

**HILLSBOROUGH TOWNSHIP PLANNING BOARD**  
**PUBLIC MEETING MINUTES**  
**November 10, 2016**

Chairman Lipani called the Planning Board Public Meeting of November 10, 2016 to order at 7:34 p.m. All stood for the Pledge of Allegiance. The meeting took place in the Courtroom of the Hillsborough Township Municipal Complex.

Chairman Lipani announced the meeting had been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 ("Sunshine Law").

**ROLL CALL**

Mayor Frank DelCore – Absent  
Robert Wagner, Jr. – Absent  
Deputy Mayor Carl Suraci – Present  
Robert Peason - Present  
*Seat #5 - Vacant*  
**Neil Julian, Vice Chairman** - Absent

Sam Conard – Present  
**Shawn Lipani, Chairman** – Present  
**Kenneth Hesthag, Secretary** – Present  
Sally Becorena (Alt. #1) – Present  
Stephanie Forrest (Alt. #2) – Present

Also present: Patrick Gorman, Zoning Officer / Assistant Planner; Eric Bernstein, Esq., Board Attorney (Eric M. Bernstein, & Associates); William H.R. White, III, PE, CME, Board Engineer (Maser Consulting P.A.); Lucille Grozinski, CCR, Court Reporter; and Caz Bielen, Board Videographer (Premier Media, LLC).

**DISPOSITION OF MINUTES**

None

**DISPOSITION OF RESOLUTIONS**

None

**PLANNING BOARD BUSINESS**

None

**SPECIAL COMMITTEE REPORTS**

None

**BUSINESS FROM THE FLOOR**

None

**CONSIDERATION OF ORDINANCES**

None

**PUBLIC HEARING – SUBDIVISION/SITE PLAN APPLICATIONS**

■ ***Dukes Parkway, LLC / LEVONAITIS*** – File 16-PB-10-SRV – (TOD: 12-15-16) - Block 58.03, Lot 1 (formerly known as Block 58, Lot 70) – 280 Dukes Parkway East. Applicant seeking Preliminary and Final Major Site Plan Approval; 'c' Bulk Variances for relief from minimum lot area; minimum lot width; minimum front yard setback for the existing building; minimum side yard setbacks for existing and proposed buildings; minimum buffers for the existing building and parking lot; parking waivers for parking stall size and parking aisle width; and application waivers from providing an Environmental Impact Study, Community Impact Study, and Traffic Impact Study; to renovate the existing 2,739 sf. building as an office and construct a 2,760 sf. pole barn in the rear of the property for storage, and construct ten parking spaces, on property in the I-2, Light Industrial Zoning District (*EC Reviews: 07-25-16 and 10-24-16*)(*Revised Plans submitted 10-03-16*). ***Carried from October 13, 2016 without further notice.***

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Before testimony, Board Attorney, Eric Bernstein, Esq. stated for the record that previously absent Board members submitted certifications for examination and eligibility to vote from the October 13, 2016 hearing for this application, to include: Ms. Forrest, Mr. Peason, Chairman Lipani, and Ms. Becorena. Ms. Becorena has also provided the same for the September 8, 2016 hearing.

**Applicant's Exhibits:**

- A-1 – "Site Plan, dated June 8, 2016" (9-08-16 hearing)
- A-2 – "Grading Plan, Landscape and Lighting Plan, dated June 8, 2016" (9-08-16 hearing)
- A-3 – Color photos of site / brochure cover of pole barn (mounted on display board) (9-08-16 hearing)
- A-4 – "Site Plan, dated June 8, 2016; last revised 8/31/16" (9-08-16 hearing)
- A-4 – "Site Plan, dated June 8, 2016, last revised 9/29/16" (10-13-16 hearing)
- A-5 – "Grading Plan, Landscape and Lighting Plan, dated June 8, 2016, last revised 9/29/16" (10-13-16 hearing)
- A-6 – Photo of front façade of existing building, taken October 12, 2016 (per David Schmidt, PE) (10-13-16 hearing)

**John Sullivan, Esq. of Vastola & Sullivan**, representing the Applicant, said this application had last been before the Board on October 13<sup>th</sup> and have submitted a new set of plans. The revised plans essentially reduce the size of the new building which resulted in a reduction of impervious coverage; the setback was increased as much as possible away from the residential neighbors; two trees were able to be saved from removal; a one-way traffic flow was established; the dumpster was located as far away as possible from the residential properties; and additional lighting and paving of the parking lot was agreed upon.

Mr. Sullivan said he believed they had concluded their presentation and that the public concluded its comments. The hearing was continued in order to allow the revised plans to be reviewed by the Environmental Commission and get its feedback. The Environmental Commission provided a report dated November 8, 2016, without issue, except for the note that this application will require an application to the NJDEP for the Flood Hazard Area Permit.

Board Engineer, William H.R. White, III, PE, CME, said the major issue is the NJDEP permit. If NJDEP requires any revisions to the plan, the Applicant will need to come back before the Planning Board.

Mr. Bernstein pointed out that while the question period from the public relative to the testimony may have been closed, the comment period was still open.

Chairman Lipani agreed.

Chairman asked if the garbage truck will be able to maneuver the site.

Mr. Schmidt responded it will make the turning radius.

**David J. Schmidt, PE of D.S. Engineering, P.C.**, under Oath and qualified from the previous meetings, stated the Board has been provided with the most accurate plans submitted.

Chairman Lipani asked Mr. Schmidt to briefly review the revisions.

Mr. Schmidt said the proposed building has been shifted away from the Manville properties; originally at 20 ft., now at 34 ft. away from the property line. The building has been reduced; lot coverage has been reduced by 515 ft.; a trash enclosure was provided; lighting was added to meet the lighting ordinance; and the handicap parking in the front of the building is now in compliance with ADA standards. The front pavement will be resurfaced; the building will be power washed and repointed; the overgrown vegetation will be cleaned up; the front parking lot will be regraded to make it ADA compliant; repave and clean up the building. All items are now cited on the revised plans.

Mr. Schmidt said he has addressed all of Mr. Maski's comments and only has to change the lighting in order to comply with all of Mr. White's comments.

Open for public comment.

**Tom Reilly** – Gress Street, Manville

- Mr. Reilly made reference to the comment in the Environmental Commission report regarding verification of the waterway by the NJDEP. He asked if any such verification has been made and if so, if it could be produced in writing.

Mr. Schmidt said he spoke with the Environmentalist and also visited the site today. He stated he does not see it as a NJDEP regulated stream. He said generally in a LOI, it will say at the end of the permit if the property is subject to a NJDEP stream, if it exists in the area. Mr. Schmidt said that statement is not in the letter. He said they are submitting for a Flood Hazard Permit. It will be addressed again and NJDEP will be provided with more information to see if that is a regulated stream.

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Mr. Schmidt said he walked the property. He said if there is a riparian buffer, it will be encompassed in the wetlands buffer area which is within the conservation easement area, no matter which way it is. It will all be documented in writing in the Flood Hazard Permit.

- Mr. Reilly said then other than a verbal communication, the direct answer is that you do not have written confirmation from NJDEP as of this moment. Mr. Reilly said he was not looking for Mr. Schmidt's opinion from his inspection, only the ruling of the NJDEP.

Mr. Schmidt said the NJDEP had a chance to review the plans submitted for the LOI. He said normally the NJDEP would cite in the LOI permit if there was a regulated stream in the vicinity. He said it did not cite it and is a written document from the NJDEP.

- Mr. Reilly replied by saying another board of the township wrote that it wants to see something from the NJDEP before moving forward.

Mr. Schmidt said that is not correct; it is encompassed in the Flood Hazard Permit. Mr. Schmidt stated the stream is off site.

- Mr. Reilly said he recalled lengthy discussion at the last hearing that the stream runs through this property.

Mr. Schmidt stated there is a culvert 10 ft. off of the property.

- Mr. Reilly agreed the culvert is 10 ft. off the property to the south, and appears as such in the drawings.

After some back and forth, Mr. Schmidt said the plans indicate sheet-flow, with no indication of any ditch whatsoever.

- Mr. Reilly argued there is no ditch involved. The natural area is now covered by leaves and shrubs. He said you cannot see what is going on there now, especially given the dry season.

Mr. Schmidt stated he walked the property today and identified there is reed-grass on the outside of this property, which is where the stream is.

- Mr. Reilly commented that the area is covered with leaves.

Mr. Sullivan read the comment directly from the Environmental Commission's report. He said the Commission is not talking about any waterway on this site. He said in either event, it will be encompassed in the FHA permit and addressed accordingly by the DEP.

- Mr. Reilly said he disagreed. He said that was not what was described and discussed at the last meeting. He said there was discussion that there is an east to west boundary that goes right through this property. He said there is an additional waterway going through this property. Mr. Reilly said he believes there is a discrepancy that needs to be addressed.

Mr. Bernstein said the report by the Environmental Commission, dated November 8, 2016 has been provided to the Board. He read the second to the last paragraph into the record, as follows: *"The applicant needs to verify if the waterway feature noted above is regulated by the NJDEP. If the waterway feature is regulated, then a 50-foot Riparian Zone would likely be required, which may impact the site and need to be included in the FHA Permit."*

Mr. Bernstein said Mr. White already noted earlier that there would need to be a condition that if there is a change in the plans because of NJDEP requirements, the Applicant would need to come back before this Board and seek new approval, based on the changed condition. Mr. Bernstein said this should be made a condition, should approval be granted, and that the condition would need to be satisfied prior to any action being taken to develop the property.

Mr. Bernstein further stated that it will be up to NJDEP. If NJDEP does not require it, it will not need to be addressed and the Applicant will be able to move on with his project.

Mr. Sullivan said he concurred.

- Mr. Reilly stated he visited with the Hillsborough Engineer (Assistant Township Engineer) a few days earlier. Mr. Reilly asked for an interpretation of the engineering drawing dated 01-24-2005 01, with a revision date of 07-08-2008, done by Van Cleef Engineering.
- Mr. Reilly was instructed to pause until the various professionals had an opportunity to look over the plan in question.

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Mr. White stated the plan prepared by Van Cleef Engineering shows a last revision date of 12-10-07. The plan was prepared for Ace Copy on Dickerson – Lot 2, Block 58.03. The plan shows the surrounding site that is off-tract of the property in question as well as the pump station at the intersection of Dickerson and Dukes Parkway East. The plan shows the wetland line came off-site onto the back portion of this property. The area looks larger but this plan is older so the new LOI is more up to date. Mr. White said the last revision date identified in the revision block is 12-10-07. The hand-written date was not within the revision block.

- Mr. Reilly stated the Ace Copy plan was acquired from the Engineering office.

Mr. Bernstein informed Mr. Reilly that the Township Engineer in the Engineering Department is separate and apart from the Board Engineer and his office. The Engineering Department holds plans for the Township, whether they are before a board or the Construction Office.

Mr. White said it is more likely that the line dates back to 2005 and has already expired.

The plan was then shown to Mr. Schmidt and Mr. Sullivan to review.

Mr. Schmidt said he agreed with the dates noted.  
The plan was marked into evidence.

- Mr. Reilly was given the opportunity to ask questions regarding the plan, but cautioned by Mr. Bernstein that the Board had not reviewed the plan, and that neither Engineer may be able to speak on a plan that is now 10 years old.

Mr. White identified the exhibit for the record:

**Exhibit P-1** – “Drainage and Soil Erosion and Sediment Control, in Lot 2 Block 58.03, Sheet C-4.”

Mr. Bernstein asked Mr. White for the record, if this plan is an engineering map for the property in question before the Board.

Mr. White replied it is not; it is for the directly adjacent lot, Lot 2.

- Mr. Reilly said the lines of demarcation are marked on (exhibit) plan for the Applicant’s property in such a way so that it is abundantly clear there is a wetland on the southernmost portion of the boundary, when the description up to this point has been it is not a wetland, it’s a buffer. Mr. Reilly asked if the area in question is a wetland or a buffer area.

Mr. White asked if there is a wetland area in the right rear of the property with a 50 ft. buffer off of that.

Mr. Schmidt stated there is.

Mr. White said the area may not be the same as shown on the 2005 plan, but without the LOI, he cannot say if DEP verified on Lot 1; they may have only verified on Lot 2. He said he does not know if the line show on the 10-year old plan was accepted by DEP without the LOI.

- Mr. Reilly asked if the line of demarcation is to the wetland or not.

Mr. Schmidt replied it is not.

Mr. White reiterated that without the actual permit, he cannot answer that question.

- Mr. Reilly asked if that analysis can be done and then come back at a future date.

Mr. Bernstein responded by saying that is a Board decision. It is up to the Board to decide if it wants Mr. White’s expertise regarding such or if will rely on what has been provided by the Applicant and analyzed by Mr. White, subject to what he has to say.

Mr. White said all he needs is the permit which should be on file with the Township.

Mr. Schmidt pointed out the permit will be expired. He said the permit will cite specifically the flags that are on the property in questions. An LOI is good for 5 years.

Mr. Schmidt said he had his subcontractor go out to the site and did the soil borings. He said NJDEP went out and verified the line. He said in his experience, a line can change over the years; some may increase, some may decrease. It involves soil type and vegetation. Mr. Schmidt stated the most accurate wetland delineation of the property is shown on the (revised) plan, and verified by DEP.

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Mr. Schmidt said a LOI is good for 5 years. If you apply for an extension, you still need to go out and re-flag the property. You may notice changes. There may also be increases in buffers from 50 ft. to 150 ft., and vice-versa.

Chairman Lipani commented that the LOI is then 10-years out of date.

- Mr. Reilly recalled that he had been previously sworn at a prior meeting.
- Mr. Reilly stated the community behind the subject property objects to the waivers requested for not being required to provide an Environmental Impact Statement, Community Impact Study, or Traffic Study. Mr. Reilly said the testimony provided two meetings ago was that the trucks to the site would be that of Fed-Ex trucks. He stated that is not the case; they are box trucks and much larger than that.
- Mr. Reilly said he had pictures on his cell phone and asked if they would be admissible.

Chairman Lipani instructed that the point be made without the cell phone photos.

- Mr. Reilly made a claim that the Applicant is trying to push the application through very quickly, but that it is not as simple of an application as it appears. He stated the he and the community he is speaking for, believe the studies and having something in writing from NJDEP, are necessary before the Board can make any decisions

**Stephen Zacharco** – Gress Street, Manville

- Mr. Zacharco asked if the environmental report will be submitted to NJDEP.

Mr. White clarified that there is no reason for the Environmental Commission's report to go to NJDEP.

- Mr. Zacharco made reference to the Environmental Commission report.

Mr. Bernstein advised Mr. Zacharco that if he is going to reference the letter, he should read the entire section into the record.

- Mr. Zacharco read: "Upon opening up the meeting to the public for comment, the following was noted:
  - There is a waterway feature (stream, swale, or ditch) between the Raritan River and the site."
- Mr. Zacharco stated the comments made at the Environmental meeting two weeks earlier, indicated the stream, swale or ditch was south of the property.

Mr. White said if it is south of the property line, it is off of the property.

Close public

Mr. Bernstein asked for a recess to discuss with Mr. White.

Break 8:09 pm – 8:13 pm

Mr. Bernstein informed the Board that he inquired with Mr. White if there is a NJDEP LOI on record. He said Mr. White identified there is one in the record, dated 02-16-16. Mr. Bernstein asked Mr. White to comment.

Mr. White said the LOI is signed by Tina Wolffe, Environmental Specialist III. Ms. Wolffe is confirming the wetlands flag WA-1 through WA-5 are approved and that there is a 50 ft. buffer off of these wetlands.

Chairman Lipani said then the plan is up to date with the most current LOI.

Mr. White agreed. He noted the letter is dated 02-16-16.

Mr. Bernstein asked Mr. Sullivan for the record, that the Applicant and professionals are in receipt of the 11-8-16 Environmental Commission letter and agree to comply with the items noted.

Mr. Sullivan confirmed compliance.

Chairman Lipani asked for a brief statement on why the Applicant is seeking submission waivers from providing an EIS, TIS, and CIS, since there was an objection expressed from the Public.

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Mr. Schmidt explained they do not believe the Community Impact Statement (CIS) is needed since there is no population increase associated or any impact to the school population. He said there are no critical areas or deep slopes, or need for inclusion of the high water table so they do not believe there is a need for an Environmental Impact Statement. The floodway area is depicted on the plan. He said if the Environmental Commission thought strongly that it should have been provided, it would have been. The LOI has been submitted, and the site is existing. Mr. Schmidt said the traffic flow is going to be minimal so there does not seem to be a need for a Traffic Impact Statement (TIS).

Mr. Schmidt said if Mr. Levonaitis was not proposing to put up a pole barn, he could open up his business tomorrow. He said he has permits to renovate the interior. Mr. Levonaitis would not need a CIS, EIS or TIS to do so. This application is all driven by wanting to put a large shed in the backyard in order to store supplies to get them out of the view of the public. Mr. Schmidt said the Applicant is going to invest a significant amount of money into a site that has been vacant for a long period of time. When a building is vacant is subject to vandalism. Mr. Schmidt said it is good for the public to restore this building and allow Mr. Levonaitis to utilize the property the way he wants to.

Chairman Lipani commented that the building is currently an eyesore. There is an application to clean it up and utilize the property for a relatively light use in the I-Zone. The pole barn having been moved further back helped alleviate some of the concerns the public had. Chairman Lipani said it is nice to have someone who is willing to clean it up and make it so that it so that it is not an eyesore for the neighbors, as it is now.

Chairman Lipani called for a motion.

A motion to approve application #16-PB-10-SRV was made by Mr. Conard, seconded by Mr. Hesthag.

**Roll Call:** Mr. Peason – yes; Mr. Conard – yes; Mr. Hesthag – yes; Ms. Becorena – yes; Ms. Forrest – yes; Deputy Mayor Suraci – yes; Chairman Lipani – yes. Motion carries.

■ **Yannuzzi Group, Inc.** – File 16-PB-11-SRV – (TOD: 02-18-17) - Block 183, Lots 36.02 & 37 (Lot 36.02 formerly known as Lot 36.B) – 300 Sunnymead Road. Applicant seeking Preliminary and Final Major Site Plan Approval; 'c' Bulk Variances for relief from pre-existing nonconforming conditions for existing Lot 37: minimum lot area; minimum lot depth; maximum lot coverage; minimum front yard setback; minimum rear yard setback; and minimum side yard setback; and existing nonconforming conditions for existing Lot 36.02 for maximum lot coverage; parking design waivers; and submission waivers from providing an Environmental Impact Statement, Community Impact Statement, and Traffic Impact Study, to permit repairs to the existing building and install site improvements for office and industrial use, on property in the I-1, Light Industrial Zoning District. (EC Reviews: 07-25-16 and 09-26-16).

**Timothy McKeown, Esq.**, representing the Yannuzzi Group, Inc., gave a brief overview of the application, already introduced by Chairman Lipani. Mr. McKeown said they will also address additional waivers throughout the hearing. The appropriate notices have been sent out. The affidavit of publication and affidavit of service have been submitted to the Township.

Mr. McKeown said the application is for a previously developed site consisting of two lots. The building has been vacant for several years and is in a state of disrepair. The proposal is to make improvements to the existing buildings and site. The building will contain office space, service space for maintenance and repair of the Applicant's vehicles and equipment. The improvements will include dedicated parking in an existing gravel parking area to the north of the buildings. Road frontage will be improved to include a landscaped berm and security fencing to the north of the building. There will be an overall reduction of impervious coverage for the property.

Mr. McKeown said originally, the Applicant is seeking relief from minimum rear side yard setback; minimum rear yard setback; and maximum lot coverage. The Township Planner noted based on measurements from Sunnymead Road, additional variances to included minimum lot area; minimum lot depth; and minimum front yard. The Planner also noted in his review that a consolidation of the two lots would reduce the number of variances from seven to three, leaving minimum front yard, minimum rear yard, and maximum lot coverage. Mr. McKeown stated the Applicant is amenable to consolidating the two lots so as to reduce the number of variances.

Mr. McKeown concluded his opening by saying the variances can be granted without substantial detriment to the public good and that the deviation would substantially outweigh any detriment, and that the approvals would not substantially impair the intent and purpose of the zone plan and zoning ordinance.

Mr. McKeown said the Applicant's Engineer will address the variances and waivers described, as well as the design waivers referenced in the Planner's report, and the request for relief from providing sidewalk along the front of the property. Mr. McKeown represented that the Applicant is amenable to making an in-lieu of contribution, as suggested.

Mr. McKeown said Joseph Oliver, Director of Operations for Yannuzzi Group Inc.; Engineer Thomas Decker, PE, PP; Brad Summerville, Environmental Consultant; and Craig Paterson, from Marathon Engineering.

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Mr. McKeown stated the documents and materials for review are a copy of the site plan, photos of the current site, and a map of the property with respect to the Airport Hazard Zone, as raised by the Township Engineer.

Before proceeding with testimony, Chairman Lipani asked Mr. McKeown if he had seen the report issued earlier in the day from the Board Engineer regarding the clean-up of the site.

Mr. McKeown acknowledged he had.

Board Engineer, Mr. White said the report was just issued because the lengthy hard copy was just received on Monday. He said the site is subject to ISRA (Industrial Site Recovery Act). Mr. White said there was no clarification where the Applicant is in addressing the requirements of the ISRA Act. He asked if there was an LSRP present to address the status, and if that LSRP is the professional of record.

Brad Summerville, PE, of PT Consultants, Inc., was sworn in, reviewed his credentials, was accepted by the Board, and gave the following testimony in response to questions asked by Mr. McKeown:

Mr. Summerville confirmed PT Consultants, Inc. is currently responsible for administering the environmental remediation of the site. He stated the property is in an active ISRA case based on the historic use of the property as a metal fabrication facility. The owner of the property has executed a consent order with NJDEP regarding the ISRA case and will comply with all of the requirements of NJDEP. It will be entered through the LSRP Program. An RAO will be issued once remediation actions are completed at the site.

Mr. Summerville said because of the metal fabrication at the site, metals concentrations were detected in the soil. There was a recorded release of oil to the surface in 2012. PT Consultants performed a site investigation at the property by performing test pits, digging into the soil and collecting soil samples to see what concentrations were present. Metals compound, namely aluminum lead and a few others, were detected above New Jersey residential direct contact and default impact ground water soil screening levels. He said further investigation is needed because they were not able to delineate the full impact. The impacts are shallow; nothing significantly deeper has been detected. Soil samples were also collected from the soil stockpile on the site. The same sorts of impact were detected so the soil likely came from the site. Removal of that material is recommended prior to further action of the site.

Mr. Summerville said groundwater samples were collected from the site. There are four wells that were installed prior to the current owners purchasing the property. Some metals were detected in the two rounds of testing; the metals have been decreasing. Mr. Summerville said that is the extent of their investigation to this point. He said PT Consultants is recommending additional ground water sampling to determine if ground water is of a concern at the site. They are also recommending additional test pitting to delineate the full extent of the metals at the site.

Mr. White said so at this point, the true impacts are not known.

Mr. Summerville said they believe since it was related to site operations, the previous owners stored equipment and metals out on the property and that the metals likely came from that storage. He said metals do not typically travel well in soil. He said they do not believe there is any impact off-site due to site operations.

Mr. White asked at what depth was groundwater impacted.

Mr. Summerville said the groundwater is about 18 ft. deep, which is much deeper than the soils impacted which is about 4 ft. deep.

Mr. White said the soil 18 ft. deep is coming back impacted.

Mr. Summerville said that is correct but they believe it is because of sediment in the ground water. He said the wells were not installed very well and are slow to recharge. He said that may be the issue but that further investigation is recommended.

Mr. White asked if it is safe to occupy the site as of right now.

Mr. Summerville stated it is safe for workers to operate the site. He said before it is fully operational, they will be completing the full investigation and determine what remedial actions will be necessary.

Mr. White asked if there could be a lot of dust in the "lay down" portion of the site, sending any contamination airborne.

Mr. Summerville said the samples were collected below the surface. The surface of the site looks like asphalt millings that would keep dust down. The Applicant does not plan on moving a lot of heavy equipment on the surface outside; it will be just for storage of equipment prior to servicing it.

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Mr. White said the Applicant is in the business of site remediation and uses a gamut of heavy construction equipment. He said millings are not a very good base. As per NJDEP millings should be capped and is not an acceptable material for a parking lot.

Mr. Summerville agreed. He said once they have completed their investigation, they will make recommendations for remedial action. This is all being done under the supervision of an LSRP.

Mr. White asked if the LSRP has been contracted through the current owner, not through the previous owner.

Mr. Summerville confirmed the contract is with the Applicant; the previous owner is not involved.

Mr. White again questioned the potential for dust and how safe the safety of the workers.

Mr. Summerville to collect a sample of millings would be the same as collecting a sample of pavement, which would petroleum products in it as well, and therefore be misleading since it is all bound in the asphalt.

Mr. White asked if the millings were put down before or after the metal fabrication use.

Mr. Summerville said he could not speak on the timeline since they had not been involved with the property.

Chairman asked if the millings would be capped with blacktop or the like.

Mr. White said DEP says you can bind it with a "binder" but that "binder" has not been clarified by DEP as to what is acceptable – a water base or oil base. Typically, the solution is asphalt, or you remove it.

Chairman Lipani asked Mr. Summerville if the remediation of the site would be done with the application while inhabiting the property, or before moving in.

Mr. Summerville said that would be the decision of the LSRP and the client. He said most likely, completion of remediation would be completed prior to full operation.

Mr. Conard asked if it was best to seal the millings in some way to eliminate any potential concerns.

Mr. Summerville said they are not concerned with vapors at this point; perhaps dust if the soil was to be dug up. Remedial action would likely include capping of the site or "hot spot" removal of metals. He said recommendations will not be made until they have been able to fully delineate the impact to the site.

Chairman Lipani asked how long it usually takes for an LSRP to complete the review process. \

Mr. White said he could not say; it would depend on how extensive the testing.

Chairman Lipani asked if all of the findings would need to be provided to the DEP.

Mr. White explained the LSRP is essentially acting as the DEP, which is the point of the program to cut down the workload of the DEP. The license of the LSRP is on the line. The DEP reviews every few submission received. If they find problems, then they review all submissions of the LSRP. If the DEP finds problems with the majority of submissions, they can pull the LSRP's license.

Mr. Bernstein asked if the application had been reviewed by the Environmental Commission.

Mr. Summerville said he personally had not appeared but that the LSRP presented.

Mr. Bernstein read a portion of Environmental Report, dated October 09, 2016:

*The Commission requested from the July meeting: The Applicant Provide (1) a Phase 1 Environmental Assessment for the site; Determine the need for a Spill Prevention Control and Countermeasure (SPCC) plan, which applies to facilities storing more than 1,320 gallons of oil; Obtain an LOI from the NJDEP noting the absence of wetlands on the site; Provide documentation that the ditch at the rear of the site is not considered a regulated stream; and establish a site-walk.*

*The Commission conducted a site walk and then asked to appear before the Commission at the September 25<sup>th</sup> meeting. The Commission then asked the Applicant to provide a letter concerning the wetlands and transition areas to the east of the site. The Applicant noted a letter was provided to the Planning Office from Marathon noting the absence of transitions, which has now been submitted. The application is exempt from compliance with DRCC regulations. There is lead contamination of the soil on site and delineation is continuing. The LSRP for the site noted a Remedial Investigation (RI) would be prepared and submitted to the Township and that the Commission wants to review once submitted.*

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*Polyaromatic hydrocarbons (PAHs) have been detected on the outside of the building. The septic system will be replaced and sampling around the septic field has been completed. The Commission asked about the concern for potential contamination in the septic field from any floor drains in the building. The applicant noted there are no floor drains.*

Mr. Bernstein said the comments lead you to believe there will be additional input from the Environmental Commission before the Board takes final action. He said the comments from Mr. White, both tonight and in his report raise the question as to whether or not this application is ready for Board consideration. There are a number of outstanding environmental issues. He said the Applicant seems to be proceeding on the premise that it will happen as the matter goes along, and that the Board should simply rely upon the statements of the consultant and possibly other witnesses, relative to what will happen after the fact and not beforehand.

Mr. Bernstein said, as Mr. White alluded to, the Board recently completed a rather extensive application of an industrial site which had only come in with a subdivision line reallocation.

Mr. Bernstein asked Mr. McKeown to explain why the Board should consider hearing the application until the Engineer and/or Environmental Commission had received additional environmental material.

Mr. McKeown responded to comments from the Environmental Commission letter. He stated the Phase I Report was provided, as requested. The plan is to have a tank system of 2,000 gallons so therefore the Applicant would need to comply with having a SPCC Plan when the tanks are in place. The Environmental Consultant is present to discuss the absence of wetlands.

Chairman Lipani said the Board appreciates the information but that these issues need to be discussed with the Environmental Commission.

Mr. Bernstein noted the Environmental Commission liaison, Mr. Julian, is not present to discuss the Commission's findings. Mr. Bernstein suggested Mr. McKeown take a few minutes to confer with his client.

Break 8:47 – 8:54

Mr. McKeown stated the Applicant will obtain the rest of the investigation submitted to the Environmental Commission for review. He requested that the Environmental Consultant be able to provide his testimony with respect to receiving a waiver from providing the LOI. As represented, there are no wetlands on the site.

**Craig Patterson, W.P.I.T., Environmental Scientist, from Marathon Engineering & Environmental Services** was sworn in, reviewed his credentials, was accepted by the Board and provided the following testimony, in response to questions asked by Mr. McKeown:

Mr. Patterson said he performed a wetlands study on August 30, 2016, all in accordance with NJDEP rules and regulations. He said there are no wetlands or wetland buffers on the property. Mr. Patterson said to make that determination, he looked at vegetative conditions. There are no plant communities dominated by wetland species and no evidence in the soils. Mr. Patterson said he did not see the need for any further division of land use regulation at this site.

**Exhibit A-1** - Marathon Engineering & Environmental Services, dated September 14, 2016

Chairman Lipani asked about location of any streams.

Mr. Patterson said the nearest stream is several hundred feet south of the property.

Open to the Public

No questions.

Close Public (for testimony from Mr. Patterson).

A continuance date was discussed.

A motion to continue Application 16-PB-11-SRV to January 05, 2017 without further notice was made by Mr. Conard, seconded by Ms. Forrest.

**Roll Call:** Mr. Peason – yes; Mr. Conard – yes; Mr. Hesthag – yes; Ms. Becorena – yes; Ms. Forrest – yes; Deputy Mayor Suraci – yes; Chairman Lipani – yes. Motion carries.

Mr. McKeown asked for a ruling from the Board on the LOI waiver request.

Members of the Board expressed that the matter first be reviewed by the Environmental Commission.

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Mr. Bernstein suggested the Board could grant the waiver request, subject to review by the Environmental Commission.

A motion to grant the waiver request, subject to further comments from the Environmental Commission's review related to the LOI, was made and seconded. All were in favor, none were opposed; motion carries.

**CORRESPONDENCE**

None

Mr. Bernstein noted the next meeting dates of December 1<sup>st</sup> and 8<sup>th</sup>.

**ADJOURNMENT**

A motion to adjourn was made and seconded. All were in favor; motion carries.

The meeting adjourned at 9:05 pm.

*Submitted by:*  
*Debra Padgett*  
*Administrative Assistant / Planning Board Clerk*

Approved