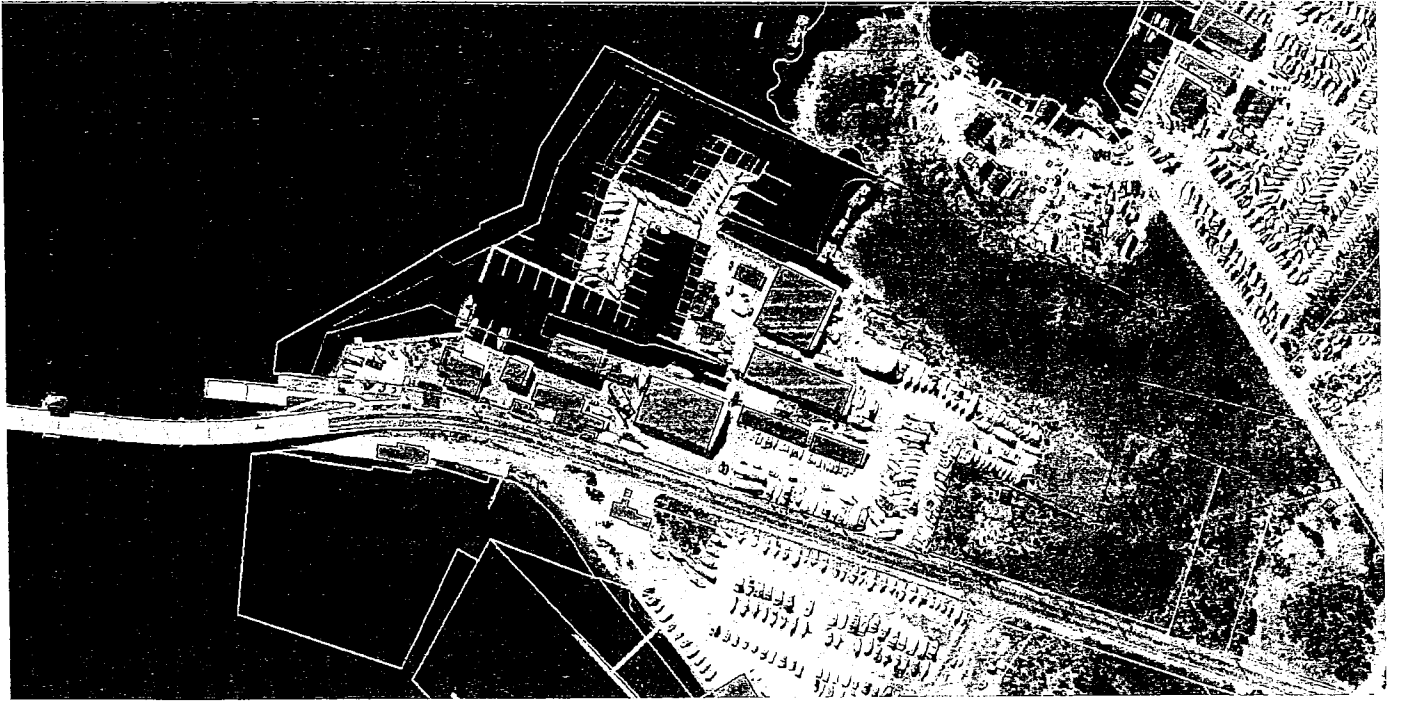
The application may be deemed complete and scheduled for the first available hearing date. I will be present at that time to answer questions and provide additional information.

Very truly yours,



Tara B. Paxton, MPA, PP, AICP  
Township Planner

TBP/dl



Site Aerial Photographs: