

Township of Hillsborough – PLANNING BOARD

Approved Public Meeting Minutes

May 25, 2023

Chairman Carl Suraci called the Planning Board Public Business Meeting of May 25, 2023, to order at 7:15 pm. 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

Present - Robert Wagner, Jr

Present - Patricia Smith (Alt #2)

Present - Robert Peason

Present - Committeeman John Ciccarelli

Absent - Frank DelCore

Present - Mayor Shawn Lipani

Present - Ron Skobo

Absent - **Neil Julian, Vice Chairman**

Absent - **Kenneth Hesthag, Secretary**

Present - **Carl Suraci, Chairman**

Recused - Bruce Radowitz (Alt #1)

Also in attendance: David Kois, PP, AICP, *Township Planning Director*; Eric Bernstein, Esq., *Board Attorney (Eric M. Bernstein & Associates)*; Mark Mayhew, PE, CME, *Board Engineer (Pennoni Associates)*; Michael Lombardozzi, CSR, CCR, *Board Court Reporter (remote)*; Dylan Tollefson, *Township Videographer (Fuerza Strategy Group)*

Mr. Bernstein announces Mr. Radowitz is recused from this meeting and Mr. Lombardozzi is working remotely.

CONSIDERATION OF MEETING MINUTES

- None

CONSIDERATION OF RESOULTIONS

- None

PLANNING BOARD BUSINESS

- None

CONSIDERATION OF ORDINANCES

- None

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, reminds there is a five-minute limit per person and requests no comment on warehouses directly or indirectly since there is an active warehouse application this evening.

Brian Tarantino – 235 Fairfield Lane

- Mr. Tarantino acknowledged the release of the proposed Ordinances from the Township Committee earlier this week. He states he thought it was important to acknowledge and express gratitude for these kinds of things that are protective of their town.

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; 04-13-23). **Application continued from April 13, 2023, without further notice.***

Participating for the Applicant: Craig Gianetti, Esq. of Day Pitney, LLP; David Robinson, LSRP of Synergy Environmental; Christine Nazzaro-Cofone, PP, AICP of Cofone Consulting Group, LLC; Michael K. Ford, PE, PP, of Van Cleef Engineering Associates, LLC; Gary Dean, PE of Dolan & Dean; 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 Carlos Rodrigues, PP, FAICP of Design Solutions for a Crowded Planet, LLC; and Objector #4: John Lanahan.

Mr. Bernstein states he has a Certification by Absent Board Member Examination of Record Eligibility to Vote for Mr. Wagner for the April 13, 2023, meeting therefore he is eligible to vote.

Scott Gross, Objector #2 representative, introduces himself and asks if there are any updates from the NJDEP and if Mr. Bernstein or Mr. Kois is prepared to make any advisements to the Board.

Mr. Bernstein states he is unaware if there is any change and defers to Mr. Kois.

Mr. Kois states there is no new information that they have received.

Craig Gianetti, attorney for the applicant, introduces himself, reviews the application and lists their witnesses.

Mr. Bernstein asks for the purpose of the record for the Objectors to introduce themselves.

Michael Pisauro, Jr, attorney for Objector #1.

Brian Tarantino, representative for Objector #3 (SWAT).

John Lanahan, Objector #4, states while he is an attorney in the state of New Jersey he is here on his own behalf.

Lucy Sandler, representative for Objector #5 Sourland Conservancy Board of Trustees Advocacy Committee.

Scott Gross, representative for Object #2, Local Citizens Against Traffic (LCAT).

Mr. Gianetti states they place an objection to SWAT and the new Objector, Sourland Conservancy being Objectors representing a group but not being represented by council.

Chairman Suraci states the objection is noted.

Mr. Gianetti asks his first witness, David Robinson, if he recognizes that he remains under oath from his swearing in at the previous meeting.

David Robinson states yes.

Mr. Gianetti asks if he recognizes he remains under oath this evening with his testimony.

Mr. Robinson states yes.

Mr. Gianetti states at the last meeting they presented Mr. Robinson's direct examination, and he answered questions from the Board and asked if the Board or Township professionals have any further questions.

Mr. Mayhew states there is nothing outstanding in their review at this point.

There are no further questions from the Board.

Chairman Suraci turns it over to the Objectors for questions.

Mr. Pisauro asks if Mr. Robinson or his company have done any additional investigation on the site since the last meeting.

Mr. Robinson states they have not.

Mr. Pisauro asks if the last environmental report the site owner did was in 1990 as per Mr. Robinson's testimony at the last meeting.

Mr. Robinson states he is not able to confirm or deny the date based on the information he has with him.

Mr. Pisauro asks if he relied on those findings to form his opinions in the preliminary assessment and in his work.

Mr. Robinson states yes but they performed their own preliminary assessment in some of the

areas that were resampled.

Mr. Pisauro asks if it was all the areas.

Mr. Robinson states no, only the ones they found during their site inspection and preliminary assessment.

Mr. Pisauro asks if they went back and investigated all of the AOCs or areas of concern.

Mr. Robinson states they looked at the old documents to form part of their opinion about the areas of concern.

Mr. Pisauro asks if it would be accurate to say he did not go back and relook at all of the AOCs in the report.

Mr. Robinson states they did not go back and reinvestigate, but they looked at them.

Mr. Pisauro asks if standards have changed since 1990 and if he recalls who did the report.

Mr. Robinson states yes, standards have changed, and he does not remember who did the report.

Mr. Pisauro asks if he formed an opinion about the reliability of the report.

Mr. Robinson states yes, they had all the data and they believed it to be reliable. He discusses clean-up standards.

Mr. Pisauro asks if he agrees that in the last 30 years detection limits and detection sensitivities have increased.

Mr. Robinson states quite a bit.

Mr. Pisauro asks if he has overlayed the areas of concern with the site plans.

Mr. Robinson states they have not.

Mr. Pisauro asks if most of the violations of DEP Standards were due to the migration to groundwater.

Mr. Robinson states they are not violations but rather 'above standard' and yes, the majority were above migration at groundwater current migration groundwater. Mr. Robinson explains the different standards and what this means.

Mr. Pisauro asks if it is an environmental standard to be protective of our groundwater.

Mr. Robinson confirms.

Mr. Pisauro asks if in many cases our groundwater is connected to surface water.

Mr. Robinson states sometimes it is and sometimes it is not.

Mr. Pisauro asks what the closest private well is to the site.

Mr. Robinson states he does not know off hand and checks the report but finds he does not have that information. He states he does not believe it was within half a mile away or they would have recommended investigating it.

Mr. Pisauro asks if there are two different types of soil remediation.

Mr. Robinson states there are many different types of remediation but the two he mentioned previously which would make sense given the concentrations of development is either removal or engineering controls.

Mr. Pisauro asks if he would put in an impervious cover so infiltration does not occur and the building and parking lots would be landscaped areas.

Mr. Robinson confirms.

Mr. Pisauro asks if they sampled ground water for contamination.

Mr. Robinson states they have not got to the groundwater yet, they will make a determination after completing the soil investigation and delineation as to if groundwater sampling is required and where they would perform it.

Mr. Pisauro asks if tonight he has the data to state if the groundwater has become contaminated.

Mr. Robinson states they do not have any data to determine if the groundwater is contaminated; they don't have all the data needed to determine if they need to perform the groundwater investigation.

Mr. Pisauro asks if they have sampled the water in the tributaries to the Royce Brook that are on site.

Mr. Robinson confirms they have not yet been tested there.

Mr. Pisauro asks how to know 'area of concern 10' is a storm water ditch, as it is listed in the report, and not a stream.

Mr. Robinson states it was identified as a stormwater ditch but as he is not a Land Use expert he cannot testify as to why it is not a stream.

Mr. Pisauro asks where he got the identification from.

Mr. Robinson states he does not know and speculates it was from the Geotechnical investigation.

Brian Tarantino, Objector #3 begins his questioning.

Mr. Tarantino asks if it was his firm which did the Phase 1 Reports and if he is familiar with the report.

Mr. Robinson confirms his firm did the report, but he is not familiar with it as he is LSRP who does not do Phase I work and it is his practice to stay away from the report so as not to cloud his judgement during investigations.

Mr. Tarantino asks if he read the report.

Mr. Robinson states he has not.

Mr. Tarantino asks if they will have an opportunity to question Synergy Environmental about their Phase I report.

Mr. Pisauo states no.

Mr. Robinson states a Preliminary Assessment Report is a much more robust report than a Phase I which is not recognized by NJDEP as an official report. Preliminary Assessment is a recognized report.

There is a discussion about terminology of investigation versus assessment.

Mr. Tarantino states the Phase I Report states historically applied pesticide sampling is recommended and asks if they considered doing pesticide sampling to determine if there is any pesticide contamination at the site.

Mr. Robinson states until they complete the remedial investigation that has yet to be determined; if they determine there is a need to sample for pesticides, then they will. Pesticides were sampled during the site investigation and were below standards so right now there is no indication to sample for pesticides.

Mr. Tarantino asks which areas were tested and for which pesticides.

Mr. Robinson explains where in the Preliminary Assessment Report this information can be found.

There is a discussion of what is found on the corresponding tables and at what point they would do pesticide sampling.

Mr. Tarantino asks if, in his professional opinion, any of the contaminants that were found are indicators of pesticide contamination.

Mr. Robinson states no, one of the only contaminants found in some areas was arsenic which could have been used as a pesticide but based on concentrations, location and discrete points it does not seem it was there because of pesticide usage.

Mr. Tarantino asks about Mercury.

Mr. Robinson states the same as with the arsenic, discrete points etc.

Mr. Tarantino asks what would be the indication that they were from pesticides.

Mr. Robinson states more site wide.

Mr. Tarantino reviews the results of the April 22, 1991, investigation.

There is a discussion of the results.

Mr. Tarantino asks if mercury is a background contaminant.

Mr. Robinson states on this site he does not know because they did not do background.

Mr. Tarantino asks if he is familiar with the Environmental Commission memo dated December 7, 2022, that addressed the mercury issue, he reads from the memo.

Mr. Robinson states he does not understand where the question is leading.

There is a discussion about mercury found on the site and what the levels mean.

Mr. Tarantino asks if in their follow-up investigation they will be looking for delineating the extent of the mercury contamination.

Mr. Robinson states if they have mercury contamination above standard that we could not compliance average out they will be delineating those sample points.

Mr. Tarantino asks for an explanation of the process for delineating the extent of contamination.

Mr. Robinson explains the process and states when they did the preliminary assessment, which included a site-walk, there was no indication of contamination, and he can only go by what he sees on site.

Mr. Tarantino asks why he didn't do what was recommended by his firm.

Mr. Robinson states it was recommended and they took a sample but there was nothing there.

Mr. Tarantino reads into the record a portion of the Phase I Report regarding the recommended location for soil and groundwater sample taking.

Mr. Robinson states soil samples were taken.

Mr. Tarantino states there was a single sample screened with the PID but no samples were taken and no groundwater samples were taken.

Mr. Robinson states confirms.

Mr. Tarantino states Mr. Robinson's firm recommended based on their report, based on staining and distressed vegetation that there be soil samples taken and ground water samples taken. He states Mr. Robinson did not follow this recommendation.

Mr. Robinson states the Phase I is not as robust as the Preliminary Assessment.

Mr. Tarantino describes a photo of the tank that appears in the report.

Mr. Robinson reiterates when he did his site inspection there was no indication that there was contamination to impacts, to be safe they took a sample and screened it to determine if there might have been. He states there was not, so it was his professional judgment that no additional samples need to be required.

Mr. Tarantino asked if he took the sample at the surface of the tank.

Mr. Robinson agrees.

Mr. Tarantino states he is not sure the is right, and that he believes he dug down to the bedrock then took the sample.

Mr. Robinson states they might have taken a sample at bedrock but it was screened from surface down to where you have refusal. He states the whole soil column was locked at.

Mr. Tarantino states that was not indicated at all in the report.

Mr. Pisauro objects to Mr. Tarantino describing photos in the report and testifying to what he believes he is reading in the report.

Mr. Tarantino asks if he rendered many of the areas of concern no further investigation requires and took no soil samples based on the photo ionization detector result.

Mr. Robinson states it was based on many things but yes, one of them is a photo ionization detector.

Mr. Tarantino asks when the photo ionization detector calibrated.

Mr. Robinson states they are calibrated the day they are used and explains how.

Mr. Tarantino asks if there is a record of the calibration and if so where.

Mr. Robinson states yes, it would be in the field books of the field technician, but not in the report.

Mr. Tarantino asks if he read the Phase II report.

Mr. Robinson said he saw the data, yes. He reminds the Phase II is not an official NJDEP document so there is no requirement to delineate or take a sample but rather is a way of getting a snapshot of the site before purchase of the property.

Mr. Tarantino asks if he has an obligation to follow a recommendation in the report.

Mr. Robinson states the responsible party, usually the owner of the property, does have an affirmative obligation to clean up anything that was found during a phase II investigation. He

states he believes one of the samples in Phase II was above standard and the property owner correctly called in the spill and a spill number was generated.

There is a discussion about the obligations of an LSRP.

Mr. Robinson states the obligation to investigate is the person responsible for the remediation, which is generally the property owner; there responsibility includes retaining and LSRP who then takes over the investigation and is responsible for following regulations in that investigation and remediation.

Mr. Tarantino asks for more information about Ecological Receptors as found on page 21 of the Phase II report.

Mr. Robinson explains sub-surfaces utilities.

There is a discussion about pathways to ground water.

Mr. Tarantino ends his questioning.

John Lanahan, Objector #4 begins his questioning.

Mr. Lanahan asks if the Phase II Report is a summary and is completed.

Mr. Robinson states Phase II is a minor additional investigation during due diligence. There is no such thing as a Phase II report, regulation wise.

Mr. Lanahan asks to confirm there will be no follow up report for Phase II Site Assessment as referenced in the letter dated June 2022.

Mr. Robinson states correct, there will be no report.

This ends Mr. Lanahan's questioning.

There is a motion to open the meeting to public questions, seconded; all were in favor, the motion carries.

Chairmans Suraci opens the meeting to public question for any member of the public that is not represented by one of the Objectors.

David Brook - 7 Winding Way

- Mr. Brook states he is not represented by any of the Objectors.

Mayor Lipani asks if he is a member of SWAT.

- Mr. Brook states he is not.
- Mr. Brook asks how long Mr. Robinson has been licensed as an LSRP.

Mr. Robinson states since the beginning of the program, approximately 2009.

- Mr. Brook asks if he conforms all of his work to the many requirements of being an LSRP.

Mr. Robinson states yes.

- Mr. Brook asks how NJAC 726I applies as to his ethical requirements as an LSRP.

Mr. Robinson states he is not really sure of the regulation.

Chairman Suraci interjects asking Mr. Brook to keep his questions to Mr. Robinson's testimony, it is not his place to qualify him as a witness.

Mr. Bernstein suggests Mr. Brook quickly describe the code he is referring to and asks his question from there.

- Mr. Brook states it relates to establishing what the highest priority is of an LSRP and he thinks Mr. Robinson indicated that prior.

Mr. Robinson states correct, to protect human health in the environment.

- Mr. Brook asks if he has ever communicated with the LSRP Board for anything other than routine licensing requirements.

Mr. Robinson states no.

- Mr. Brook asks if he has ever been the subject of professional disciplinary proceedings.

Mr. Robinson states no.

- Mr. Brook asks if he deals with and follows the DEP tech regulations.

Mr. Robinson states correct.

- Mr. Brook asks him to explain to the Board and public what the tech regulations are so they have a little understanding what is guiding him.

Mr. Robinson states tech regs are just the way we perform in environmental investigation or remediation in the state.

- Mr. Brook asks if they set the standard for how he would conduct an investigation.

Mr. Robinson states those are the standards that are set and also through guidance.

- Mr. Brook asks for confirmation that he did not take part in the Phase I Site Assessment Report.

Mr. Robinson states correct.

- Mr. Brook asks if Phase II is really the preliminary assessment site investigation report

that provides the meat of what he has been doing.

Mr. Robinson states the Preliminary Assessment is the initial report that is required through the SO process which he explained in the previous meeting.

- Mr. Brook asks when the last time was he conducted work on the property.

Mr. Robinson states around June 2022.

- Mr. Brook asks if there is a reason why he has not been on the property since.

Mr. Robinson explains the time frame constraints they have to conduct an investigation.

- Mr. Brook states he believes the time frame is a few years.

Mr. Robinson states correct, September 2025.

- Mr. Brook asks if he assisted with the filing of the of an authorization to submit a report form through DEP online on August 26, 2022, signed by John Schockley.

Mr. Gianetti objects by stating there is no exhibit that has been entered showing this form.

- Mr. Brook states it is in the Preliminary Assessment, and he has a copy.

Mr. Bernstein directs Mr. Brook to show Mr. Pisauero and Mr. Robinson the copy he has.

Mr. Robinson explains what the authorization form is and why his signature appears.

- Mr. Brook asks what the Spill Act Discharge is related to as it appears on page two of this report.

Mr. Robinson states it was during the initial Phase II investigation in the test bits during the Geotechnical Investigation. He explains the odors identified by the Geotech engineer.

- Mr. Brook asks if there was any action taken after the call to deal with the spill.

Mr. Robinson states that is when the site investigation occurs.

- Mr. Brook asks to the chemical compounds found since this was classified as a spill.

Mr. Robinson states that is not how chemical classification works and explains the Spill Act law.

- Mr. Brook asks if anyone acted to remediate to clean up the spill.

Mr. Robinson explains how this spill is different to spilling gasoline on the ground, as Mr. Brook mentioned previously, and how the use of the term 'spill' does not necessarily mean a literal spill.

- Mr. Brook referenced section C Description of Contamination soil migration pathway number two asking if the 'no' indication is correct.

Mr. Robinson states correct.

- Mr. Brook asks if the note 'all soils are either below the applicable direct contact criteria or under institutional control, i.e. deed notice' which is marked as 'no' is correct.

Mr. Robinson confirms and explains the purpose of the Cover Certification Form.

- Mr. Brook asks if this suggests that institutional control cannot be utilized.

Mr. Robinson states no, explaining it is suggesting a snapshot at the time.

- Mr. Brook reads from section D asking if the answer of 'yes' is correct.

Mr. Robinson states he is unsure and will need to review the document.

Mr. Gianetti asks Mr. Robinson to confirm the document was part of the preliminary assessment.

Mr. Robinson confirms. He reviews the document and confirms the answer is correct.

- Mr. Brook refers back to the Preliminary Site Investigation Report asking questions about the groundwater results.
- Mr. Brook asks if he is familiar with any contaminated wells on this property.

Mr. Robinson states he is not.

- Mr. Brook asks if he is aware Mr. Shockley had a contaminated well that was abandoned in 1993.

Mr. Robinson states yes and explains it is not considered on the property since it was abandoned.

- Mr. Brook asks if he knows what the well was contaminated with.

Mr. Robinson states he does not.

- Mr. Brook asks if he saw the Health Department note about rechecking for chromium.

Mr. Robinson states it is hard to check for a well that is abandoned.

- Mr. Brook asks if he obtained the Health Department information as it related to the well-contamination and the construction of the septic system when he conducted the investigation.

Mr. Robinson states they did not have the well information, only the septic system construction information.

- Mr. Brook asks if he knows about the note from the Health Department about 'rechecking Chromium prior to issuance of CO'.

Mr. Gianetti asks to let Mr. Robinson review the letter.

- Mr. Brook states he is not sure the Board has the letter.

Mr. Bernstein reviews the document and asks Mr. Brook where he obtained the document.

- Mr. Brook states to the best of his recollection he obtained it via OPRA request of the Health Department filed through the Township for all records relating to 189 Homestead Road.

Mr. Bernstein asks when he received the document.

- Mr. Brook states he believes May 20, 2022.

Mr. Bernstein states he is going to mark the document unofficially as P1, P meaning Public so no one is confused, and asks Mr. Brook to recover his document by showing it to Mr. Giannetti. He requests the document be provided tomorrow to the Planning Office so they may provide it to the Board, to Mr. Giannetti, to the other Objectors and for the record.

Mr. Bernstein offers Mr. Giannetti some time to go over the document with his witness.

Chairman Suraci calls a 15-minute recess.

8:45 pm Chairman Suraci calls the meeting back to order stating due to a late start, the meeting will go to 10:10 pm this evening.

Chairman Suraci states since Mr. Brook is submitting evidence, he will be sworn in.

David Brook is sworn in.

Mr. Bernstein summarizes the status of the document in question and asks Mr. Brook to confirm he received it in May 2022.

- Mr. Brook states he will provide all the information he received to the Planning Department tomorrow and clarifies the first page of the document comes from the posted appendices from the Phase I.

Mr. Bernstein asks Mr. Giannetti to confirm they have reviewed the document.

Mr. Giannetti states yes, the first page and they cannot confirm if it is in his report or not. He will accept questions about the first page but objects to Mr. Brook submitting evidence through his witness when there will be an opportunity for Mr. Brook to have public comment.

Mr. Bernstein states he marked it as Preliminary P1; it does not go into evidence until testimony is complete.

- Mr. Brook asks if Mr. Robinson knows the depth of the replaced well on Mr. Schockley's property.

Mr. Giannetti states no.

- Mr. Brook states for the record it was 120 feet. He asks if he knows the depth of the replaced well.

Mr. Robinson states no.

- Mr. Brook states it was 207 feet.

Mr. Giannetti objects stating Mr. Brook is testifying and using a document not in evidence.

- Mr. Brook asks if he knows about the Aquafers under the property.

Mr. Robinson states he does not.

- Mr. Brook asks if he has had the opportunity understand the lay of the land and any adjoining properties to understand things such as distance to nearest neighbor, distance to the stream, physical attributes.

Mr. Giannetti objects to the vagueness of the question and multiple questions.

Mr. Bernstein instructs Mr. Brook to ask one question at a time.

- Mr. Brook asks if he has identified the natural features that exist on the proposed development, natural feature number one being the Royce Brook.

Mr. Robinson states in the Preliminary Assessment the Royce Brook was identified.

- Mr. Brook asks a series of questions about the terrain of the property and season of his visit.

Mr. Giannetti objects to the line of questions being irrelevant.

- Mr. Brook asks if he knows how far away the houses and property lines are on the Winding Way section to Mr. Schockley's property.

Mr. Robinson states no.

- Mr. Brook asks if he examined property ownership.

Mr. Robinson states yes, as it is part of Preliminary Assessment.

- Mr. Brook asks if in looking at the property delineations if he was aware of adjacent privately owned properties.

Mr. Giannetti objects.

Mr. Robinson states he is not sure what he is implying with aware but states yes, he knew there were adjacent properties.

- Mr. Brook asks if he is aware of the map of adjacent potable wells.

Mr. Robinson states yes.

- Mr. Brook asks if he is aware all homes on Winding Way are served by private potable personal wells.

Mr. Giannetti objects by stating it assumes facts not in evidence.

Mr. Robinson states he is aware of potable wells but does not know about every residence.

- Mr. Brook reads regulation NJAC 7:26E 3.5 into the record and asks if he intends to conduct a groundwater investigation currently.

Mr. Robinson states if the data shows an investigation is needed, then they will conduct an investigation for the requirements.

- Mr. Brook asks in his professional opinion if there is the potential that groundwater has been contaminated on the property.

Mr. Robinson states until he completes his investigation he does not know if groundwater is contaminated or not.

- Mr. Brook asks if Mr. Schockley's well was contaminated did it make the contamination of the groundwater go away when it was sealed.

Mr. Robinson states he cannot answer that because it is conjecture.

- Mr. Brook asks when they will be conducting the continuation of the investigation.

Mr. Robinson states they do not know yet.

- Mr. Brook asks the Board's permission to introduce another document he received from an OPRA request; a plot plan Mr. Shockley's property or a portion thereof put together by Geo-technical engineers dating back to 1989.

Mr. Giannetti objects unless he can specifically identify where in the report the plan is reminds this is not Mr. Brook's case in chief.

Chairman Suraci denies Mr. Brook's request.

- Mr. Brook asks if historic fill was brought on to the property to fill the elevation difference in the Eastern portion along the boundary of the property.

Mr. Robinson states there is no indication fill was brought on to the property according to their discussion with the property owners.

- Mr. Brook, referencing the aerals dated from 1939 to 2017 showing the properties, asks if he noticed in the 1939-1989 aerals show that the area on the eastern side gradually sloped and the aerals after 1989 show it is not sloped.

Mr. Giannetti objects by stating the Objector is testifying.

Mr. Bernstein sustains the objection.

- Mr. Brook asks if he is familiar with 726e 3.12 and reads it into the record.

Mr. Robinson states he is familiar with it and that the site is not mapped as historic fill area. He states there is no obligation to perform a historic fill evaluation if investigation shows no reason to believe there is historic fill present.

- Mr. Brook asks if the applicant has submitted Ecological Evaluation NJAC 726e-1.6 as part of its submission to the Township.

Mr. Robinson states yes, it was submitted along with the Preliminary Assessment.

- Mr. Brook asks if he believes this property sits higher than the Royce Brook.

Mr. Robinson states yes.

- Mr. Brook asks a series of questions about if a substance spilled would it have the potential to flow downhill into the Royce Brook.

Mr. Giannetti objects by stating it is conjecture.

- Mr. Brook reads section 3.6 of the site investigation technical regulations into the record. He asks if Mr. Robinson has conducted any investigation of the Royce Brook or its sediments to determine if there is any contamination of the surface water or the sediments.

Mr. Robinson states no because based on the Preliminary Assessment they did not believe there was; if that changes during the investigation they will.

- Mr. Brook asks based on the technical regulations, at what point did he determined there is a potential that surface water has been impacted.

Mr. Robinson states once he completes the soil investigation and the data is reviewed to determine if there is any potential for surface water.

- Mr. Brook asks him to explain how looking at soil will help to make the determination about surface water impact.

Mr. Giannetti objects to the line of questioning and asks to move on to the next member of the public.

Chairman Suraci directs Mr. Brook to ask direct questions pertaining to the testimony.

- Mr. Brook asks if he is familiar with the storm drain that was observed on the property and shows a picture.

Mr. Robinson states yes.

- Mr. Brook asks if he was able to identify where the storm drain drained to.

Mr. Robinson states not at the moment.

- Mr. Brook states he has no further questions.

Chairman Suraci opens the meeting to public questions.

Rich Gahrman – 53 Winding Way

- Mr. Gahrman states he is concerned about the site's proximity to wells.

Mr. Gianetti objects as to the lack of direct question.

Chairman Suraci reminds this portion is for the public to ask question to the witness, not for public comment.

Vicki Schwartz – 607 Van Liew Court

- Ms. Schwartz states she would like some clarification on the arsenic contamination. She asks if she is correct in understanding that they determined arsenic was not used as a pesticide based on the evidence of high levels of arsenic in only a few spots.

Mr. Robinson states that is correct, right now they do not have evidence it was pesticide use.

- Ms. Schwartz asks how arsenic is normally or historically used as a pesticide and if it was used in orchards.

Mr. Robinson states yes it was generally used in orchards and while he is not certain how it was used in Hillsborough in other orchards it is generally distributed evenly throughout the area rather than at points.

- Ms. Schwartz asks if they know what kind of plants were in the locations of higher arsenic.

Mr. Robinson states he does not

- Ms. Schwartz asks how important it is to know whether the arsenic was used as a pesticide

or not regardless of the level.

Mr. Robinson states it has to be remediated based on the level. He explains there are different rules regarding to how to deal with the arsenic if it was from a historic pesticide usage.

- Ms. Schwartz asks if it has to be cleaned up if it is at a high level no matter the type of usage.

Mr. Robinson states yes.

Jo O'Connell – 20 White Meadow Road

- Ms. O'Connell states for clarification and record purposes while White Meadow is a rather new development her house is not and is over 200 years old.
- Ms. O'Connell asks if she should be worried about her well since she is downstream.

Mr. Robinson states he cannot answer if she should be worried but if he can tell her as they continue their investigation if it becomes necessary to sample her well due to groundwater contamination from a regulation stand point her well will be addressed.

- Ms. O'Connell asks if there were other spills or things laid on the property which could contain contaminants that could contaminate her well.

Mr. Robinson states he cannot answer that.

- Ms. O'Connell asks if there can be testing done to see if there are other contaminants.

Mr. Robinson states testing is currently being done on the property to determine what additional things have to be done; the property is being addressed through regulations to determine what is there.

- Ms. O'Connell asks if he knows the DEP's concerns are for this property regarding the report that has not yet come in.

Mr. Robinson states he does not know the report she is referring to.

Mr. Giannetti states that does not pertain to his testimony.

Robert Harris – 13 Hunt Club Road

- Mr. Harris states he is not associated with any of the Objectors.
- Mr. Harris asks if the process Mr. Robinson is doing will go till 2025.

Mr. Robinson states this is correct and explains the DEP's regulatory time frames and states the remediation will go till 2028.

- Mr. Harris asks if the purpose at this meeting is to help the Planning Board and the Environmental Commission decide if the property is suitable for development as soon as possible.

Mr. Bernstein states for the record the deciding body as to this application is and will be the Planning Board. The Environmental Commission has no impact in making decisions; they are an advisory group which gives reports to the Board and do not have any decision relative to the approval or denial of this application. Mr. Bernstein then asks Mr. Harris to restate his question.

- Mr. Harris asks how does the Planning Board make an informed decision about the suitability of building a warehouse on this property if the investigation for remediation, which seems to be the only investigation as to the environmental suitability, is going to take three years plus.

Mr. Giannetti states this is not a question for this witness and explains who has jurisdiction in this matter.

Mr. Bernstein states the Board will address the application in the status it's in and deal it accordingly.

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

- Ms. Janucik asks if the contamination is on both lots.

Mr. Robinson states the regulations only require that Mr. Schockley's property, number 189, is to be investigated due to the Industrial Site Recovery Act rule and any other lot and blocks do not require investigation. He states if in the investigation of Mr. Shockley's property, it because necessary to go off property, they will.

- Ms. Janucik asks if the second lot that will be combined has any contamination.

Mr. Robinson reiterates there has been no requirement to investigate the second property based on the rules and explains the Industrial Site Recovery Act. He states Mr. Shockley's interest in selling the property is what triggered the Industrial Site Recovery Act which started the whole process.

- Ms. Janucik asks if any property which was used for industrial purposes must be investigated.

Mr. Robinson states it depends on what NAICS Code is.

- Ms. Janucik asks if the property has 25 areas of concern and if each area was investigated.

Mr. Robinson confirms 25 areas were identified and explains that some of the areas were investigated and some did not require further investigation.

- Ms. Janucik asks if anywhere in the Preliminary Assessment it states how this contamination originated.

Mr. Robinson states there is not.

There are no further questions from the public for this witness.

Mr. Gianetti calls his next witness.

Christine Nazzaro Cofone introduces herself and states her educational and professional credentials.

Mr. Bernstein states Ms. Cofone is still under oath in from the previous meeting.

Mr. Gianetti states Ms. Cofone's previous testimony was solely as to the minor subdivision and will be called back after other witnesses testify as to the site plan.

Chairman Suraci invites the public to continue with their questions for Ms. Cofone.

Rich Garmin – 53 Winding Way

- Mr. Garmin asks if the application is denied if there is any reason those properties still could not be developed in accordance with the zone.

Mr. Gianetti objects to the question.

Mr. Bernstein instructs the Ms. Cofone to answer the question.

Ms. Cofone states she was retained to provide her opinion on subdivision analysis. She states her opinion is that it is a conforming subdivision and she is not here to offer an opinion on the development potential of site absent of the Boards approval of the subdivision.

Judy Haas – Titus Court

- Ms. Haas states she is not associated with any of the Objectors.
- Ms. Haas asks if Ms. Cofone was involved in the plan for the property or if she was hired after the plan was created.

Ms. Cofone states it was definitely a team effort with many meetings and collaborations. She states this phase of the application is for her to opine on the subdivision which is conforming and lacks variances which is her opinion and that of Mr. Maski ask per his letter submitted to the Board in April 2022.

- Ms. Hass asks if she is impressed with two lots adding up to 90 acres meeting the bulk standards for a zone that used to be 50 acres.

Mr. Gianetti interjects objecting.

Mr. Bernstein instructs Ms. Hass to finish her question.

- Ms. Hass asks if she is impressed with two lots adding up to 90 acres meeting the bulk standards for a zone that used to be a CDZ Zone which had 50 acre minimum lot size to a Tech Zone which now has five acres for transitional and less intense use purposes; How can the bulk standards for this size property not be met?

Ms. Cofone states she will not opine to being impressed and states she believes the Board has to weigh this application based on its conformance with the Zone Plan.

- Ms. Hass asks if she is aware of the caveat which was in the Tech Zone and said all Uses shall be provided at a scale and size that is appropriate for the district.

Mr. Gianetti objects to a question pertaining to the site plan.

- Ms. Haas states her question is in response to Ms. Cofone's comment in the previous meeting and reads the comment into the record from a copy of the transcript.

Ms. Cofone states she categorically stands by her testimony; that zoning ordinance has no governance in it for maximum size of structures. She states it is not unusual to see governances and ordinances for the maximum size of buildings for the maximum size of lot to develop. She states there is no such governance here.

- Ms. Haas asks if she is familiar with the Township Master Plan, all of it's amendments and updates; is she familiar with Homestead, Willow, Hillsborough, Amwell Roads and the Hillsborough bypass.

Ms. Cofone states yes and she is familiar with Hillsborough from the number of applications she has done here.

- Ms. Haas asks if the subdivision is approved should the plan be bifurcated into two different warehouse applications.

Ms. Cofone states no as Mr. Gianetti objects.

- Ms. Haas asks why

Ms. Cofone states there is no reason to.

- Ms. Haas asks what the point of changing the sizes was.

Ms. Cofone states to reconfigure the lots.

- Ms. Haas asks for what purpose.

Ms. Cofone states ultimately the applicant will file a site plan application.

- Ms. Haas asks how they are complying with Uses provided all Uses should be a scale and size that's appropriate for the district.

Ms. Cofone states the Use was determined by Hillsborough's Planner also to be permitted; it is a permitted Use in the zone.

Bill Martin – Hillsborough Rd.

- Mr. Martin asks if she has encountered the TED Zone in any other town.

Ms. Cofone states no, not by name.

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

- Ms. Janucik asks if both lots were conforming before the lot line was changed.

Ms. Cofone states yes.

- Ms. Janucik asks the advantage to moving the lot line.

Ms. Cofone states they do not have to demonstrate an advantage.

- Ms. Janucik asks if it was supposed to be to the benefit of the Township.

Ms. Cofone states the subdivision has to conform with the ordinance; if they don't conform and in order to be entitled to the subdivision, they would have to prove the variance relief. Since they do not need variances, they put on the testimony for a conforming subdivision.

Mr. Gianetti calls his next witness.

Michael Ford is sworn in. He introduces himself and states his educational and professional credentials.

Mr. Gianetti asks Mr. Ford to review the updates and new exhibit (A-4) since the previous meeting.

Mr. Ford summarizes the updates and reviews the exhibit.

Chairman Suraci announce they have reached their time limit so questions for Mr. Ford's testimony will take place at the next hearing date.

There is a conversation to select the next meeting date.

A motion is made by Mr. Skobo to carry the application to June 22, 2023, seconded by Committeeman Ciccarelli. No comments.

Roll Call:

Yes - Mr. Skobo

Yes - Mr. Peason

Yes - Mr. Wagner

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

Yes - Committeeman Ciccarelli

Yes - Mayor Lipani

Yes - Chairman Suraci

Motion carries

ADJOURNMENT

A motion to adjourn was made by Mayor Lipani, seconded by Mr. Peason. Motion carries unanimously.

10:16 pm meeting is adjourned.