

Township of Hillsborough – PLANNING BOARD

Approved Public Meeting Minutes

April 13, 2023

Chairman Carl Suraci called the Planning Board Regular Public Meeting of April 13, 2023 to order at approximately 7:03 p.m. The meeting was held in the Courtroom of The Peter J. Biondi Building. All stood for the flag salute.

NOTICE OF MEETING

Chairman Suraci announced the 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 2023 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 web site <https://hillsboroughnj.civicclerk.com/>. Complete applications files are available in the Planning and Zoning Department for inspection, in accordance with the public meeting notice.

ROLL CALL

Absent - Robert Wagner, Jr	Present - Patricia Smith (Alt #2)
Present - Robert Peason	Present - Committeeman John Ciccarelli
Present - Frank DelCore	Present - Mayor Shawn Lipani
Present - Ron Skobo	Present - Neil Julian, Vice Chairman
Present - Kenneth Hesthag, Secretary	Present - Carl Suraci, Chairman
Present - Bruce Radowitz (Alt #1)	

Also in attendance: David Kois, PP, AICP, *Township Planning Director*; Jocelyne Bello, Asst. Planner, GIS Specialist; Eric Bernstein, Esq., *Board Attorney (Eric M. Bernstein & Associates)*; Todd Hay, PE, CME, *Board Engineer (Pennoni Associates)*; Michael Lombardozzi, CSR, CCR, *Board Court Reporter.*; Dylan Tollefson, *Township Videographer (Fuerza Strategy Group)*

Attending Virtually: Jennifer Beahm, *Hillsborough Township Affordable Housing Planning Consultant (PP of Leon S. Avakian, Inc.)* – attending virtually.

CONSIDERATION OF MEETING MINUTES

- None

CONSIDERATION OF RESOLUTIONS

- **Jennifer Bryson (PRL) – File 22-PB-17-S**

Chairman Suraci calls for a motion to approve.

Mr. Radowitz motioned to approve the resolution, seconded by Ms. Smith.

Roll Call:

Yes - Mr. DelCore	Yes - Ms. Smith (Alt #2)
Yes - Mr. Skobo	Yes - Mayor Lipani
Yes - Mr. Hesthag	Yes - Vice Chairman Julian
Yes - Mr. Radowitz (Alt #1)	Yes - Chairman Suraci

Motion carries

PLANNING BOARD BUSINESS

- Hearing on the Adoption of (Draft) **Amended Housing Plan Element and Fair Share Plan, dated March 2023** – Presentation by Jennifer Beahm, PP of Leon S. Avakian, Inc., Hillsborough Township Affordable Housing Planning Consultant.

Jennifer Beahm introduces herself and is sworn in. She states she is presenting an Amended Housing Element and Fair Share Plan and explains the two minor items that are caused the need for the amendment. The two items include

1. an error on the Compliance Table, located on page 35, with the number of credits to obligations. The discrepancy has been corrected.
2. A paragraph has been added at the end of the document on page 38 discussing and referencing statute for the Township's ability and intention to extend a preference to Veterans.

There are no questions from the Board. Chairman Suraci calls for a motion to open to the public

There is a motion to open this issue to the public for comment, all are in favor. The motion passes.

Meryl Bisberg - 4 Hickory Hill Rd.

- Ms. Bisberg states the new document is 10-pages shorter than the previous and asks what happened to the finance information. She also notes the previous document, from November 2021, has been removed entirely from the Township website.

Ms. Beahm states previously the Spending Plan was appended to the Housing plan but it is a separate, stand-alone, document which is subject to approval by the governing body. There have been changes and once they received the sign-off from the Court Appointed Master they will be able to submit it to the governing body for approval.

- Ms. Bisberg asks if the Spending Plan that was submitted in 2021 is considered still current even though it is being revised.

Ms. Beahm states it is not and explains the process while it is in revision draft form.

- Ms. Bisberg asks if can estimate when they will be getting the Spending Plan back.

Ms. Beahm states she is not able to estimate when they will get it back but they are ready to move forward as soon as they receive it.

- Ms. Bisberg asks if she is correct in understanding that when those documents are completed then there will be a final repose.

Mr. Bernstein states correct.

Ms. Beahm states yes.

- Ms. Bisberg asks if she can give a brief summary of the document since it has the obligation information in it and since there are a lot of members of the public present this evening.

Ms. Beahm explains the table on pages 34-35 stating the Township's obligation is 1378, in the document there are 168 credits for Supportive Needs Housing, 455 credits plus 180 bonus for Family Rental Units and 175 credits plus 98 bonus for 100% Affordable Project and 44 units of Age-Restricted as well as 260 units of zoning. These numbers have not changed. The court has approved their plan for 1378 which includes a variety of projects.

Mr. Bernstein confirms the zoning has been approved as Town Center.

Ms. Beahm states they comply with their obligation for this round and have two units of surplus moving forward to the next round. The amendment was just for correcting the math mistake in the table and adding the Veteran's Preference.

- Ms. Bisberg asks how much more housing is going to be built moving forward.

Ms. Beahm states she cannot answer that question.

Mr. Bernstein states there have not been any residential applications before the Planning Board in at least the last 12 to 18 months and believes no others will come any time soon. He states there are at least two developers with four sites that have either received approval and not moved forward or have not sought the approval yet.

- Ms. Bisberg asks if there comes out to roughly 1,000 units to be completely built out by 2025,

Ms. Beahm indicates that this public hearing is for the minor amendment specifically the two limited items.

Susan Gulliford - 7 Hunt Club Road

- Ms. Gulliford asks if the Veteran's Preference is for only Hillsborough residents.

Ms. Beahm states no, it is for only Veterans.

- Ms. Gulliford asks if the Township gets extra credits if it is a VA Disability.

Ms. Beahm states no.

- Ms. Gulliford if the 1378 is only good for two more years.

Ms. Beahm states this is correct, then they will have to come up with a new number.

Chairman Suraci states as a reminder the legislature is up for re-election this year so make your opinions known.

David Brook - 7 Winding Way

- Mr. Brook asks if Ms. Beahm mentioned an examination of some changes being looked at with regards to some of the developments.

Ms. Beahm states no she did not and reiterates what she said early about the math mistake in the table which was corrected and the added paragraph regarding Veteran Preference. She states these were the only changes.

- Mr. Brook asks if there were any changes relating to the units.

Ms. Beahm states no.

- Mr. Brook asks if there has been any examination into Premier on Valley Road.

Ms. Beahm indicates that is not what she is here to discuss and reiterates the two items from the amendment. She states those items were included in the plan and the settlement agreement and any deviation from that would require action beyond this and is not the subject of this public hearing.

- Mr. Brook asks the status of the current litigation.

Chairman Suraci interrupts reminding him that is not part of this public hearing and asks Mr. Brook if he has any further question about the math error or the Veteran's Preference.

- Mr. Brook states the agenda does not say the hearing is limited for one thing.

Ms. Beahm states it said 'Amended Housing Plan Element and Fair Share Plan'. She states if he has questions about the settlement agreement and where they are in the process that is not for the Planning Board but rather a Township Committee question that should be asked at a different meeting.

- Mr. Brook says he will ask the question and she can decide if she wants to answer it. He asks has the Township ever held a public hearing on the Affordable Housing Settlement for the public.

Ms. Beahm states yes.

- Mr. Brook asks when that was.

Ms. Beahm states the settlement agreement was reviewed at a Township Committee meeting, she does not know the date, and states it is not something that could be signed outside of a public action. She reiterates her answer is yes and suggests filing an OPRA request with the Clerk's Office to ask for a copy of the settlement agreement if he is curious about it.

- Mr. Brook states no he does not need to file an OPRA request and asks Mr. Bernstein to elaborate a little bit more because that is not the answer.

Ms. Beahm states that is the answer.

- Mr. Brook states he asked if the Township has held a public hearing to review the agreement which is required.

Ms. Beahm states she said the answer is yes.

Chairman Suraci intervenes asking Mr. Brook if he has a question pertaining to the Amendment.

- Mr. Brook asks for the date of the meeting.

Chairman Suraci suggests Mr. Brook review the Town Hall Meeting conducted by, at the time, Mayor DelCore on the Township's YouTube Channel.

Mr. DelCore states perhaps Mr. Brook is misinterpreting what public hearing means in this context but he confirms a Town Hall meeting was held about Affordable Housing and he states he is not sure what else Mr. Brook is asking for.

- Mr. Brook states it is his understanding that after that the court requires a hearing on the agreement for the public, that's all he was asking for and it does not sound like that happened.

Ms. Beahm states the public action that the court requires is before the court; a compliance hearing will be coming up, once all the things are finished, and it will be open to the public. She states the Township held multiple public actions on this, there was a public hearing on this document a year and a half ago, public actions taken on settlement agreements, zoning etc. all in the public and there was a Fairness Hearing before the court. She states she does not understand which part Mr. Brook feels did not take place. Everything has been regulated by the court and done in accordance with the Municipal English Law, The Fair Housing Act and the rules governed by the court.

- Mr. Brook asks about the compliance hearing before the court.

Ms. Beahm states they do not have a date yet.

Chairman Suraci asks if there are any other members of the public who have a question pertaining to the Housing Plan Element and Fair Share Plan Amendment. Seeing there are no other questions he calls for a motion to close public comment.

There is a motion to close public comment on this hearing, seconded and all were in favor. Motion carries.

Chairman Suraci calls for a motion regarding the hearing.

Mr. Peason motions to approve the Amended Housing Element and Fair Share Plan as presented by Ms. Beahm relative to the two changes she discussed, seconded by Committeeman Ciccarelli.

Roll Call:

Yes - Mr. Peason	Yes - Committeeman Ciccarelli
Yes - Mr. DelCore	Yes - Ms. Smith (<i>Alt #2</i>)
Yes - Mr. Skobo	Yes - Mayor Lipani
Yes - Mr. Hesthag	Yes - Vice Chairman Julian
Yes - Mr. Radowitz (<i>Alt #1</i>)	Yes - Chairman Suraci

Motion carries

CONSIDERATION OF ORDINANCES

- Ordinance 2023-04 – An Ordinance Amending Chapter 188 “Land Use and Development”, Article V “Districts and Standards” Section 188-107.2 “TECD Transitional Economic Development District” of the Code of the Township of Hillsborough, County of Somerset, State of New Jersey.

Mr. Kois gives a summary of the ordinance stating it would remove warehousing shipping and receiving located completely within an enclosed building as a principal permitted Use and remove parking standards associated with warehousing. The hearing is scheduled for April 25, 2023 before the Township Committee.

Mr. Kois also highlights his memo to the Township Committee by reading into the record the reasons it is recommended that the Warehouse Use as a principal permitted Use be removed from the TECD then states it is his recommendation the Ordinance as presented is consistent with the Master Plan.

There were no comments from the Board.

Chairman Suraci states he concurs and believes the removal may need to be further defined preferably before the Zoning Board goes forward on any new applications in that area especially since things have changed in the 10 plus years.

Chairman Suraci explains for the public they are not passing or approving the changes to the ordinance. Statute dictates it comes before the Planning Board for their comment, consideration and recommendation then goes back to the governing body which holds the full responsibility for decision of implementation.

Chairman Suraci calls for a motion.

Mr. Hesthag motions to recommend back to the Township Committee the adoption of TEZD Ordinance Change/Ordinance 2023-04 for the governing body to take the appropriate action, seconded by Mr. Peason.

Roll Call:

Yes - Mr. Peason	Yes - Committeeman Ciccarelli
Yes - Mr. DelCore	Yes - Mayor Lipani
Yes - Mr. Skobo	Yes - Vice Chairman Julian
Yes - Mr. Hesthag	Yes - Chairman Suraci
Yes - Mr. Radowitz (<i>Alt #1</i>)	

Motion carries

BUSINESS FROM THE FLOOR (*public comment for matters not on the agenda*)

Chairman Suraci opens comments from the public; asks public to state their name and address, refrain from commenting on warehouses either directly or indirectly due to active applications, reminds there is a five-minute limit per person.

Brian Tarantino – 235 Fairfield Lane

- Mr. Tarantino invites the members of the Board to an information session on warehouse development in Hillsborough which their community group, SWAT, is hosting on Tuesday, April 18 at 6:00 pm in a multipurpose room in the library. He explains it will be a public forum about warehouse proposals and the impacts they could have on the town in an effort to provide perspective to the public.

Sharon Kunz – 30 East Mountain Road

- Ms. Kunz is considering selling her property at 30 East Mountain Road but is under the impression there may be gas pumps which were buried on the property in 1970. She is wondering if it is safe and if the township can offer some input or direction.

Mr. Kois states the township and health department do have information on the property, which has a long history and asks her to leave her contact information so he may follow-up with her outside the meeting.

Jo O'Connell – 20 White Meadow Road

- Ms. O'Connell asks if the notice she received regarding the previously mentioned Ordinance hearing has the correct start time for the meeting which is listed as 7:30 pm, she was under the impression all Planning Board meetings now begin at 7:00 pm.

Chairman Suraci explains the meeting in question is a Township Committee meeting which is different from the Planning Board and that starts at 7:30 p.m.

Maria Janucik – 720 East Frech Ave., Manville (residence) / 2155 Camplain Road, Hillsborough (property owner)

- Ms. Janucik asks if Hillsborough's Master Plan has been updated since 2010.

Chairman Suraci asks Mr. Kois to give a timeline of the Master Plan.

Mr. Kois states the specific land use element in question was adopted in 2010, as far as the last time any element was adopted he will have to look into. There was a Master Plan reexamination done in 2018 which was the last time it was examined.

- Ms. Janucik asks what the difference is between re-examining it and adopting.

Mr. Kois explains there is a state statute through the Municipal Land Use Law that a municipality has to re-examine its Master Plan every 10 years.

- Ms. Janucik asks if there have been amendments made in the meantime.

Mr. Kois states there has not been an amendment to the section of the Master Plan discussed this evening since the re-examination has been adopted in 2018 however there was an adoption to the

Housing Plan,

Mr. Bernstein states the Housing Plan was re-adopted in 2021.

- Ms. Janucik asks when year the previous Housing Plan was adopted.

Mr. Bernstein states he does not know.

- Ms. Janucik asks if it was more than 10 years ago.

Mr. Bernstein is unsure.

Mr. Kois states there is information on the Township website in the Planning and Zoning Section. If a Master Plan is not posted it is only due to the size of the file and hard copies are available in the Planning and Zoning office.

- Ms. Janucik states Hillsborough's governing body recently adopted Ordinance 2023-02 and reads a portion into the record. Ms. Janucik asks whose job is it to over-see permits were provided to applicants and where in the Township is the information provided,

Mr. Hay states the permit process is done and completed either during compliance by himself or Mr. Kois and followed up by the Township Engineering Department.

- Ms. Janucik asks where copies of the permit are held.

Mr. Hay states they are typically held by himself, Mr. Kois and Drew DiSessa, the Municipal Engineer.

- Ms. Janucik asks if the information can be obtained through OPRA.

Mr. Hay confirms.

There is no additional public comment.

APPLICATIONS – PUBLIC HEARING

- **Homestead Road, LLC – File 21-PB-25-MS/MSP(V)** – (TOD: 06-30-23 w/Ext.) - Block 200.10, Lots 32 & 33 – 203 Homestead Road and 189 Homestead Road. Applicant seeking preliminary and final major subdivision approval (determined a minor subdivision); preliminary and final major site plan approval; 'c' bulk variances; and waivers, to consolidate the two lots and then subdivide into two reconfigured lots; and demolish all existing structures to construct two warehouse/office buildings, with associated stormwater, parking, and site improvements, on Property in the TECD, Transitional Economic Development District. (EC Review: 03-28-22)

*Revised plans/report submitted 04-21-22 and 04-28-22/ Additional plans / exhibits / documents submitted 06-24-22 / Additional submission 11-28-22. **Per the Applicant, no longer seeking 'c' bulk variances – revised plans/reports/documents submitted 02-17-23. Copy of NJDEP application received 03-31-23. (PB agendas: 05-12-22; 07-07-22; 10-06-22 adjourned; 12-08-22; 01-12-23 – NO testimony – for scheduling only; 03-02-23; 04-06-23 – canceled, rescheduled to 04-13-23).***

Application rescheduled from April 06, 2023 without renofice.

Participating for the Applicant: Craig Gianetti, Esq. of Day Pitney, LLP; Michael K. Ford, PE, PP, of Van Cleef Engineering Associates, LLC; Gary Dean, PE of Dolan & Dean; Christine Nazzaro-Cofone, PP, AICP of Cofone Consulting Group, LL; Edward Kuc, Principal Ecologist of Eastern States Environmental Associates, Inc.; and Applicant's Representatives: Glenn Stock, Eric Greif, and Kenneth Greif.

Participating for the Objectors: Objector #1 - Michael Pisauro, Jr., Esq. of The Watershed Institute, Witness –Clay Emerson, PhD, PE, CMF of Princeton Hydro; Objector #2: Scott Gross, Member Representative of Local Citizens Against Traffic (LCAT); Objector #3: Brian Tarantino, Member Representative of Stop Warehouses and Trucks (SWAT); and Objector #4: John Lanahan.

Committeeman Ciccarelli recuses himself.

Chairman Suraci invites the Objectors to come forward.

Mr. Bernstein states for the record they received two certifications of Absent Board Member Examination of Record / Eligibility to Vote. Committeeman Ciccarelli and Mr. Peason reviewed the March 2, 2023 meeting making them eligible to participate this evening.

Craig Gianetti, attorney for the applicant, introduces himself and gives a brief summary of the application. He references the issue of possible disturbance on the property by the property owner's farmer and states an exhibit has been submitted showing virtually no change to the topography was made and there was limited tree disturbance by the farmer which is in the same area where the proposed project would so be therefore accounted for in the site plan. Mr. Gianetti reviews their witnesses list.

Mr. Bernstein advises the Objectors should introduce themselves and state their objections for the record.

Michael Pisauro, Objector #1, introduces himself and states they submitted a letter on March 1, 2023 objecting to hearing going forth for various reasons. He states they support the positions of Mr. Kois and Mr. Bernstein in the letters they each submitted and encourages the Board to follow their advice.

John Lanahan, Objector #4, introduces himself. He states he concurs with the letters of Mr. Kois and Mr. Bernstein and reminds the Board they voted at the previous meeting to adjourn and carry this hearing until the DEP documents were presented 10 days prior. He asks if the Board does continue to move forward this evening to have another vote with roll call to see how the votes are again.

Scott Gross, Objector #2, introduces himself. He states he generally concurs with the other Objectors on the NJDEP issue and expresses his disapproval with continuing to hear the application without resolve of these issues. He states he believes the Board is trying to protect all involved from wasting time and resources on flawed application and suggests to discontinue. Mr. Gross asks why there has been a change in procedure and states he believes

the hearing should pick up from where it left off at the previous meeting which was with the applicant's planner.

Brian Tarantino, Objector #3, introduces himself. He states he is in support of what he refers to as the 'common sense approach' which the Board experts, attorney and the Planning Board took regarding the contamination and wetlands issues. He states the resolution of the issues could render the plans irrelevant. He reminds the Board the proposed structures are these are permanent, not temporary, and very large with one projected to be the second largest building in the township. Mr. Tarantino discusses his traffic concerns. He suggests an order of procedure for the hearing.

Mr. Gianetti responds to the Objectors. He expresses disagreement with the requests to adjust the order of procedure, discusses permit approval processes, addresses wetland and contamination issues, addresses comments about witness testimony and disputes some Objector comments.

Chairman Suraci clarifies Mr. Ford was in the process of the public portion of his testimony and will be required to return. He states the Objectors are not dictating the process or order of witnesses.

Mr. Bernstein addresses the Wetlands portion and the ongoing investigation at 189. He clarifies that Ms. Cafone will be required to return to finish her testimony. He states he will leave the decision of the traffic report up to the Board. He states he is unaware there is a report from the applicants LSRP who is present this evening and reminds of the requirement of reports to be submitted no later than 10 days prior to testimony.

Mr. Gianetti states Phase I and Phase II in the Preliminary Assessment are on Civic Clerk and were submitted to the Board.

Mr. Bernstein asks if there have been amendments since original circulation.

Mr. Gianetti states no, he does not believe so.

Mr. Bernstein further addresses the 189, 203 and wetlands issues stating no one is suggesting this was the action of Mr. Gianetti's client. He states if the Board wishes to hear testimony, it has the right to hear certain testimony. Mr. Bernstein suggests if the Board is considering moving forward tonight to begin with the LSRP testimony since neither Mr. Ford nor Ms. Cafone are available.

Mr. Gianetti clarifies the date DEP email chain as April 5, 2023.

Mr. Bernstein states April 5 does not make the 10 day requirement for tonight's meeting.

There is a discussion about the substance of the email chain.

Mr. Pisauro states the communications with the DEP has not yet been provided nor is it available on the publicly accessible website per the commitment from the applicant's attorney.

Mr. Gianetti states there was no commitment to provide at the last meeting but if there were any permits or anything issued, they would provide it. He states the email chain in question was just an email confirming what they have been saying which is it will get cleaned up but is not a basis to stop the application from moving forward before the planning board.

Mr. Lanahan states there was no objection to the condition of the documents being provided 10 days prior.

Mr. Gianetti states Mr. Lanahan was not part of those emails and explains the content of the emails. He states the commitment to provide anything else was if they got the LOI or any permits.

Mr. Bernstein disagrees, stating it was not a parse including or excluding certain permits. He states Mr. Gianetti and his client pushed DEP on resolution on the cleanup relative to the debris in the last week. The only thing the DEP has ruled on relates to the cleanup of the debris that came from the farming situation which they are supposed to now submit a plan that doesn't hold up to that extent the issue related to the debris. He states it was not parsed in the conversation.

Mr. Gianetti states there was no bullying or intimidating of the DEP to try to influence them, they were seeking clarification on their guidance as to what they were saying.

Mr. Bernstein states they were clear on one piece of their guidance and explains what he meant by parsing.

Mr. Gianetti states he has them and asks to submit them into evidence.

Mr. Bernstein states there is a question as to if all of them are there and reminds it still is not up on Civic Clerk and none of the Objectors or public has seen them.

Mr. Tarantino states from the public's perspective the last thing they heard was the Board saying nothing will be heard on April 13th if no documents are posted by April 3rd.

Mr. Gianetti asks for clarification that the 10-day rule applies to exhibits and reports but not emails.

Mr. Bernstein states they were responding to an ongoing investigation that was created by Mr. Kois' Stop-Work Order and by the farmer's indication of a violation.

Mr. Gianetti agrees and states there were no plans or reports they were relying on.

Chairman Suraci calls for a 10-minute recess.

8:35 pm Chairman Suraci reconvenes the meeting.

Chairman Suraci states they will let the LSRP begin testimony as it is related to the wetlands issues but the testimony will stop at 9:15 p.m., if not completed at that time the witness will continue at the next hearing in May followed by Ms. Cafone and Mr. Ford.

Mr. Bernstein states the decision to move forward with the LSRP does not indicate that the Board will not make a decision that this application cannot go forward.

Mr. Hay states they issued an engineering letter on Monday and requests that prior to the next hearing they be permitted to look at the Concept Plan as it relates to their recommendation of a roadway widening for the entire frontage. He requests that Concept Plan be provided to them and as an exhibit for testimonials.

Mr. Gianetti requests during the public question portion that members of the public are limited to one turn per person with multiple questions in the span of the one turn being acceptable.

Chairman Suraci states as a matter of practice he tries to exercise this during all meetings.

Mr. Gianetti calls their LSRP to testify.

David Robinson is sworn in. Mr. Robinson gives his educational, employment, licensing background and experience in the field. The Board accepts him as an expert in the field of Environmental Remediation.

Mr. Gianetti asks Mr. Robinson to provide further background with his experience in dealing with contaminants and contaminated sites as part of various developments.

Mr. Bernstein asks Mr. Robinson to first place on the record the reports he has provided to this Board.

Mr. Robinson states as the LSRP he has submitted to the NJDEP and to the Board a Preliminary Assessment Report and a Site Investigation Report. He says he also submitted a Phase One Report but that is not an official NJDEP document. He states it was performed by his firm but not under an LSRP oversight. Phase Ones are not performed under LSRP oversights.

Mr. Bernstein asks if he knows the dates of the reports.

Mr. Gianetti checks his files and states the Preliminary Assessment is dated August 2021, Phase One July 1, 2021 and Phase Two dated June 2022. He is not able to find the exact date for the Preliminary Assessment Site Investigation Report.

Mr. Robinson says the Preliminary Assessment Site Investigation Report was discussed at the September 19, 2022 Environmental Commission meeting so it was submitted prior to that.

Mr. Gianetti asks Mr. Robinson to describe some of his experience and background in redeveloping Brownfield Sites or sites that have some sort of contamination involved.

Mr. Robinson states he has been involved with NJ Brownfield Redevelopment since the late 1990s; he has developed several warehouse properties on impacted sites and is currently working with applicants on one in Palmyra, NJ in Burlington County where they successfully completed development and site remediation of the site.

Mr. Gianetti asks what a LSRP, Licensed Site Remediation Professional, is and what their role is.

Mr. Robinson gives a brief history of the LSRP program in New Jersey. He states they have leeway in remediating, investigating, remediating sites and closing out sites through the process of writing a response action outcome which is analogous to what the DEP used to write in a 'No Further Action' letter. They are tasked with making sure the sites get remediated and be protective of human health in the environment.

Mr. Gianetti asks if there were audits and reviews by the DEP.

Mr. Robinson states yes, the DEP reviews all reports that are submitted for completion, they can review other reports deeper, Response Action Outcomes are reviewed more completely. Mr. Robinson explains how a permit is issued.

Mr. Gianetti asks if he is familiar with 189 Homestead Road and 203 Homestead Road.

Mr. Robinson states yes, he is the LSRP of record on 189 Homestead Rd. He is familiar with what is happening on 203 Homestead Rd but explains to the Board that that site is not subject to an LSRP as it is not under NJDEP Site Remediation Oversight. His firm is helping the applicant and property owner to address the solid waste that was found on the site but this is outside the LSRP program.

Mr. Gianetti asks him to describe the work he performed in his role as LSRP in connection to the property.

Mr. Robinson explains how the Industrial Site Recovery Act (ISRA) was triggered when the property owner, Mr. Shockley, decided to sell the property.

Mr. Gianetti asks about the 'codes'.

Mr. Robinson explains there is a long list of codes in the ISRA Rules of Operations that require an extra trigger. The property owner's business had a code that triggered a required ISRA compliance. This is what brought Mr. Shockley to retaining an LSRP. Mr. Robinson continues stating in due diligence geotechnical test pits were performed. The geotechnical engineer determined there was an odor coming from the test pit so environmental samples were taken, the tests came back above NJDEP Soil Clean-up Criteria which triggered a call to the NJDEP hotline saying there was an environmental impact which needed to be addressed. This was addressed under Case # 210901-1251-30 which required outside of ISRA the retainment of an LSRP. Both cases were combined and are being addressed currently.

Mr. Gianetti asks what is next regarding the investigation.

Mr. Robinson explains what happens once ISRA is triggered, and it is determined the NACIS code is valid. He states there were 25 areas of concern throughout the property of 189 Homestead Rd, out of the 25 they determined five required additional sampling. After those areas were investigated the Preliminary Assessment Site Investigation Report was submitted and the result is four will require additional remedial investigation. These investigations have not yet occurred.

Mr. Gianetti asks how he would characterize what they have found so far with respect to the size of the area and the levels that were tested.

Mr. Robinson states they did not find high concentration levels. He explains the DEP's remediation standards. He states a majority of the sampling indicated the contaminants were above the very low migration groundwater soil remediation standards. They still need to be delineated to determine how large the areas are, they don't think they are very large but must do the investigation to determine that.

Mr. Gianetti asks what the deadlines or time frames are.

Mr. Robinson states the DEP prescriptive regulatory mandatory time frames to complete such things. He states the Preliminary Assessment Site Investigation was completed and a remedial investigation and remedial investigation report must be submitted by September 2025 after which a remedial action must be completed by September 2028. He states this does not mean they are waiting till those dates but rather those are the dates by which the law allows the responsible party to finish the investigation and finish the remediation.

Mr. Gianetti asks how he would categorize the level of contamination, if it is site-wide.

Mr. Robinson states based on the data they have it is not site-wide contamination, but rather very specific areas of concern and he explains possible next steps.

Mr. Gianetti asks if soil removal or placing a cap to any of the items mentioned would impact the developability of the site as it is being proposed.

Mr. Robinson states no and explains.

Mr. Gianetti asks if he has been involved with developments that had higher concentrations of contamination that were developed with a warehouse or other type of non-residential use.

Mr. Robinson states yes and gives brief examples.

Mr. Gianetti asks if there is anything he has seen thus far that, in his professional opinion, he thinks would prevent or impact the developability of the site.

Mr. Robinson states no.

Mr. Gianetti asks if that is how the site would be remediated as part of this proposed development.

Mr. Robinson states once they have finished the Remedial Investigation they will determine the best way but if they do no saw removal then the warehouse development as a cap will be sufficient as remediation.

Mr. Hay summarizes their February 22, 2023 letter. He states he believes Mr. Robinson addressed just about every issue in that letter. The only remaining issue which he asks the Board to put a condition on is that the Remedial Action Work Plan be shared with his office so as to review the need for institutional controls.

Vice Chairman Julian asks if Mr. Robinson knows what the contaminants were.

Contaminants Mr. Robinson states were found include but are not limited to: beryllium, benzene, tetrachloroethene, trichloroastine all which tested well below the NJ Residential and Direct Contact Standards but above the Migration to Groundwater Standards. There were also several metal compounds which were all below health-based standards but above the Migration to Groundwater Standards. They include but are not limited to cadmium, lead, mercury, nickel and silver.

Vice Chairman Julian asks, in Mr. Robinson's opinion how they were generated.

Mr. Robinson states he does not know.

Vice Chairman Julian asks if Mr. Robinson as the LSRP gets to make the decision in terms of the final actions on the plan, i.e. does he decide to put the cap or to remove the soil or does the DEP.

There is a discussion about the decision-making process and how long it may take.

Committeeman Ciccarelli states he does not see a Preliminary Assessment Report on Civic Clerk.

Mr. Robinson states it should be there.

Committeeman Ciccarelli asks if someone can please find it and make it more easily found for the public.

There are no further questions from the Board.

Mr. Tarantino states he had not found or read that report either so was not prepared for this testimony.

There are no questions from the Objectors.

Mayor Lipani motions to adjourn to continue the application to May 25, 2023, at 7:00 pm or so thereafter without further notice of which the first witness will be the continuation of the Board examination of Mr. Robinson, the second witness to be Ms. Cafone to finish the examination from the public as to the subdivision issue, seconded by Mr. Hesthag.

Mr. Gianetti asks for clarification if Ms. Cafone's testimony will start with the public portion.

Mr. Bernstein reads into the record from the transcript of the December 2022 meeting.

Roll Call:

Yes - Mr. Peason
Yes - Mr. DelCore
Yes - Mr. Skobo
Yes - Mr. Hesthag

Yes - Committeeman Ciccarelli
Yes - Mayor Lipani
Yes - Vice Chairman Julian
Yes - Chairman Suraci

Yes - Ms. Smith (*Alt. #2*)

Motion carries

Mr. Bernstein states for the record they received a Certification of Absent Board Member Examination of Record / Eligibility to Vote signed by Ms. Smith who has reviewed the March 12, 2023 meeting making her eligible to participate this evening.

Mr. Bernstein also states for the record Committeeman Ciccarelli has recused himself from this application and has stepped down from the deus for this presentation.

The Board took a recess for approximately 10 minutes.

- **303 Amwell LLC (JM14 ABEEL LLC) - File 21-PB-17-MSPV** – (TOD: 06-30-23 w/Ext.) - Block 198, Lot 2.03 (formerly Lot 2.B) – 303 Amwell Road (f/k/a as 301 Amwell Road). Applicant seeking preliminary and final major site plan approval; ‘c’ bulk variance; and waivers, to construct an 85,348 square foot warehouse, with associated stormwater management, parking, lighting and improvements, on Property in the CDZ, Corporate Development Zone. (EC Review: 08-15-22) Revised document/plans/reports submitted 12-22-22. New items submitted 03-31-23. (PB Agendas: 09-08-22; 01-12-23; 04-06-23 – canceled, rescheduled to 04-13-23). ***Application rescheduled from April 06, 2023 without renote.***

Participating for the Applicant: Matthew Flynn, Esq., Savo, Schalk, Corsini, Warner, Gillespie, O'Grodnick & Fisher, P.A.; John Manilio, PE of ManTERRA Design LLC (Civil Engineer); Douglas Polyniak, PE of Dolan & Dean Consulting Engineers, LLC (Traffic Engineer); John McDonough, PE of John McDonough Associates, LLC; Roberto Martinez, RA, Redcom Design & Construction LLC (Architect.); and Nick Braco, PP/LLA and Greg Redington, PE of Redcom Design & Construction LLC, Applicant Representatives.

Objector: Craig Berlin

Matthew Flynn introduces himself.

Craig Berlin, Objector, introduces himself and states he would like to begin with finding out how they got here from where they ended the previous meeting.

Mr. Bernstein states when this application was last before the Board an issue was raised relative to whether or not this application could be heard under the Zoning for the district by this Board or another entity. It was decided he and Mr. Kois would be tasked to have conversations with the applicant and the applicant's council to address the issue. The parties met and a set of plans were provided to Mr. Kois prior to 10 days however it has not yet been reviewed by the Zoning Officer.

Mr. Flynn explains what the applicant has provided in his application and states they are here this evening to discuss the usage standards. He introduces their witnesses.

Mr. Berlin states he believes this application is not ready to be heard this application and lists the insufficient information available on Civic Clerk.

Mr. Bernstein explains what is available for review is a 'concept plan'.

Mr. Flynn explains at the January 12, 2023 meeting they were told there was a danger that the Board would not have jurisdiction over the application because the definition of what was considered permitted under the CDC Zone was changed after their first night of testimony, so in response his client had to develop an application for a Use that is permitted.

Mr. Bernstein interjects points out Mr. O'Grodnick was present that evening, not Mr. Flynn, and states what the Board indicated in the letter from the Zoning Officer was that it was her belief this was not a permitted use in the zone. He continues stating the applicant and Mr. Flynn's office were given three options: withdraw the application, contest the Zoning Office decision to the Zoning Board as is permitted under 4055-d70-A1 or sit down with Mr. Kois and himself to discuss some concepts that may potentially fit withing the provisions of what Ms. McLaughlin had indicated.

Mr. Flynn states he would like Mr. Readington sworn in to provide some background for what the intentions are for the property before getting to the concept plan.

Mr. Bernstein states suggests discussing the possible building before discussing what comes from it or the tenants.

There is a discussion about which witness should be called first.

Giovanni Manilio is sworn in and gives his educational and professional background and certifications.

Mr. Flynn asks Mr. Manilio to take the Board through some of the changes made as reflected in the layout plan as opposed to the site plan submission.

Mr. Manilio reviews the plan titled Layout Plan for Light Industrial Use dated March 30, 2023. His review includes but is not limited to discussing changing the facing direction of the building, parking lot and loading dock changes, and explanation of industrial and warehouse use.

Mr. Berlin asks if he considers this a major or minor revision, why do everything to be on the west-side of the lot when prior it was believed the west-side was problematic and is there enough of a buffer to the house neighboring it. He speculates on the possibility of needing a new application.

Mr. Flynn states some of Mr. Berlin's statements are out of scope, expresses concern that he is filibustering and states he was not done with his questioning of the witness.

Mr. Flynn asks Mr. Manilio if, as proposed, he believes any variances would be required from any residential buffer or bulk standards.

Mr. Manilio states no variance.

Mr. Flynn asks him to go through the review memo dated April 5, 2023.

Mr. Manilio's review included but is not limited to state there are no issues with technical comments, the numbers he stated are the correct numbers for industrial, warehouse and office space, intent is to be industrial, and no variance proposed or intended to be proposed.

Mr. Flynn asks him to discuss the common number six which talks about the transition area buffer.

Mr. Manilo explains they are touching a small portion of the buffer area and states they will comply with the DEP in this area.

Mr. Flynn states he has no further questions.

Mr. Hay asks what the intention is for the height of the building and to make sure it conforms.

Mr. Manilo states the intent is to meet the height requirement.

Mr. Hay states if the applicant does come back, he believes this may work but believing is seeing and he requests to be provided an application review and explanation to the Board if the concept will be accepted.

Chairman Suraci asks why the driveway was relocated because he is concerned it appears they are still crossing the pipeline.

Mr. Manilo states they are still crossing the easement but are not crossing the piping on the site.

There is a discussion about where the easement and pipeline are located on the site plan.

Mr. Manilo states they do have approvals from Ambridge for the crossing though it has not been submitted to Civic Clerk yet.

Mr. Berlin asks if this is a revision or a new use which therefore may be subject to being reapplied for.

Mr. Manilo states his interpretation is that it is a revision.

Mr. Berlin asks him to explain what makes it a revision when it appears to him to still be more warehouse than anything else.

Mr. Flynn states the intention was to take what was originally a warehouse application and revise it to moderately industrial use, have Mr. Readington explain intended use, present it to the Board for some feedback and once jurisdiction is confirmed fully engineered plans would be submitted. They want to demonstrate their intention is to put a permitted use building on the site.

Mr. Manilo states while there have been changes to the site like flipping the building, the building is still the same size, impervious coverage is essentially the same size, and same number of retention basins. Does change of use make it a major revision to the site?

Mr. Berlin states he would like to see a new application that shows the change of use.

Mr. Bernstein explains why they are not discussing the usage.

Mr. Bernstein asks the difference in square footage between this and the current application.

Mr. Manilo states this building is 80,000 square feet.

Mr. Bernstein repeats the question.

Mr. Manilo states the difference is 2,400 square feet.

Mr. Bernstein asks how many less loading docks.

Mr. Manilo states four loading docks.

Mr. Bernstein asks if this proposal calls for two tenants in the building.

Mr. Manilo states that is correct.

Mr. Bernstein asks if this is based on conversations with his client.

Mr. Manilo states that is correct.

Mr. Bernstein asks, based on his experience what is a normal number of loading docks for this type of scenario.

Mr. Manilo states one per 10,000 square feet is the industry average.

Mr. Bernstein asks if the industry average includes office space.

Mr. Manilo explains it depends because the office space is accessory to the industrial and not the main use on the site.

Mr. Bernstein asks if the office space requires additional loading docks.

Mr. Manilo states it does not.

There is discussion about the total square footage, size of the various areas of the building and space functionality.

There is discussion about a continuation date.

Mayor Lipani motions for a continuation without further notice to July 13, 2023, with an extension of Time of Decision through September 28, 2023, seconded by Mr. Skobo.
No further discussion.

Roll Call:

Yes - Mr. Peason
Yes - Mr. DelCore
Yes - Mr. Skobo
Yes - Mr. Hesthag
Yes - Mr. Radowitz (*Alt. #1*)

Yes - Ms. Smith (*Alt. #2*)
Yes - Mayor Lipani
Yes - Vice Chairman Julian
Yes - Chairman Suraci

Motion carries

There is a discussion about the next upcoming Board meeting.

Vice Chairman Julian motions to authorize the Chair to cancel the April 27, 2023, Business meeting if there is no need for it with notice given 10 days before, seconded by Mayor Lipani. No further discussion. All were in favor, none opposed.
Motion carries

ADJOURNMENT

A motion to adjourn was made by Mr. Hesthag, seconded by Mayor Lipani. Motion carries unanimously.
10:07 pm meeting is adjourned.

*Submitted by Robyn Bittle-Abramo
Recording Secretary*