

HILLSBOROUGH TOWNSHIP PLANNING BOARD
APPROVED PUBLIC MEETING MINUTES
September 22, 2022

Chairman Carl Suraci called the Planning Board Public Meeting of September 22, 2022 to order at 7:30 p.m. The meeting was held in the Courtroom of The Peter J. Biondi Building. All stood for the Pledge of Allegiance.

Chairman Suraci announced: This meeting has been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 ("Sunshine Law"). Notice of the 2022 Annual Meeting Schedule has been provided to the officially designated newspapers, the Township Clerk, posted on the Township's Website, and available at the Hillsborough Township Municipal Complex.

Application documents have been made available on the Township's website at <https://hillsboroughnj.civicclerk.com/> and complete applications files are available in the Planning and Zoning Department for inspection, in accordance with the public meeting notice.

ROLL CALL

Mayor Shawn Lipani – Present
Robert Wagner, Jr. - Present
Committeeman Frank DelCore – Arrived at 7:43pm
Robert Peason – Absent
Carl Suraci, Chairman – Present
Neil Julian, Vice Chairman – Present

Nathan Santaromita – Absent
Ron Skobo – Present – Present
Kenneth Hesthag, Secretary – Present
John Ciccarelli (Alt. #1) – Present
Patricia Smith (Alt. #2) – Present

Board / Township Professionals: David K. Maski, PP, AICP, Township Planning Director; David Kois, PP, AICP, Deputy Zoning Official; Eric M. Bernstein, Esq., Board Attorney (Eric M. Bernstein & Associates); Todd Hay, PE, CME, Board Engineer (Pennoni Associates); Michael Lombardozzi, CSR, Board Court Reporter; and Caz Bielen, Township Videographer (Premier Media).

CONSIDERATION OF MEETING MINUTES

- September 01, 2022 – Executive Session

A motion to approve was made by Mr. Ciccarelli, seconded by Mr. Wagner. No comments.

Roll Call: Mr. Wagner – yes; Secretary Hesthag – yes; Mr. Ciccarelli – yes; Mayor Lipani – yes; Vice Chairman Julian – yes; Chairman Suraci – yes. Motion carries.

- September 01, 2022 – Regular Meeting

A motion to approve was made by Mr. Wagner, seconded by Secretary Hesthag. No comments.

Roll Call: Mr. Wagner – yes; Secretary Hesthag – yes; Mr. Ciccarelli – abstain; Mayor Lipani – yes; Vice Chairman Julian – yes; Chairman Suraci – yes. Motion carries.

CONSIDERATION OF RESOLUTIONS

None

PLANNING BOARD BUSINESS

None

BUSINESS FROM THE FLOOR *(For Matters Not on the Agenda)*

Chairman Suraci opened the floor to the public and reminded all there is a five minute time limit per visit to the mic.

David Brook – 7 Winding Way

- Mr. Brook asked for consideration of applicants to bring hard copy exhibits to display on boards for the benefit of the public, in addition to what is shown on the screens. This would give the public an opportunity to look them over ahead of the start of the meeting.

Meryl Bisberg – 4 Hickory Hill Road

- Ms. Bisberg asked the outcome of having the applicant's planner submit a report and when that information will be posted for the Homestead Road LLC application.

Mr. Bernstein said the resolution of the Board had been adopted and the applicant's attorney has been so advised. He said Mr. O'Grodnick has been advised on the matters discussed with the Board.

Maria Janucik – 720 E. Frech Avenue, Manville and Hillsborough Property Owner 2155 Camplain Road

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- Ms. Janucik said some of the applications before the Planning Board involved settlement agreements, but none are posted as part of the application file.

Mr. Bernstein said settlement agreements are not part of the file because they are not part of an application. What comes from it by way of the zoning and plans are part of the application. Settlement agreements are in the custody of the Township Clerk.

Mr. Bernstein stated the arrival of Committeeman DelCore at 7:43pm.

Mr. Bernstein noted the JSM-Cost Cutters application did not have a separate settlement agreement but was part of the Fair Share Affordable Housing Agreement. Settlement agreements can be OPRA'd from the Clerk's Office.

No further questions/comments from the public.

CONSIDERATION OF ORDINANCES

- **Ordinance 2022-16** - An Ordinance Amending the Zoning Map of The Township of Hillsborough, Somerset County, New Jersey, to Change the Zone Designation for Certain Lots From CDZ Corporate Development and O-5 Office/Research To R Residential and/or RA Residential/Agricultural. Further Consideration and a Public Hearing will be held on October 11, 2022.

Planning Director, David K. Maski, PP, AICP presented Ordinance 2022-16 to the Board. Mr. Maski said Ordinance 2022-16 was introduced by the Township Committee (TC) at the September 13 meeting and referred to the Planning Board in accordance with the Municipal Land Use Law (MLUL) for formal comment, and is scheduled for the October 11 TC meeting.

This ordinance is a revised version of an ordinance the Board considered back in June. That ordinance, Ordinance 2022-10 was not adopted by the TC. It was revised and reintroduced as Ordinance 2022-16. The primary difference in the original ordinance was to take the CDZ and O-5 properties and make them all RA. We were later instructed to go back and take a closer look at it. The map showing is the revised version. The Sacred Heart Cemetery and adjoining contractor facility were already partially in the RA Zone. This ordinance would still rezone them to RA. In the bottom left-hand corner is a farm property that would go from being split between the CDZ and RA zones, to entirely in the RA Zone. The revision is to establish consistency to the zoning on the west side of Millstone River Road, so that those properties are rezoned to R, instead of RA. The rest of the ordinance is basically the same as the original ordinance. There are no changes to any requirements or boundaries of any of the remaining zones. As discussed earlier, what happens with the remainder of the CDZ and O-5 zones would be the subject of future amendments. This ordinance addresses those eight properties: the two on the North going from a split zone of CDZ and RA to all RA; the bottom properties from a split zone CDZ and RA to all RA; and the properties shown in orange on the west side of Millstone River Road would change from O-5 to R, to match the R, Residential zone in between them.

Chairman Suraci asked for more information on what goes into the O-5, CDZ, and RA zones, for the benefit of the public.

Mr. Maski said the Planning Department did an analysis of the CDZ Zone, which had shrunk over the years. It once went all the way down the Railroad, and down to Montgomery. The CDZ Zone can be traced back to when I-95 was supposed to come through Hillsborough, so it was designated for an office park type of zone. The viability for big corporate office parks really is not there anymore. These are outlier parcels that remain, but are geared for larger corporate office type developments. This ordinance would change these eight parcels to basic single-family residential.

No questions from the Board.

Open to the public.

Chairman Suraci noted the Planning Board is not making a decision to approve this; it is strictly to comment and make a recommendation to the Township Committee. The Township Committee is the one to have the final decision on it.

Robert Kralovich – 291 Amwell Road

- Mr. Kralovich asked why the properties on the bottom were being split; half to the RA and half to the O-5.

Mr. Maski said the Board has not decided what should go on to the rest of the property.

- Mr. Kralovich referenced the far left CDZ lot.

Mr. Maski said that lot is currently split between the CDZ and RA zones, that will now be entirely RA.

- Mr. Kralovich said it seems you are trying to eliminate O-5, yet you are leaving O-5 parcels.

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Mr. Maski said they will be changed to something more appropriate. A report was prepared last May that laid out some possibilities, but that is for further discussion.

- Mr. Kralovich referenced the properties in the lower left.

Mr. Maski said those properties are owned by three different owners.

- Mr. Kralovich asked the current zoning of the cemetery.

Mr. Maski said the Saint Peter and Paul Cemetery will be rezoned from O-5 to R, which is the same as the adjoining Claremont Development for single-family homes.

Tony Galuppo – 44 Franklin Drive

- Mr. Galuppo said his property abuts the 1170 Millstone River Road, which is part of what is being rezoned. He said the consideration between RA and R, being that the RA would have required 2-acre properties while the R requires half of that. Mr. Galuppo said I am sure you did a lot of analysis to come up with the recommendation to the RA Zone. What changed that made you go back and say the R will do?

Mr. Maski said it is more for consistency. If anything were to be developed on those properties, it would match the abutting zone. Even though it would have the same standards as the Claremont Development; without public water and sewer, the requirement would still be a minimum of two acres.

- Mr. Galuppo asked if the existing flood plans in effect are taken into account as to how many people you want to have in the way if there is a flooding in that area.

Mr. Maski said if someone came in with a development plan for any property, they have to consider all of that and address it to the satisfaction of the Board Engineer. You do not do an environmental analysis of every property when rezoning. You look at the overall context, see what is next door, and look at what would be more appropriate. Some of these properties may or may not be developed once you go through the environmental evaluation.

- Mr. Galuppo said he is asking that as the Planning Board, you are looking at all of the properties that are coming into play in that area. Toll Brothers, which is already through the process, is redirecting the water that comes through the middle of the Claremont neighborhood to just on the other side of that parcel of land.
- Mr. Galuppo asked what prompted the change from RA to R. Was there new information received? He said our concern is that there is a risk that the residents of the Claremont Development are very concerned about. It creates a bit of uncertainty because these tweaks make it look as though there are plans for that area.

Meryl Bisberg – 4 Hickory Hill Road

- Ms. Bisberg referenced the 2018 Master Plan Reexamination Report. She asked why this area had to be studied four years later, and why after studying it is it now proposed for the R, instead of the RA Zone. Ms. Bisberg mentioned the 1170 Millstone River Road application.

Mr. Maski said this has nothing to do with the 1170 Millstone River Road application or any other development application. The proposed zoning matches the adjoining neighborhood in terms of zoning. The 1170 Millstone River Road application beat the clock. The Reexamination Report identified this area of the town needing to be studied, which we have done. The intention is to down zone the entire area, which was a remnant of I-95. The R and RA zones are both residential for the same uses, only one is a one-acre and the other a two-acre zone. However, without public water and sewer, it reverts to a two-acre zone anyway. The proposed change was not urged on by any particular application.

- Ms. Bisberg asked if affordable housing can be built in the RA Zone.

Mr. Maski said you can build affordable housing anywhere. A single-family house can be an affordable house; it does not have to be garden apartments. There is no prohibition of pricing in any zone. We have done some rezoning related to affordable housing as a result of certain settlement agreements, but you can build affordable housing in any residential zone.

- Ms. Bisberg said then there is not much of a difference between the R and RA zones.

Mr. Maski said that is correct; they are both for the same permitted uses.

Susan Gulliford – Hunt Club Road

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- Ms. Gulliford asked if the area shown in orange, north of the Claremont Development, includes the 1170 Millstone River Road application property.

Mr. Maski said it does.

- Ms. Gulliford said this rezoning does not affect this application because they beat the clock.

Mr. Maski said that is correct.

- Ms. Gulliford said so they can still propose to put in a warehouse.

Mr. Maski said warehouses are not permitted. The applicant is calling it “light industrial”, which is still to be addressed. For anything else going forward, they would have to follow the R standards.

- Ms. Gulliford asked what happens if the 1170 application is turned down.

Mr. Maski said if the Township Committee adopts the ordinance, that property becomes R, Residential period; it does not matter what becomes of the 1170 application. That application is grandfathered in because they got their application in before the ordinance was changed. If that application were denied or withdrawn, from that day forward any development would have to be for single-family housing.

- Ms. Gulliford asked if there is a difference for the impervious coverage for R and RA zones.

Mr. Maski said it would be whatever the impervious coverage would be for R, which is less than O-5.

- Ms. Gulliford referenced the Timko family lots.

Mr. Maski said the property was basically subdivided by the County when they put the road extensions in. The two-family house was granted a use variance and is an existing nonconforming two-family. The other two properties are vacant at the moment.

David Brook – 7 Winding Way

- Mr. Brook asked what is the point of rezoning a property to residential when the proposal is for a warehouse.

Mr. Maski said he did not understand the question.

Committeeman DelCore referred to Mr. Maski’s earlier comment, that should that application be denied or withdrawn, the zoning would need to conform with the R, Residential zoning.

Mr. Maski said there are two ways of rezoning a property, to either accept what is on the property as a beneficial use and you want to continue it, or to move it in another direction with something that is more beneficial. We looked at the entire district and said offices and corporate development parks do not make sense here anymore, so what makes sense – single-family residential.

Mr. Maski said just because there is a light-commercial application on file does not mean you do not change the zoning and have to accept that. We are not looking to zone it light industrial to accommodate what might be coming. Unfortunately, we did not change it soon enough since the applicant beat the clock. If the Planning Board and Township Committee believe single-family residential is good policy for this area regardless of what is being proposed now. The 1170 application will adhere to the zoning at the time it was deemed complete, which is O-5. Again, if for some reason that application is turned down or the application is withdrawn, then going forward any development will have to follow the residential standards.

- Mr. Brook asked if as the Planning Director, you are able to talk to them about a better use of the land.

Mr. Maski stated he does not talk to an applicant about that. If the Township Committee deems it single-family residential, that is a pretty good signal to the owner of the property that that is what they prefer to see there.

Maria Janucik – 720 E. Frech Avenue, Manville and Hillsborough Property Owner 2155 Camplain Road

- Ms. Janucik commented this is confusing. She asked if the warehouse is a permitted use in the current zone.

Board members commented.

Mr. Maski clarified “warehouses” are not permitted uses in the O-5 Zone. The applicant is trying to make the case that this

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is not a warehouse, and will have to present the application, which is that light manufacturing is permitted, which is how they are proposing the use. If and when they get before the Board, they will have to make that case. Technically it is not being proposed as a “warehouse”.

- Ms. Janucik asked more questions on the zoning.

Chairman Suraci said the 1170 application was grandfathered for the O-5 Zone, and will need to show how they comply with the light industrial zone requirements.

Committeeman DelCore said this applicant gets the benefit of the zone at the time they submitted their application; it is not grandfather in perpetuity, but only for this application.

- Ms. Janucik asked more questions on the use for the 1170 application.

Chairman Suraci said the Board cannot talk about an application that is not before the Board. Questions should be asked about the merits of changing the zones for these properties.

Susan Gulliford – Hunt Club Road

- Ms. Gulliford referenced the 1170 property.

Mr. Bernstein cautioned all present not to discuss an application currently before the Board regarding a property on Millstone River Road. That application will have to make its own merit and contentions at the meeting it is ultimately heard by this Board, based upon the zoning in existence at the time that the application was deemed complete. If the public does not like that part of the puzzle, then go complain to the Legislature, who changed the Law from time of decision to time of application several years ago, at the behest of the Developers.

- Ms. Gulliford asked if a current property owner were approved for light industrial, could they sell that property or does it revert back to the R Zone.

Mr. Maski said if it were approved, the current property owner can sell the property for that specific use. The approval would go with the land.

Mr. Bernstein added, just like with any other approval, it goes with the land.

No other questions/comments.

Close public.

Mr. Bernstein advised the Board is to decide if they wish to recommend the proposed ordinance in its current form to the Township Committee.

A motion to recommend Ordinance 2022-16 to the Township Committee for consideration and possible adoption was made by Secretary Hesthag. Secretary Hesthag noted it makes sense with the uses around it. The motion was seconded by Ms. Smith.

Roll Call: Mr. Wagner – yes; Mr. Skobo – yes; Secretary Hesthag – yes; Mr. Ciccarelli – abstain; Ms. Smith – yes; Committeeman DelCore – yes; Mayor Lipani – yes; Vice Chairman Julian – yes; Chairman Suraci – yes. Motion carries.

Mr. Bernstein asked Chairman Suraci for a short recess.

Break 8:15pm – 8:25pm

- **Ordinance 2022-17** - An Ordinance Amending Chapter 188 “Land Use and Development”, Article I “Title; Purpose; Definitions”, Section 188-3 “Words and Terms Defined” and Article V “Districts and Standards”, Section 188-107.1 “LI Light Industrial District”, of the Code of the Township of Hillsborough, Somerset County, New Jersey. Further consideration and a public hearing will be held on October 11, 2022.

David Kois, PP, AICP, Deputy Zoning Officer presented Ordinance 2022-17 to the Board. Mr. Kois said in accordance with the Municipal Land Use Law (MLUL), the Township Committee has referred Ordinance 2022-17 to the planning Board for formal comment regarding consistency with the Township Master Plan and any other matter the Board deems appropriate. This ordinance was introduced by the Township Committee at their September 13 meeting.

The proposed ordinance amends Section 188-3 of the Hillsborough Development Regulations Ordinance by defining a

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large format supermarket and amends Section 188-107.1 Light Industrial (LI) District by adding large format supermarkets to the list of permitted principal uses, along with related bulk and design standards. Additionally, the LI District is proposed to include standards for freestanding restaurant drive-through facilities and add retail sales of goods, and personal service establishments to the list of permitted conditional uses.

Chairman Suraci asked what prompted the revision.

Mr. Kois said there was a request made for us to look at this as being a possible use in the zone. The LI District is an interesting zone in that there have been many uses added over the years that have diversified to different types of uses, including commercial related. There have been limitations on the retail side of things in that zone. However, home improvement retail is something that is permitted in the zone, defined as a larger “box retail”, which is the closest example to something like a large format supermarket.

No questions from the Board.

Open to the public.

Meryl Bisberg – 4 Hickory Hill Road

- Ms. Bisberg asked where the request to amend the zone came from if not from this Planning Board.

Mr. Kois said there was a request from the property owner.

- Ms. Bisberg asked Mr. Kois if he could reveal where that property is.

Mr. Kois answered saying the uses that are being proposed to be permitted uses would be permitted throughout the entire zone, not for one particular property.

- Ms. Bisberg again asked the location of the property.

Mr. Kois said it is the property at the southeast corner of Homestead Road and Route 206. I do not have the block and lot with me.

Robert Kralovich – 291 Amwell Road

- Mr. Kralovich asked about the impervious, and if there is anything in the ordinance that would stop something from being a supermarket today, but a medical facility in the future.

Mr. Kois said there are very minimal standards that are being proposed to change. There are no changes to the existing standards proposed. The change is for additional uses to be added. There is a design standard in terms of the location of parking, but other than that; there are minimal design and bulk standards to be changed.

Mr. Kois said to address your second question, in order for something to change from one use to another after approval, it would be reviewed by the Zoning Officer to make sure it is a permitted use and if there are any conditions of approval associated with the original development of the property, so there are a number of things to look at.

- Mr. Kralovich commented that it is very common for applications to be granted variances.

Committeeman DelCore noted that the use is similar to what is already permitted, although “supermarket” is not specifically mentioned.

Mr. Kois agreed. He said a large-scale building selling home improvement products is already allowed.

Committeeman DelCore said on the same spot you can build a Home Depot, you would now be able to build a supermarket use.

Mr. Kois reiterated, it would be a use permitted throughout the zone.

Robert Harris – 113 Hunt Club Road

- Mr. Harris said we have not received an application yet, but the Township is going out of its way to allow it where it was not allowed before.
- Mr. Harris asked if a resident could make a request to prevent something from being developed. Could we have changed something specifically to not allow a Home Depot?

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Mr. Kois said the property owners can make requests to the Township and the public can participate in the process, be engaged, and make requests. For this particular request, one of the things we had to look at is the consistency of the zone and if something like this would fit within the character of the zone. In title, it is called "Light Industrial", but the zone is different from some of our other industrial zones because it does have a very diverse range of uses that include some commercial, some personal service establishments, and a variety of uses. A home improvement center is specifically defined, so we used that to compare it to a large format supermarket. The use is being proposed to be added. However, the rest of the bulk standards are within what that standard already has.

Allison Whitman – 8 DeWitt Lane

- Ms. Whitman asked what zone a large supermarket is currently permitted in.

Mr. Kois said in all of our other zones, it would be classified as a retail use.

- Ms. Whitman said so this expands the area it can be developed.

Mr. Kois said no; "large format supermarket" is being defined, and the only zone it is proposed to be a permitted use is in the LI Zone. This would not be impacting all the rest of the zones throughout the Township. At the Promenade where the Weis is located it is treated as retail.

- Ms. Whitman asked if it will only be light industrial or will it also be allowed as retail.

Mr. Kois said in this zone, one of the permitted uses being proposed is a large format supermarket. Before this ordinance a large format supermarket could be built in any zone that permits retail. In addition to that, you would have to look at the bulk standards in a particular zone to see if it would be feasible.

David Brook – 7 Winding Way

- Mr. Brook referenced the warehouse applications currently before the Board. Should those be approved, the traffic generated with the traffic from a large format supermarket will impact the traffic on Route 206. He asked if there is a proposal to widen Route 206 for the traffic flow of all the tractor trailers and vehicles.

Mr. Kois said as Mr. Maski stated earlier, nothing is going to take the place of the Board looking at any application on its own merit, in terms of how it fits in with everything else. The purpose of zoning is to look at it throughout the entire zone to see if it fits in general. How it fits on a particular property is for the Board to decide on all of the factors. This use can be proposed at numerous locations throughout the LI District.

- Mr. Brook said if you increase the use of a property you change the demands put upon it. Is the setbacks enough so that the road could be widened if there is that much traffic.

Mr. Kois said none of the bulk standards are being changed for the zone. It is simply proposing to add the use to the zone. It would have to comply with all the existing bulk standards that are already in the zone.

- Mr. Brook said he was asking if there was a recommendation as part of this ordinance because it is a more intensive use.

Committeeman DelCore asked, more than a home improvement store? He said from my perspective, I do not see much of a distinction in intensity from a Home Depot to a large format supermarket. Both are pretty similar in their demand on the surrounding area. Those bulk standards are already in place for a big box option. From a usage perspective, it would not warrant us looking at major changes to all of the bulk standards for that particular zone.

Mayor Lipani added this is not just for one property but for all those within the Light Industrial Zone.

Maria Janucik – 720 E. Frech Avenue, Manville and Hillsborough Property Owner 2155 Camplain Road

- Ms. Janucik asked how many LI zones are there.

Mr. Kois said the LI Zone is one zone with multiple properties within it. It does not have multiple locations spread throughout the town but is in one area. The LI Zone borders on Route 206 and is as per the Zoning Map.

- Ms. Janucik said she is aware there is an I-1, I-2, and I-3 zones, but you are saying the LI is its own zone.
- Ms. Janucik asked how the scale and size is determined to be appropriate for the district.

Mr. Kois said it will depend on the property. There are a variety of factors to look at. Mr. Kois said I would like to

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emphasize in defining this large format supermarket that there is a limit on how large it can go. Nothing is going to take the place of looking at the property for wherever someone proposes a large supermarket. Right now a retail format supermarket says a retail establishment devoted principally to the sale of food as well as other convenience and household goods containing a minimum gross floor area of 75,000 square feet. There are also other factors in limiting how large something may be which has to do with parking, access, environmental constraints, traffic, etc. These factors contribute with determining how large or small something may be.

- Ms. Janucik asked if there is a limit as to how large a warehouse can be built in the LI Zone.

Mr. Kois clarified that the newly proposed revisions are underlined; the rest remains as previously adopted. The question asked is not part of this discussion. Only the new proposed revisions are the subject of the Board's review.

No further comments.

Close public.

Chairman Suraci said being that the State has recently provided guidelines to consider for some of the uses permitted in this zone, now might be a good opportunity to look at, leverage those, and further define.

Mr. Bernstein said based on Chairman Suraci's comment, one option for the Board would be to recommend the approval of the ordinance, but for the Township Committee to take a look at some of the approved uses, such as warehouses, in conjunction with the newly promulgated State guidelines regarding same.

Vice Chairman Julian asked only in the LI Zone.

Mr. Bernstein said at this point, that is what is before this Board.

Committeeman DelCore concurred that that is something that should be looked at. That is a recommendation this Board should make.

Mayor Lipani agreed.

Secretary Hesthag said he also agreed.

Mr. Bernstein advised the Board could recommend the adoption and request that the Township Committee review the permitted use of "warehousing" in the LI Zone, pursuant to the State Planning Commission's guidelines on warehouses. It would then be up to the Township Committee to do what they wish thereafter. This Board only recommends; it does not make the ordinances per se.

A motion to recommend Ordinance 2022-17 to the Township Committee for consideration and possible adoption, and request that the Township Committee review the permitted use of "warehousing" in the LI Zone, pursuant to the State Planning Commission's guidelines on warehouses, was made by Mr. Ciccarelli, seconded by Mr. Skobo. No further comments.

Roll Call: Mr. Wagner – yes; Mr. Skobo – yes; Secretary Hesthag – yes; Mr. Ciccarelli – yes; Ms. Smith – yes; Committeeman DelCore – yes; Mayor Lipani – yes; Vice Chairman Julian – yes; Chairman Suraci – yes. Motion carries.

APPLICATIONS - PUBLIC HEARING

- **M&M Realty Partners at Hillsborough, LLC (West Tract) - File 21-PB-16-MSV** – (TOD: 09-30-22) - Block 182, Lot 11.01 (formerly Lot 11) – 95 Hamilton Road. Applicant seeking preliminary and final major subdivision approval; 'c' bulk variances; and waivers to subdivide the approximate 209.59 acres ("Western Tract") of the former Glen-Gery Quarry, into 200 lots: 198 single-family building lots of varying sizes, and two open space lots, with associated roads, stormwater, lighting, and improvements, for Property in the R8A, Residential 8A Zone. (EC Review: 06-13-22) *Additional /revised documents and plans received 09-08-22. **Application continued from July 28, 2022 without further notice.***

Exhibits - 07-28-22 Hearing:

Exhibit A-1 – Colorized Aerial Plan, dated 06-10-22

Douglas Wolfson, Esq. of The Weingarten Law Firm, LLC, representing the Applicant, M&M Realty, gave a brief recap of the last hearing. He said they had compiled all of the information requested by the Board, including related to environmental issues, which have been submitted.

Mr. Bernstein stated for the record that Secretary Hesthag had submitted a signed eligibility form that he had reviewed the

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July 28 meeting video recording, and is therefore eligible to vote, if taken.

Mr. Bernstein said it has come to the attention of the Planning Office that ten of the lots included in the proposed application are outside the sewer service area. Therefore, there is a question as to whether this application in its present form can go forward with ten of the 198 lots currently outside of the sewer service area, unless one of two things occurs: (1) The applicant comes back with an amended application with the ten lots removed from the application, or the applicant waits until it receives approval from the NJDEP for those ten lots, and comes back for the 198 lots. Mr. Hay may have his own comments to add on the application. What is not recommended is that this be a condition of potential approval pending the outcome of such. That renders a significant problem relative to the application currently before the Board.

Chairman Suraci said this is also part of a settlement agreement, so there is a calculation involved.

Mr. Bernstein commented, that is a separate issue.

Board Engineer, Todd Hay, PE, CME, said in addition to the issue with the sewer service area, he had not seen any evidence of response from the Hillsborough Township Municipal Utility Authority, nor from the Sewerage Authority in terms of comments that you would typically see with the sanitary sewer area amended. It is problematic at best, and needs to be shown because usually when you increase capacity for a sewer service area, there are capital improvements that are associated that need to be looked at for concurrence. In addition to the sanitary sewer area, we also have an issue expecting a stream corridor and transition area averaging. In relationship to that, trees and tree replenishment, which is part of the Township ordinance, in terms of mitigation, would also have to be addressed as part of the transition area averaging, as well as the stream corridor averaging. We do not have any definitive numbers on that amount as well. There could be an opportunity to move waivers if we have more definitive answers from the NJDEP as to what they are going to allow. That would probably allay concerns about tree mitigation and whether or not there will be waivers sought.

Mr. Hay said in talking with Mr. Maski, it would potentially eliminate 15 homes if a transition area and a stream corridor averaging would not be allowed, which would further reduce the amount of homes. He said I do not have any issues with the information reviewed with respect to the Phase I. Whatever has to be done has been signed off by an LSRP. In light of some of the things I have asked for, the water has been addressed but the sewer has not, which is extremely problematic.

Vice Chairman Julian asked if the homes with the sewerage issue are in the stream corridor as well.

Mr. Hay said they are two separate issues but both have to be handled at the same time; it is a major issue. I do not see applications go through without sewer service area being accepted because we need to understand what those capital improvements are because it could affect the municipal right-of-way and the application. The buffer averaging still has to be addressed. The applicant stated in their response there would be a number of trees that would have to be planted per the NJDEP's direction. That could affect the Township ordinance. It would be good for the Board to know if there is a potential for a waiver to be eliminated. We cannot evaluate that until the transition averaging is completed to know whether the stream corridor waiver could be eliminated. We cannot determine that until the NJDEP gives some type of approval.

Mr. Wolfson said he disagreed with almost everything as a legal matter with what Mr. Hay said, and in part with what Mr. Bernstein said. There is no requirement with regard to whether it is sewer service or septic for subdivision. You can hold up COs or Building permits, but there is no requirement for that to be done as part of the subdivision plan. If the Board would like to go forward and excise those lots from the application; that is the Board's right. Mr. Wolfson said I believe that would be a mistake, but we will do what we have to do, if anything, thereafter. The NJDEP decides these issues, not a local board. The way the Land Use Law has been constructed is that the application is heard before this board if consistent with the ordinance or in this case, Court order, and is approvable subject to County approval, NJDEP approval, and other agencies. If the NJDEP said you have an unrestricted right to build, like it or not, you are stuck with that. If something has changed and the NJDEP has an issue, we understand we would have to come back. That is the way the Law works; the Board goes first, the County and the State go second. Once that is done, if a requirement has changed then we have to come back and make the change.

Mr. Wolfson said we have done our best to answer and respond to questions normally far beyond the jurisdiction of a local board because we are trying to be cooperative. The applicant is trying to comply with a Court order, as is the Board, but essentially we have a conforming application and a concept plan that the Township designed with us and attached to the Court order.

Chairman Suraci there is a Court settlement and contingent in that is the number of market-rate homes being built that has a connection to the affordable housing. If we do not know that number because it is based on percentage...

Mr. Wolfson interrupted saying the agreement negotiated by your attorney, myself and the Court specifically said, this is the concept plan. The Township insisted on putting into the agreement that if we deviate from that concept plan, it's no good.

Mr. Bernstein said the settlement agreement called for a number of units significantly larger than what is being proposed.

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The applicant came to this Board with a partial application because you had no sewer service approval for the other piece. At this time, you do not have an application before this Board for the affordable housing piece required by the settlement agreement. That is separate and apart from this issue which was sold to the Court because you could build on it because it is in the sewer service area. Part of it isn't and that is the issue.

Mr. Wolfson disagreed with Mr. Bernstein's statement and said the agreement identifies a maximum number of units, and in the event you cannot build them, there is a proportionate decrease in the affordables.

Mr. Bernstein disagreed. He said there is no proportionate decrease in the agreement.

Mr. Wolfson again stated it is in the agreement.

Mr. Maski read from the R8 Ordinance, which he stated the applicant agreed with: *"The affordable housing obligation from the R8 District is 88 units."* There is nothing in there about proportional.

Mr. Wolfson commented that is taken out of context. He said the applicant is not saying they will not do the 88 units. The question is, is the Board willing to allow us to go forward, as in my opinion you are obliged to do, and hear and decide the application within the time frame that is required. Mr. Wolfson said we have bent over backwards to provide you with information that in my experience no other board has asked for because it is beyond their jurisdiction. We are trying to be good applicants and good neighbors and do not want to be combative, but you are not letting us start.

Mayor Lipani said asking for environmental and sewer service area items is not asking anything above and beyond what we ask of any other applicant. The issue is there are units that may never get sewer service approval that we have to design standards for, and there are environmentally sensitive areas that we need to address, separate and apart of each other. The Board did not understand, and you did not bring it to our attention, that there are a significant number of homes that are not in the sewer service area. As Mr. Bernstein said, we allowed you to bifurcate the application for the full site because you had no sewer service area for that section. We are not asking for anything that is unfair or unprecedented; we are asking for a complete buildable lot where we know everything we approved will be done. Right now that is not accurate, unless you can find a way of getting sewer service area for ten or so units. Are you able to go at your own risk?

Mr. Wolfson that is exactly right; it is our call. We are going forward at our own risk. You can grant subdivision of those lots condition upon COs being given, or even no Building permits being issued unless it is ultimately in the sewer service area. That is the way it should be done under the Law. If you do not like that, I do not think the Law would prohibit you from excluding those lots from the subdivision application, leaving them unsubdivided pending a further application. That is not the most efficient way, but the Board could do that. Other than that, you are saying don't come back until you have your NJDEP approvals, which is not legal.

Chairman Suraci asked how you cannot identify these ten properties that are not in the sewer service area. You were here two months ago and now we find that out through our review and investigation.

Mr. Wolfson said we disclosed that on the plan before tonight, but it was not marked for the first hearing. He again suggested that it be conditioned upon approval by the NJDEP and bar COs and Building permits so that no house can be built there or you carve it out. It is not a big hurdle but is being made out to be.

Chairman Suraci said being an Intervenor; you sold a pretty package to the Courts that you cannot fulfill.

Mr. Wolfson said we are a contract purchaser on a piece of property.

Chairman Suraci again stated, and you are an Intervenor on the Township's affordable housing plan.

Mr. Wolfson said we were an Intervenor on a case that is over, and now we are an applicant before this Board, subject to a settlement agreement that does provide for this eventuality. We are nowhere near that problem now. Mr. Wolfson again suggested they be allowed to put on their case and if we satisfy the conditions necessary to get a preliminary approval, it be granted with the appropriate conditions. Once we go through resolution compliance and are deemed to be in compliance, we get perfected.

Chairman Suraci said we do not have this many questions hanging in the air when we give an approval. The NJDEP's approval is more of a formality.

Mr. Wolfson commented further on his experience with the NJDEP.

Mayor Lipani said this application is not going to end tonight. We have the Engineer and the public here, so perhaps we can let the public finish questioning the Engineer.

Mr. Maski said, as a matter of context, we are talking about ten units not being in the sewer service area, but are really

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talking about 192. As was said, this proposal was bifurcated; the original settlement agreement was for 380 units. Everybody knew the eastern tract was not in the sewer service area, but they were pretty certain they could get that through the NJDEP, which has not happened yet. So now we are down from 380 units to 190 units or so that are in the sewer service area. We have since heard there is a supposed proportionality, so we have gone from 380 units to 190, and if proportionality comes into play, what happens to the 88 affordable units.

Chairman Suraci asked if the affordable housing units are being driven by the market-rate units.

Mr. Wolfson said yes; it is in the agreement.

Mr. Maski again noted the ordinance states 88 affordable housing units.

Mr. Wolfson commented further.

Chairman Suraci asked Mr. Bernstein what could happen if half of these units that were part of the agreement are approved to be built, and the other half is never realized. Could the Intervenor go back to the Courts and say I am only going to build 44 affordable units.

Mr. Bernstein said they could, as well as the Township, Fair Share Housing could, and anyone else potentially could. At this time, we do not have a plan for whatever the affordable housing units are, and supposed to be part of this application. We also disagree as to the time frame.

Mr. Bernstein said I concur to proceed with the public questioning of the Engineer and move on to wherever we go.

Mr. Wolfson said the Board is completely protected because it can make a condition of any approval that the affordables get done. Mr. Wolfson read from the Settlement Agreement (page 3): *"For any amount of market-rate units less than 380 units, M&M's obligation to construct the affordable housing units on the Sherman Tract, Phase II, will be reduced by a proportionate amount."*

Mr. Wolfson said we are not saying we are going to do that.

Chairman Suraci chastised the applicant for not doing their homework and putting forward that 380 units would be built knowing you could not build it.

Mr. Wolfson stated the matter had been discussed and is not a surprise to the Township.

After a further exchange, Mr. Bernstein said there were promises made to the Court and the Special Master that the project could be built as agreed to, not conditioned upon. He again suggested the Board move on to public questioning.

The Board agreed to continue with questioning of the applicant's Engineer, **Craig Hermann, PE, of Paulus Sokolowski & Sartor (PS&S)**.

Mr. Bernstein reminded the witness he is still under oath.

Chairman Suraci called for questions from the public regarding Mr. Hermann's testimony at the July 28 hearing. He noted the Board does not hear new testimony beyond 10pm, and will continue the hearing until no later than 10:30pm.

Susan Gulliford – Hunt Club Road

- Ms. Gulliford referenced the testimony on eight bioretention basins with 110 test pits.

Mr. Hermann agreed that was correct.

- Ms. Gulliford asked the amount of fill.

Mr. Hermann said they found rock at depths of 1.5 to 10 feet that will be filled.

- Ms. Gulliford asked if the depth is counted from the land or from the top of the dirt brought in.

Mr. Hermann said it is at the depth at the time the test pits were performed at the existing grade.

- Ms. Gulliford asked if later bringing in the 10 feet of fill would affect the stormwater management design.

Mr. Hermann said our stormwater management design takes the proposed grading plan into account, which includes any fill brought onto the site.

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- Ms. Gulliford asked for information on tree replacement.

Mr. Hermann said based on the ordinance, we are providing street trees, but they do not count as part of the tree replacement, so at this point the amount of trees being proposed is zero. All of the areas available for tree placements are encumbered by NJDEP areas.

- Ms. Gulliford referenced “mine reclamation”.

Mr. Hermann said his area of expertise is not the soil brought onto the site.

David Fritz - 137 Flanders Drive

- Mr. Fritz noted he was not at the last hearing but did watch the video. He asked for more information on the tree replacement and tree averaging.

Mr. Hermann confirmed there is a tree averaging plan prepared and submitted to the Board. The ordinance requested an increase from 20% to 25%. Our request at the last meeting was over 20% once we looked at the tree removal. Based on an area of limited disturbance, we are now down to 18%.

- Mr. Fritz commented, you are essentially going to clear-cut everything behind Kohl’s and Lowes and further down.

Mr. Hermann said the tree removal calculation was based on a sample area that is within a forested or treed area. We did not take into account all the areas that are not forested now. The tree removal plan was based on a tree sample of an area that has trees in it. It is not as if we took the areas that do not have trees and that skewed the calculation in one direction.

- Mr. Fritz asked for information on the proposal to backfill the canyon area, which is about 30 feet wide and 25 feet deep, showing on the plan as a white line.

Mr. Hermann stated that area is not a wetlands as per the LOI from the NJDEP. There will be fill work there and trees will be...

- Mr. Fritz interrupted saying in the spring there are wetlands. There is a huge standing pool over the past 30 years.

Mr. Wolfson objected saying the comments are argumentative and is testimony. This is not wetlands under the NJDEP and the LOI.

- Mr. Fritz said you intend to take all of the trees out and fill it in. Where is the dirt coming from that you are filling?

Mr. Hermann said I do not think that has been determined yet.

- Mr. Fritz commented on the test pits and proposed legislation.

Mr. Wolfson objected that the speaker was not asking questions of the witness.

Mr. Bernstein advised that this is the time to ask questions of the witness based on testimony provided.

Mayor Lipani noted that what may happen a year from now as far as elevations is not applicable to now; they are governed by the laws at application.

- Mr. Fritz asked where the data for the test pits is.

Mr. Hermann said that data is in our geotechnical investigation which was submitted as part of the application.

Mayor Lipani said it is available on CivicClerk.

- Mr. Fritz asked if the soil sample was tested in the upper region.

Mr. Hermann said the soil samples were tested as required for the NJDEP stormwater rules. Location maps for the test pits are included.

- Mr. Fritz questioned the accuracy of the maps related to when Ida came through.

Mr. Hermann said we are basing the flood hazard area calculations on the verification that was approved by the NJDEP.

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- Mr. Fritz asked if there is any possibility of building a septic system out there so that the non-sewer service areas could potentially be built.

Mr. Wolfson said no studies have been done on that aspect.

Michelle Conklin - 3 Aldrin Court

- Ms. Conklin spoke on the 8 basins proposed for the development. She said streets in the surrounding area are often impassable due to flooding. Ms. Conklin asked if this plan addressed flooding in the surrounding streets.

Mr. Hermann said for this project, we are meeting the NJDEP requirements for stormwater measure for our project itself. We have to address water quantity. The basins are designed to hold the water back and let it out slower than in the existing condition.

Mr. Hay said the applicant is meeting the 2, 10, and 100-year attenuations for water quantity. Those have to be verified by the NJDEP. The NJDEP will have a chance to review that and report back to us. Mr. Hay stated I do not take any issue with the stormwater management plan. There are some more housekeeping items that have to be addressed, but at this time, I have no other issues with the stormwater management.

Robert Kralovich – 291 Amwell Road

- Mr. Kralovich asked if this mine had been backfilled, namely the portion off the back of Lowes.

Mr. Hermann said not yet, not that I am aware of.

- Mr. Kralovich asked if that can be looked into to, and stated that mine had been backfilled. He asked if a soil compaction test will be done.

Mr. Hermann said we will do a compaction test as required.

- Mr. Kralovich asked about liability for flooding.

Mr. Hermann said that is not an engineering question.

- Mr. Kralovich asked, you are not 100% sure of what was backfilled in that mine.

Mr. Hermann said correct.

- Mr. Kralovich asked if that can be found out, and if so when.

Mr. Hermann answered yes it can. We will do the research and provide it to the Planning Board.

- Mr. Kralovich asked if that can be provided to the Planning Board before the next meeting.

Mr. Hermann said yes.

Mr. Hay said I had a chance to review all the environmental issues contained in the report. He stated I do not see anything that is a major issue that may affect the town. The discussion concerning any type of fill issues. That most likely has been taken care of by the Licensed Site Remediation Professional (LSRP) that was indicated within the memorandums provided by the applicant. I do not see any issues beyond the “no further actions” and also the remedial action outcomes (RAO) that were provided. Mr. Hay said if I do see anything that needs to be brought to the Board’s attention, I would like to reserve the right to provide additional comment for any type of compliance. I do not see any issues that would impact anything with respect to the residents of the Township.

Mayor Lipani noted for the public that a Licensed Site Remediation Professional (LSRP) had approved that the site was clean.

Mr. Hay added, for the benefit of the public, the LSRP has the leeway and guidance of the NJDEP to essentially issue what is previously known as a “no further action” (NFA) to close any ground soil and groundwater issues. There has been no indication that there is anything beyond the previous NFA and the remedial action outcomes issued by the State licensed LSRP. If there are any stipulations, we would put those stipulations in as part of compliance. It is more or less “guidance” in terms of what is done during construction. This applicant would be a major earth moving operation and would have to abide by those guidance to simply keep in context with the NFA as well as the RAO. I really do not see that being much of an issue.

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David Brook – 7 Winding Way

- Mr. Brook asked if the Board has a copy of the LSRP report.

Chairman Suraci said it is available on CivicClerk.

Mr. Hay confirmed receipt of voluminous amounts of material. He said he had researched the outcome and conclusion. At the end of the LSRP's evaluation, there are conclusions which evaluate what is known as the "areas of concern" (AOC). Those areas of concern have been addressed if there is remedial action outcome (RAO) accepted by the State NJDEP; that is a closure in my mind. What has to be mitigated during that, the engineer will have to know what the mitigation is, put that into the plan, and that can be provided as part of compliance, should this Board entertain any type of application approval.

- Mr. Brook asked Mr. Hermann if he was aware of a February 23, 2022 letter from RTP Environmental Associates sent to Mr. Mark Morgan.

Mr. Hermann stated he is not the LSRP on the project and is not aware of the letter.

- Mr. Brook said we are talking about soil contamination. He asked about specific testing.

Mr. Hermann again said he is the civil engineer, not the LSRP.

- Mr. Brook asked if the LSRP will be testifying.

Mr. Wolfson said no. We have had a site-wide RAO issued that says the site is clean. We have taken care of every problem. Mr. Hay has confirmed that has been done.

- Mr. Brook asked how an LSRP can report there is not an issue if there are exceedances of residential standards.

Chairman Suraci suggesting taking issue with the agency that issued the permit, being that the permit has been issued.

- Mr. Brook said we left off at the last meeting with a variety of different environmental concerns. There was testimony with regards to this question of fill. He asked if it is correct to say Mr. Hermann is not aware of any fill being brought onto the property.

Mr. Hermann confirmed that was his testimony.

- Mr. Brook asked Mr. Hermann is he is aware that over 600,000 cubic yards of material for reclamation was deposited on this property.

Mr. Hermann reiterated his testimony.

- Mr. Brook further questioned Mr. Hermann on how analysis of the site design was done in terms of the actual ground, with regards to its suitability.

Mr. Hermann answered, as a civil engineer I take the existing grades and work out what I need to do for the site development plans.

- Mr. Brook asked if you do not know what is there, how do you do that effectively.

Mr. Hermann said in coordination with the LSRP. The LSRP takes care of material that needs to be brought into the site or material is on the site.

- Mr. Brook asked Mr. Hermann if he was familiar with a company called International Bio Solutions.

Mr. Hermann said no, I am not the LSRP on the site.

- Mr. Brook said regardless, they were involved with bringing in some of these materials you are look at for building upon.
- Mr. Brook asked Mr. Hermann if he was familiar with Applied Waste Water Management.

Mr. Hermann again said no, I am not the LSRP.

- Mr. Brook asked Mr. Hermann if he is involved with the 208 plan made to the State, and if so, does that review

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also include the Raritan Valley Sewerage Authority.

Mr. Hermann confirmed he is involved with the 208 plan, and that the RVSA will be involved in the final process for the TWA.

- Mr. Brook asked if anyone has contacted the RVSA to find out if they have capacity within the treatment plant, should you get approval.

Mr. Hermann said yes, we have been in contact with the RVSA.

- Mr. Brook asked if the 208 project is subject to public hearing and public comment. Do they include the ten lots here that are outside of the sewer service area?

Mr. Hermann said it is a submission to the NJDEP, so it is available to the public, although I am not sure of the actual hearing process. The ten lots for the West Tract project are also included in that application.

- Mr. Brook asked if the environmental concerns raised at the last meeting are going to be addressed at this meeting. He said I believe that meeting had been adjourned somewhat because of a lack of information we did not hear about.

Mr. Wolfson said no other testimony will be given. He said we made a submission two weeks ago to the Board and its professional to answer all of the questions and concerns that were raised. As Mr. Hay has stated, he has no issue with those responses.

Chairman Suraci said we reserve the right to call back any witness if we have questions as well.

Mr. Wolfson agreed.

Mr. Hay added, engineering controls with this project would have to be part of what the applicant's site designer would have to look at. Anything that we indicate in a compliance letter would have to be complied with. I am quite sure the applicant would be able to comply with that and at least attest to that in terms of when the engineering and actual earth moving is done. Mr. Hay said I do not see that as being problematic and is something that can be stipulated in any type of final letter. There was a variety of different issues for which we did not have the information. The information was provided. There are engineering controls which the applicant shares the burden of addressing. The Board has the right to at least have the applicant acknowledge what those controls will be in place so they have a better understanding of what is going to happen.

Mr. Hay said with respect to some of the other issues brought up about the sanitary sewer area, part of the review showed that there was contact made with the Raritan Valley Sewerage Authority. They will not do any reviews until the sanitary sewer area amendment is done. Once they do that, they will review it and look at whether or not there is adequate capacity and if there will be any type of additional mitigation that this applicant will be able to undertake.

Meryl Bisberg - 4 Hickory Hill Road

- Ms. Bisberg said she had attended the Environmental Commission meeting earlier in the week, and commented on the receipt of revised or additional materials.

Chairman Suraci, Mayor Lipani and Committeeman DelCore provided guidance on the process, that being that this time is for questions for the witness who testified at the last hearing.

Committeeman DelCore noted the Board Engineer has already commented that he and his office have reviewed those items submitted, which obviously carries significant weight with the Board.

David Brook – 7 Winding Way

- Mr. Brook asked Mr. Hermann what year he began working on this property.

Mr. Hermann said PSS has been working on this property since 2019 or 2020.

- Mr. Brook asked if any kind of due diligence or history analysis had been done on the property.

Mr. Hermann said the applicant as a whole did.

- Mr. Brook asked the findings.

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Mr. Hermann said he did not have that report with him.

- Mr. Brook commented that that would be relevant.
- Mr. Brook asked Mr. Hermann if he was familiar with the term “metal life”.

Mr. Hermann said he was not.

- Mr. Brook defined the term.

Chairman Suraci reminded the speaker that this time was for questions on the Engineer’s testimony.

Mr. Hay again stated that the applicant is obligated to have engineering controls for any parts of this project that may affect the soil or groundwater. Those should be stated as part of compliance. Mr. Hay said I take no issue with that and believe the application will not have an issue supplying that and providing more clarification when they go through the compliance process.

Chairman Suraci asked Mr. Hay which of their professionals would be the one to provide the controls that would be in place.

Mr. Hay said that would be the Licensed Site Remediation Profession (LSRP) because typically a LSRP is the one to make decisions as to whether or not a site has to meet residential site standards. Typically there are capping requirements that are required if there is any type of material that was found to be situated to be covered or removed. Once the LSRP states that and reports that is mute, it is no longer an issue. If there is an issue with the groundwater, it would have to be monitored. If there is any type of biological or chemical process required to mitigate any current issue that would be stipulated and made part of the application resolution. It must be stated so that there is a better understanding by the Board and the public that there may be something ongoing that has to be done, whether it is mitigation or monitoring.

Chairman Suraci asked when it would be reasonable for the Board to have that information prior to taking an action.

Mr. Hay said the applicant can look at anything they would have to do. The LSRP could review the plans and state these are the controls that they believe would be necessary. For Mr. Hermann’s sake, he does not look at these plans blindly and has to be cognizant of that. Mr. Hay said a simple letter from the attorney that states these items, which I can then go over with the Board. It is required for many sites throughout Hillsborough and Somerset County, which the Board should know about. However, in this case, I do not think you are going to see too many controls, and if we do, they will be very atypical of these types of sites in the County.

Mr. Wolfson agreed to send the letter to Mr. Hay well in advance of the next hearing.

Vice Chairman Julian asked if it would be appropriate to have the LSRP in attendance so the public can ask their questions. He said Mr. Hay had addressed the questions the Environmental Commission brought up, but we are unable to have answers for some of these other extraneous questions.

Mr. Wolfson confirmed they do not plan on calling the LSRP.

Chairman Suraci suggested having those questions in writing.

Vice Chairman Julian clarified the questions are from the public.

Maria Janucik – 720 E. Frech Avenue, Manville and Hillsborough Property Owner 2155 Camplain Road

- Ms. Janucik noted her objection to the f/k/a reference to Lot 9 being included in the agenda write up.

Chairman Suraci asked for questions for the engineer.

- Ms. Janucik referenced a response from PSS to the DRCC, which she noted raised the issue of intrusion into the stream corridor area and the need for a stream corridor impact review and waiver. She asked Mr. Hermann if that had been provided.

Mr. Hermann said we are working on the response.

- Ms. Janucik referenced another comment from that same letter regarding the size of the stormwater management.

Mr. Hermann replied the same; the response is being worked on.

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- Ms. Janucik referenced a comment regarding an unnamed tributary.

Mr. Hermann said we are still coordinating with the DRCC and working on our response.

Mr. Wolfson clarified that a submission has been made and more information has been requested, which will be provided. He objected to the comment from the speaker.

Mr. Hermann restated, specific responses to those additional questions have not yet been provided. We are working with the DRCC to address those items.

Mr. Hay added, typically when the NJDEP receives an application, the DRCC probably would not have been notified, so they probably do not have all the details yet. There is no smoke and mirror game going on here. The DRCC is now aware but does not have all they need to review and comment on. The DRCC is aware the NJDEP is going to have final say on when permits are issued for freshwater wetlands, transition area averaging plan, and any type of flood hazard act regulation.

David Brook – 7 Winding Way

- Mr. Brook asked Chairman Suraci if a request can be made by the Board to have the LSRP attend a future meeting to answer questions from the public.

Mr. Hay said it could be an option for the LSRP to come before the Board to identify what type of engineering controls could be done. It is an interpretation that went on a RAO. The tract-wide outcome was provided that could be disseminated and discussed and testified to, but it also can be written up and presented next time by the applicant.

- Mr. Brook said residential standards are stricter than those of an industrially zoned property. Institutional controls for residential units are not allowed unless you deed restrict the land. He questioned deed restriction for a residential property.

Mr. Wolfson stated we have an unrestricted RAO. Mr. Hay suggested we submit a letter from the LSRP that indicates what the controls will be, which we have agreed to.

- Mr. Brook again asked that the Board request to have the LSRP present.

Chairman Suraci assured Mr. Brook the Board was aware of the options, and said further comment could be made after all testimony had been provided. He advised now is the time for questions for the engineer.

Mr. Wolfson advised they have another witness in attendance.

Chairman Suraci stated the Board does not hear new testimony after 10pm.

Maria Janucik – 720 E. Frech Avenue, Manville and Hillsborough Property Owner 2155 Camplain Road

- Ms. Janucik asked if a transcript was available from the last hearing.

Board members noted that the video is available to the public on the Township website.

- Ms. Janucik said she agreed with Mr. Brook that the LSRP should be at the next meeting.

Mr. Hay stating having testimony from and LSRP is not part of the normal Board process. There is an understanding that the Board has that the public needs to be educated. If the applicant is willing to provide that, I do not have a problem reviewing what the LSRP will provide. The Board needs to know the engineering controls at the end of the application. We are able to disseminate that and make sure that is employed. No homes are allowed to be built on contaminated properties; that is simply not allowed. Mr. Hay said I am discussing this so the Board can be educated that it would not be allowed and that the Building Department follows UCC regulations and would not allow that to happen.

Mr. Ciccarelli referenced a document being posted to CivicClerk.

Close public.

No questions from the Board or professionals.

Mr. Maski noted the next open agenda as December 01, and would require an extension of time.

A short break was called to allow Mr. Wolfson to reach his client to discuss the scheduling date offered.

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After returning from break, Mr. Wolfson agreed to the next hearing date of December 01 with and extension through December 02. He said they have another witness but are essentially done with testimony.

Mr. Bernstein advised the Board on the motion.

A motion to continue the M&M Realty Partners at Hillsborough, LLC (West Tract) - File 21-PB-16-MSV application hearing to December 01, 2022, with an extension of time through December 02, 2022, without further notice, was made by Mr. Ciccarelli, seconded by Mr. Skobo.

Roll Call: Mr. Wagner – yes; Mr. Skobo – yes; Mr. Secretary Hesthag - yes; Mr. Ciccarelli - yes; Ms. Smith – yes; Committeeman DelCore – yes; Mayor Lipani – yes; Vice Chairman Julian –yes; Chairman Suraci – yes. Motion carries

Chairman Suraci noted the next meeting is scheduled for October 06.

ADJOURNMENT

A motion to adjourn was made by Mayor Lipani, seconded by Mr. Wagner. All were in favor; motion carries.

The meeting adjourned at 10:21p.m.

Submitted by:
Debora Padgett, Planning Board Clerk