

**HILLSBOROUGH TOWNSHIP PLANNING BOARD**  
**PUBLIC MEETING MINUTES**  
**January 05, 2017**

Chairman Sean Lipani called the Planning Board Regular Public Meeting of January 05, 2017 to order at 7:33 pm. 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 Carl Suraci - Present  
Robert Wagner, Jr. – Present  
Committeeman Frank DelCore - Present  
Robert Peason – Present  
Stephanie Forrest – Arrived 7:37  
**Neil Julian, Vice Chairman** - Present

Sally Becorena – Present  
**Shawn Lipani, Chairman** - Present  
**Kenneth Hesthag, Secretary** – Present  
*Vacant – Seat Alt. #1*  
*Vacant – Seat Alt. #2*

Also present: David K. Maski, PP, AICP, Planning Director; Eric Bernstein, Esq., Board Attorney (Eric M. Bernstein & Associates); William H.R. White, III, PE, CME, Board Engineer (Maser Consulting P.A.); Susan Baber, CCR, Covering Court Reporter; and Caz Bielen, Board Videographer (Premier Media, LLC).

Board Attorney Eric Bernstein, Esq. called for a short recess.

Break: 7:34 pm – 7:36 pm

Ms. Forrest arrived at 7:37

Township Committee Liaison to the Planning Board, Committeeman Burchette administered the Oath of Office to Ms. Forrest (Seat #5).

**DISPOSITION OF MINUTES**

■ December 08, 2016

A correction to the name of the Vice Chairman was made to the last sentence of the last paragraph on page 4 to reflect Vice Chairman Julian was the speaker.

A motion to approve, as amended, was made by Mr. Peason, seconded by Mayor Suraci.

**Roll Call:** Mr. Peason – yes; Mr. Wagner – yes; Ms. Becorena – yes; Vice Chairman Julian – yes; Committeeman DelCore – yes; Mayor Suraci – yes; Chairman Lipani – yes. Motion carries.

**DISPOSITION OF RESOLUTIONS**

None

**PLANNING BOARD BUSINESS**

■ 2017 Planning Board Annual Report

Planning Director, David K. Maski, PP, AICP, commented that the Board could take more time to review the report and adopt it at the next meeting.

Chairman Lipani said the matter would be tabled to the next agenda.

■ Meadow Brook at Hillsborough 16-PB-02-MJSR - Appointment of Conflict Engineer for continued professional Engineering Services (CME Associates - Brian Boccanfuso, PE, CFM)

Planning Director, David K. Maski, PP, AICP, explained that since there is no designated Alternate Board Engineer this year, the Board may wish to continue the Contract with CME as the Conflict Engineer for this particular application, for the ongoing compliance matters. CME would bill at the same hourly rates, as approved in 2016. A letter will be submitted prior to the next meeting for the Board's consideration. No action is necessary at this time.

**SPECIAL COMMITTEE REPORTS**

None

**BUSINESS FROM THE FLOOR**

None

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**CONSIDERATION OF ORDINANCES**

■ **Regulating Trucks in Residential Districts**

Mr. Maski said there has been some confusion as to the issue of enforcement for commercial and non-commercial vehicles on residential properties, in driveways. The memo provided lays out the issues in the ordinance and some possible changes. There is more than one way to go about this so when the Board has a chance to look it over, the matter can be scheduled to a future agenda for consideration.

Chairman Lipani instructed the matter be scheduled to the February 2 agenda.

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

- ***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, 09-26-16, 12-19-16*). ***Continued from November 10, 2016 agenda without further notice. (Additional Report submitted 12-08-16).***

Board Attorney, Eric Bernstein, Esq. stated for the record that absent Board members have provided signed eligibility to vote forms from Mr. Julian and Mr. DelCore for viewing the November 10, 2016 meeting and are therefore eligible to vote.

Mr. Wagner noted he had not viewed the November 10 meeting.

Mr. Bernstein said if the meeting is concluded tonight, Mr. Wagner would not be eligible to vote. If continued, he would be able to review that meeting.

**Timothy McKeown, Esq.**, Attorney for the Applicant, said testimony from several witnesses will be provided, including Joe Oliver; Engineer, Tom Decker; LSRP, Tom Brady; and Environmental Counsel, Carol Gross.

**Joseph J. Oliver** was sworn in and gave the following testimony in response to questions asked by Mr. McKeown:

Mr. Oliver said he is employed by Yannuzzi Group as the Facility Manager, in charge of day-to-day operations. The duties of this position include maintenance of the vehicles and facility, as well as the operations in the field and for the mechanics shop.

Mr. Oliver said he is familiar with the site plan presented to the Board. Yannuzzi Group is a demolition and environmental company, doing demolition on commercial buildings and residential homes. The company has been in business since 1957. Yannuzzi currently has approximately 50 employees. There is currently one site in Kinnelon, New Jersey. The existing yard is at 152 Route 206 in Hillsborough.

Mr. Oliver said Yannuzzi is looking to use the subject site before the Board for maintenance and minor repairs of their vehicles and equipment. At this point in time, there are no plans for any additions or alterations to the building. The only outside storage will be for construction vehicles. Neither inoperable, abandoned, or vehicles not fit for use on a public highway will not be stored on the site. The property will not be used as a junkyard.

Mr. Oliver said there are service bays on the inside, which have been cleaned up. Yannuzzi has plans to have a mechanics shop at one end, which is where the vehicles and equipment will be serviced. Minor fabricating, repairs and welding will be done at the other end. The activities at the site will comply with all applicable fire regulations. The activities at the site will not cause smoke, dust, fumes, vapors or gases.

Mr. Oliver confirmed that Yannuzzi would comply with the rules and regulations related to any storage of industrial waste. There would be no outside vibration. Yannuzzi would comply with all Township noise regulations. There will be approximately 10 employees at this site. The hours of operation will be 7 am to 3:30 pm Monday through Friday. Only Yannuzzi employees will be at the site. The truck traffic will be for Yannuzzi vehicles being serviced. There will be no outside vendors or trucking companies coming to the facility. There will be no loading at the site. Yannuzzi will have a sign at the site that will comply with all Township regulations.

Chairman Lipani asked about diesel tanks on-site. He asked if they would be encapsulated in concrete.

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Mr. Oliver said there will be tanks, which will be in concrete.

Chairman Lipani asked about the waste oils and storage.

Mr. Oliver said Yannuzzi will have a vendor with proper storage tanks with secondary containment in place inside the building, which will then be taken off-site by an environmental company, as needed.

Chairman Lipani asked how material waste such as old tires and parts will be stored.

Mr. Oliver said as readily as such materials are accumulated, they get rid of. There will be dumpsters inside the building.

Mr. Maski asked if there will be any outside storage of non-vehicular materials, such as excavation materials.

Mr. Oliver said there would not be.

Board Engineer, Mr. White asked if there would be storage of heavy construction equipment.

Mr. Oliver replied Yannuzzi outsources its major repairs. They only take care of minor repairs.

Mr. White asked where these functions are currently provided.

Mr. Oliver said at 152 Route 206.

Mr. White said Yannuzzi is looking to relocate to the Sunnymead Road site; it would not be in addition to the Route 206 site.

Mr. Oliver concurred.

Open to the Public

No questions.

**Thomas Decker, PE** 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. Decker said he prepared the site plan submitted.

**Exhibit A1** – Colored rendering of site plan, dated 6-8-16, last revised 7-7-16  
**Exhibits A2/A3/A4** - Color photos of the building/site

Mr. Decker said the current site has been vacant and in disrepair for some time. There has been significant vandalism to the site.

Mr. Decker spoke on the A2 and A3 photos which he said he had taken in 2016. The photos showed multiple areas vandalized with graffiti and broken windows. He said a security fence has been installed since Yannuzzi took ownership of the property, and a security guard is present 24/7. Mr. Decker also showed photos of the roof and parking lots which he said are in disrepair.

Mr. Decker said Yannuzzi's plan is to bring the site back to life; restore it and refurbish the building into an operating state.

Mr. Decker went over Exhibit A4, which he said he had taken in the Fall of 2016, show the sidewalks, plantings and vegetation. Mr. Decker pointed out the railroad to the East.

Mr. Decker said Yannuzzi will be looking to install a berm along Sunnymead Road, along the western corner. Thirty-one Evergreen trees will be staggered to create a buffer from the road for that area which is now fairly open. The trees will be raised to help increase the benefit of the landscaping. A fence with a rolling gate at the entrance is proposed along the front of the property. A proposed concrete pad with 2,000 gallon concrete fuel tanks with secondary containment will be housed in the yard. Yannuzzi will comply with the request of the Board Engineer to install bollards around that area. A dumpster enclosure will be at the rear of the site for disposal of outdoor trash, in accordance with the Engineer's direction.

Mr. Decker said twenty spaces are proposed, as required by the parking schedule, which was determined for the anticipated office space and industrial. Yannuzzi anticipates having ten employees here. The parking is split between the southerly parking lot, which has eleven spaces, and additional spaces that abut the building within the compound area. There is more than adequate parking within the gravel area to facilitate the maneuvering of Yannuzzi's equipment in and around the site. Service bays are located on the northerly, easterly and front of the building.

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Mr. Decker said Yannuzzi would consider consolidating the lots; Lot 36.02 is 2.03 acres, Lot 37 is 1.026 acres before taking out any right-of-way dedications. By combining these lots, Yannuzzi will meet the 1 acre lot minimum and eliminate some side yard variances. There will still be variances to the side yard to the east and front yard.

Mr. Decker said they walked the site with a member of the Environmental Commission. Yannuzzi has engaged the services of a wetlands consultant to evaluate the property and adjacent properties. It has been determined that the site is not subject to the Township Stream Corridor Ordinance; there are no on-site wetlands; and no wetland transition areas that affect the site. Yannuzzi's wetland expert testified at the November meeting. At the direction of the Board, Yannuzzi went back before the Environmental Commission with the wetland presentation. The Environmental Commission deemed that an LOI was not needed.

Mr. McKeown clarified the LOI was waived subject to further comment from the Environmental Commission.

Mr. Decker said the report from the Environmental Commission gives the recommendation that a NJDEP LOI not be required.

Mr. Decker said the site plan does not show a sign. However, that sign will be on the front of the building, in accordance with the ordinance to identify the site. There will be no freestanding signs to advertise the site.

Mr. Maski asked if the applicant will be consolidating the lots, rather than considering consolidation.

Mr. Decker confirmed Yannuzzi will consolidate.

Mr. Maski informed the Board that the consolidation would reduce the number of variances from seven to three.

Mr. Decker continued his response to the professionals' reports. He confirmed the Applicant would comply with providing whatever right-of-way dedication necessary. Mr. Decker addressed the design waivers from the Planning Report. He said the 25 ft. driveway aisle is consistent with the rest of the parking lot. If they had to adhere to the 30 ft. requirement, the whole parking lot would need to be widened. There is an absence of curbing along the eleven space parking lot. This parking lot is existing. Yannuzzi plans to resurface the lot into a usable state. By not having curbing, it also allows for sheet flow off of the parking lot, as it currently does. There is no buffer between the eleven space parking lot and property lines, where 30 ft. is required. The parking lot is existing. There is no opportunity to buffer it from Sunnymeade Road. There is some natural vegetation along the railroad to the east. Design waivers are requested for those three items.

Mr. Decker addressed the submission waivers requested. He reiterated this application is for restoration of an existing site with no new building. There will be a reduction of impervious coverage by 3,000 sf. The maximum permitted lot coverage is 60%. The existing on Lot 36.02 is 85.5 %, proposing 82.2%; on Lot 37 the existing is 61%, proposing 60.6%. The contamination on the site will be remediated as part of the restoration process.

Mr. Decker said the trees on the north-west corner of the site will be removed. Those trees are less than 6" in caliper and do not require replacement. However, they are being replaced by 31 Evergreen trees. The outside dumpster area will be in the rear of the site. It will be enclosed on three sides with a gate, on a concrete pad.

Mr. Maski asked for clarification on the location of the dumpster.

Mr. Decker showed the area on the display.

**Exhibit A-5** - Airport Hazard Area Exhibit, dated 11-7-17 (2016)

Mr. Decker used the display to state the Yannuzzi property is outside of the Airport Hazard Area.

Mr. Maski asked who delineated the Airport Hazard Zone.

Mr. Decker said it was prepared by Van Cleef Engineering. Mr. Decker said his office had another application for a property further north on Sunnymeade Road for which a similar exhibit had been prepared and calculated for. He said his office had the benefit of using that information again for this application.

Mr. Decker concurred with Mr. Oliver's statement that there would be no outside storage other than vehicles. He said all of the repairs will be done inside the building. The building will be subject to the applicable building and fire codes. The Applicant will comply with all three of the comments from the October 24, 2016 memo from Fire Chief Weniger.

Mr. Decker reviewed the comment from the Board Engineer, Mr. White, the report dated 11-01-16. He said the Applicant will comply with the handicap parking requirement. The Applicant requests a waiver from installing a sidewalk due to the close proximity to the road and to the railroad.

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Chairman Lipani asked if the Applicant would make an in-lieu of contribution to the Sidewalk Fund.  
Mr. Decker said yes.

Mr. Decker continued with review of the engineering report. He said the application number will be added to the plan. The necessary information will be provided to verify that the grading of the sidewalk in front of the ADA parking is in compliance. Spot elevations will be provided to ensure a grade elevation for a maximum of 2%. The plan will demonstrate the line of sight, with regards to sight triangles. The Applicant will define the limits of paving, as requested. The roof leders will be removed as proposed. The Applicant will continue to have the discharge to the surface.

Mr. Decker said the northern gravel area is currently illuminated with existing building mounted lights. A waiver from providing light intensities is requested. Yannuzzi would rather not light up the entire site. Their hours are 7am – 3:30 pm. Yannuzzi anticipates installing a fence around the perimeter for additional security, based on the vandalism that has occurred. The Applicant agrees to provide the required lighting for the 11 parking spaces area. The display photos showing the building with the existing lighting were referenced.

Chairman Lipani asked if the entire property would be fenced.

Mr. Decker said the plan shows fencing along the front. Since the plan was submitted, the Applicant indicated they now wish to fence the perimeter of the property.

Chairman Lipani commented there would not be a need for as much lighting if the site were fenced.

Mr. Decker referenced the photo of the loading dock. He said there is no opportunity to screen that area from Sunnymead Road. The buffer proposed will be along the north-west corner. The loading dock area cannot be buffered without losing its functionality.

Mr. White asked if the loading area will remain in function.

Mr. Oliver said the front door will be an access for going in and out but any loading will be done at the rear of the building.

Mr. White asked if vehicles will be parked there.

Mr. Oliver said not in the front.

Mr. White asked if all of the pavement need to remain there. Not having the pavement would deter anyone from parking there. That area is directly adjacent to Sunnymead Road. Vehicles travel fairly quickly along that road.

Mr. Decker asked if the pavement should be striped as a “No Parking” area.

Mr. White said if that area is just being used as a pedestrian access; there is no need to have a paved area about 20 ft. wide.

Mr. Decker said, with confirmation from Mr. Oliver that a vehicle being serviced, once done could exit through the front onto Sunnymead Road. The loading dock area provides circulation through the building.

Mr. Decker said item #3 would be provided by a licensed Landscape Architect. He said since Yannuzzi has taken ownership of the property, the bushes have been trimmed. Planting details will be revised to reference rubber hose and wire.

Mr. Decker said approvals from outside agencies will be provided. Submissions have been made to the SCPB and SUSCD. Additional information has been provided to the SUSCD for final approvals, in response to the comments received. The DRCC sent notification that the property was exempt from their regulations. Those comments also confirmed that the large gravel area has existed since prior to 1980. The comments from the Township’s Health Department will be provided. In conversations with Dr. Belnay, he has determined that due to the age of the septic field, it will need to be replaced. The existing septic field is in the southerly corner of the property. Field tests have been done. A new field location will be located to the east of the parking area.

Committeeman DelCore asked if there were any issues with the current system.

Mr. Decker said not that they are aware of. The system has been inactive for quite some time. He said Dr. Belnay recommended not testing it but replacing it, which Yannuzzi has agreed to do.

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Mr. Decker addressed the variances. He said the variances requested are all bulk variance. They have been reduced from seven to three with the consolidation of the two lots. The variances are existing. There is not much the Applicant can do to correct them but they are not exacerbating them further. There is no negative impact to the Master Plan in granting them. The Applicant will be restoring the property to be a functioning site and allows Yannuzzi to operate within Hillsborough Township. There is no detriment to the public good at all.

Mr. McKeown stated that in addition to Mr. Decker being an Engineer, he is also a licensed Planner in the State of New Jersey.

Mr. Decker was accepted by the Board as a Planner as well.

Mr. Decker said the consolidation of the lots is a benefit because it eliminates the need for several of the nonconformities.

Mr. White asked Mr. Decker the condition structurally of the north side parking lot and whether or not it can support heavy loads.

Mr. Decker said his understanding is that the previous owner had similar heavy equipment on the site as well. The remediation of the site for contamination is proposed to be capped. The 6 in. cap of millings will provide a strong base for the vehicles, but it is fairly solid today.

Chairman Lipani asked whether or not there is any intension to have lighting at night for security purposes.

Mr. Decker said his understanding is that the Applicant will have security cameras installed. The site will not be lit up at night.

No questions from the Public.

Break 8:41 – 8:49 pm

**Thomas Brady, LSRP**, was sworn in.

Mr. McKeown stated at the November hearing, questions arose about the remedial investigation report, which has since been completed. The Board requested the Applicant appear before the Environmental Commission, which they did on December 19<sup>th</sup>. The Commission issued a memo on or about December 29<sup>th</sup> that it did not have any issues with the application and that the Applicant had addressed the prior concerns. As previously mentioned, the Commission noted there was no issue with the Planning Board waiving the need for an LOI.

Mr. Brady reviewed his credentials, was accepted by the Board and gave the following testimony in response to questions asked by Mr. McKeown:

Mr. Brady confirmed he was familiar with the remedial investigation report prepared by PT Consultants, Inc. He said they completed a number of soil and groundwater investigations. It was determined that there is historic fill on the site based on the raised elevation, which is 2 ft. above grade of the surrounding properties. He said the contaminations on-site are consistent with the historic fill.

Mr. Brady said a number of wells have been installed. Two rounds of testing showed there are no SVOCs partitioning to the ground water table. Test pit investigations reveal there is about 2 – 3 ft. of fill on the property, which is consistent with the elevation change around the perimeter of the property. There is roughly 10 – 11 ft. of native material between the historic fill and the groundwater table. The clay content is acting as a wonderful barrier.

Mr. Brady addressed the comments from the Maser Memorandum, dated 01-05-17. He said Yannuzzi entered into an administrative consent order with the DEP and agreed to clean up the property in good faith. The DEP set forth remedial timelines for which the Applicant has to meet. The first timeline is to complete the remedial investigation report within 3 years of the execution of the administrative consent order, which has been accomplished. They have four years after that deadline to complete the remedial action work on the property. The Applicant intends to complete that work much sooner. Yannuzzi has agreed to issue a site-wide RAO for both historic operations that operated at the facility.

Mr. Brady explained the Department has separated the ISRA from the consent order because they want to reserve the rights in order to go after the former operators and owners of the site for damages. They will leave those open and close the site under the ACO to allow things to go forward.

Mr. McKeown stated the Yannuzzi Group purchased the property when industrial operations had ceased. Testimony has been provided that the property has been abandoned for some time. Mr. McKeown read NJAC 7:26B-1.10(d) and stated that further clarifies the ISRA matter.

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Mr. Bernstein asked to hear testimony as to how the Applicant obtained the property, and in what capacity they obtained it and when, etc. to determine whether or not they meet the requirement stated.

**Michael Nasert, Yannuzzi Group, Inc. Comptroller** was sworn in and gave the following testimony in response to questions asked by Mr. McKeown:

Mr. Nasert confirmed Yannuzzi Group intervened in a tax sale foreclosure action in Somerset County several months back. Yannuzzi entered into a purchase agreement with the then owner of the property, Hillsborough Holding Co. Hillsborough Holding Co. was not operating at the time. A closing took place and a deed was transferred to Yannuzzi Group. He agreed the property was in the same condition as testified to by Mr. Decker at that time. At the time Yannuzzi took title, there were no ongoing industrial operations at the site.

Mr. Bernstein asked when the closing took place.

Mr. Nasert answered, in April 2016.

Mr. Bernstein asked *how* Yannuzzi Group intervened in the foreclosure action.

Mr. Nasert said Yannuzzi purchased the tax sale.

Mr. Bernstein asked what is "Hillsborough Holding Co."

Mr. Nasert said they were the outright owners of the property. They had not acquired the property through tax sale.

Mr. Bernstein asked Mr. Nasert if he was aware of how long Hillsborough Holding Co. owned the property.

Mr. Nasert said he was not certain of the time, but knew it was in excess of 5 years.

Mr. Bernstein asked Mr. Nasert if he was aware of when Hillsborough Holdings Co. ceased operations, if at all.

Mr. Nasert said he was not certain.

Mr. Bernstein requested that he be provided with a copy of deed, as well as any other information relative to when the site ceased to operate and what was operating at the time, prior to the adoption of the resolution.

Mr. McKeown said it would be provided to the extent that they had the information. Mr. McKeown stated for the record that he had represented Yannuzzi Group in the intervention action in Somerset County Superior Court. Judge Goodsite signed the order allowing Yannuzzi to intervene and Yannuzzi then entered into an agreement.

Vice Chairman Julian asked Mr. Nasert if he knew the relationship of C&F Metal Fabricators, to Hillsborough Holding Co.

Mr. Nasert said he did not know.

Mr. McKeown said the investigation report states that C&F Metal Fabricators was the most recent building tenants, which was a manufacturer of metal structural products, including structural steel fabrication, machine made parts and screw made parts from 2002 - 2008.

Mr. Bernstein said he understands that information is in the report. The question raised is what was the relationship between C&F Metal Fabricators and Hillsborough Holding Co. He said the Board would like to find out if there was a change of name, or acquired, etc.

Mr. McKeown said he may have information in his file that may shed some light on the relationship, which will be provided.

Vice Chairman Julian asked who the administrative order was to.

Mr. Brady said the court order was with Yannuzzi. The two operators and the owner are subject to the ISRA. The ACO was agreed to by Yannuzzi in order to free the property and allow the DEP to pursue claims under the ISRA cases. If Yannuzzi closed out the ISRA cases, they would have no right to claims.

Mr. Brady continued with his review of the Maser Memo. For item #2, he said he witnessed there was a 2 ft. elevation between the site and surrounding properties. He said his analysis of the spatial distribution of the chemicals indicate it is indicative of historical fill. Mr. Brady said he is aware "hot spots" were removed prior to Yannuzzi's occupancy or his retainage of the LSRP for the site.

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Mr. Brady addressed item #3 of the report. He said the hex-chrome has special distributions that are typical of historic fill. He spoke about chromate waste and said this site does not have chromate waste so a cap is more than acceptable.

Vice Chairman Julian said C&F Metals was noted as being a Large Quantity Generator of chromium and lead. He asked Mr. Brady whether any of the contamination could be attributed to that fact, rather than it being all from historic fill.

Mr. Brady clarified that hot spots were removed. The hot spots were near where the operations occurred. He said the special distribution of concentration outside of the operational area is not indicative of source areas but rather of historic fill. The areas that were addressed were near the building, and expected to have waste products.

Vice Chairman Julian questioned why the adjacent properties were not tested.

Mr. Brady stated as per the State regulations, the LSRP does not have to delineate the extent of historic fill off-site if the remaining on-site is from historic fill.

Vice Chairman Julian said then it is your responsibility to make that decision.

Mr. Brady responded by saying, as representative of the DEP and LSRP for the site, it is his professional opinion that makes the decision on that.

Mr. McKeown asked Mr. Brady if he was aware of any violations, enforcement actions, or notices of spills or discharges under RCRA or New Jersey Hazardous Waste reported.

Mr. Brady said not that he is aware of.

Mr. Brady responded to item #4 of the Maser Memo by saying in his professional opinion; the remaining impacts are from historic fill and not from point discharges. He reiterated his previous testimony. Mr. Brady said you do sampling of historic fill if you wish to prove the historic fill is not impacted. You can forego the sampling all together and capitulate the historic fill impacted and place a deed notice on the property. You are not "required" to do any testing. The only testing required is if you wish to prove a site is "clean". He said trying to prove this site is clean is simply a waste of money; hence the sampling program that was done.

Vice Chairman Julian said there is a possibility that the DEP could disagree with your assessment.

Mr. Brady stated he has issued 25 permits and has not had one disagreement, or one RAO revoked. Mr. Brady said he is very confident in his decisions and his decision process.

Vice Chairman Julian restated that there is always a potential for disagreement.

Mr. Brady agreed there is always the potential.

Mr. White asked the time period in which the DEP has to disagree with an RAO.

Mr. Brady said, two years.

Mr. White informed the Board that even after this Applicant were to occupy the site, DEP could call for additional remediation some 2 1/2 years out to address DEP's concerns.

Mr. Brady said under the ACO they will be required to do so.

Mr. Brady continued. He said they no longer deal with "regulations" in New Jersey, but "guidance documents". You are allowed to get variances from guidance documents. The millings can be dealt with prior to sealing, under an ancillary remedial investigation. As long as the appropriate soil erosion and sedimentation controls can be maintained to prevent the migration of asphalt millings off-site, one can start the capping procedures under the plan, set it down and wait until you have weather conditions where the sealant can be applied. There is no requirement that says the sealant has to go on immediately after the millings go down. Mr. Brady said he has also worked on sites where the sealant was not required to be in compliance so there is room within the guide lines. It all depends on how well the site is maintained.

Chairman Lipani asked the time frame in which Mr. Brady has to make that decision.

Mr. Brady said he needs to make the decision and evaluate how well Yannuzzi is maintaining soil erosion and sedimentation controls. He said if he or the engineer were to go out to the site and found millings going off to the side, Yannuzzi would be out of compliance with the Soil Erosion and Sedimentation Control Plan, not the Remedial Action Work Plan under NJDEP. That would need to be corrected under the County Soil Conservation District. Silt fence, hay bales or a construction entrance are examples that might be used.



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Chairman Lipani said the millings would get into the tires of the construction vehicles. He asked how that would be prevented.

Mr. Brady stated the possibilities of that are minimal. Yannuzzi will need to maintain their controls. He said as long as Yannuzzi can maintain their controls and document that no material are migrating from the site, they are in compliance.

Vice Chairman Julian asked if there is a typical time frame for the sealant to be placed and whether or not Yannuzzi will be putting a sealant down.

Mr. Brady said he would like to see if on as soon as the weather warms up. He said he wants to see the cap put down and get started on maintaining the site so as to not have direct contact exposure as the site is occupied. Mr. Brady said as long as they put in the appropriate controls, they will be maintaining their responsibilities under the guidances.

Mr. White said he would be very concerned if a binding agent was not applied. He said no matter how well you compact asphalt; if there is no binding agent, it will loosen up over time. It can become airborne; it can be washed through erosion, and tracked out. Mr. White said looking at the slope of the adjacent properties; it can flow onto the neighbor's property.

Mr. Brady commented that it could not be airborne because the particle weights are too heavy.

Mr. White answered by saying it depends on how fine the dust gets. Particles can get airborne if they are small enough and if there is enough wind. Mr. White said without the binding agent, he is very concerned.

Vice Chairman Julian said the sealing should be the sooner the better.

All agreed.

Chairman Lipani said the Applicant is looking to work at this site during the time we are waiting for the weather to warm up in order to cap the millings.

Mr. Brady said that is correct, and not untypical.

Mr. McKeown commented that "anything is possible" but we need to deal within the realm of what is probable or reasonable. He asked Mr. Brady to speak more to the controls that will be in place and the change for mitigation of any contamination.

Mr. Brady said the Applicant is not looking to wait years to put down the sealant. It should be placed this spring or summer. During that time frame, the chances of having particles ground to the point of sand dust, is minimal. As long as they maintain the sediment controls, there cannot be any mitigation on land because the soil erosion and sediment controls will catch it.

Mr. White stated his last comment was made because Mr. Brady testified that he has waived the binding agent in the past.

Mr. Brady responded by saying he did not say he was going to do that here.

Mr. White said if the binding agent were to be waived, he and the Board would have a problem with it. He said as with any construction site, the dirt, clay and materials get tracked out onto the streets. It may not be as much at this site, but it will happen if there are a sufficient number of vehicles coming out of this site.

Committeeman DelCore suggested getting a commitment from Mr. Brady to have the sealant put down.

Mr. Brady said if it is in the work plan he developed, he has to adhere to it.

Committeeman DelCore asked if he could have the option to get a waiver for that item.

Mr. Brady said it is possible, but they are committing to following the work plan.

Committeeman DelCore asked for some type of assurance that a waiver of some sort cannot go forward without coming back to the Board.

Mr. Maski said the Board could impose a condition that this has to be done. It would no longer be in the Applicant's control but a condition of approval.

Mr. White concurred.

Mr. Brady said that would be fine.

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Mr. Brady continued addressing the Maser Memo. He said since they have two rounds of clean groundwater for SVOCs, therefore that matter can be closed out.

Mr. Brady said there are some minor exceedances with the lead. He said he may have another sample tested to prove that the lead is attached to the clay particles, not dissolved. Mr. Brady said he believes they have already demonstrated that but may need another sample from a couple of wells to support that.

Mr. White said the lead level could be due to a false reading cause by turbidity.

Mr. Brady agreed.

Mr. McKeown asked Mr. Brady if the DEP will review the permit application and deed notice with respect to the historic fill.

Mr. Brady said that is correct. There will be a department review prior to issuing a permit. He said he cannot close out the site until the Department complete its review and agrees with his assessment of the site. The documents will go in shortly after the coat has been put on.

Vice Chairman Julian asked what would happen if DEP disagrees.

Mr. Brady said he would have to correct the deficiencies. Under the Administrative Consent Order, they have agreed to remediate it to a RAO; no RAO, no permit.

Mr. Bernstein asked Mr. McKeown if the Applicant would be willing to provide any and all materials related to this process, as it goes through to DEP, until its completion.

Mr. Brady said they are required under regulation to provide copies to the County Clerk, Township Clerk, Mayor and just about every unit in the State.

Mr. White requested that the Township be provided with a copy of the Administrative Consent Order.

Mr. McKeown agreed.

Vice Chairman Julian restated the environmental related issues. He said there is an open ISRA case that will remain open; the ongoing Remedial Investigation will have the oversight of the LSRP and be conducted with NJDEP; as the investigation goes along, the Township will get updates; the sealant will be applied over the millings, as an engineering control; and the institutional control will be the deed restriction.

Mr. McKeown and Mr. Brady agreed.

Chairman Lipani asked what the sealant that goes over the cap is made of.

Mr. Brady said it is an asphalt seal, similar to what one would put on a driveway, just more industrial strength.

No questions from the Public for the witness.

Mr. Bernstein said he was just provided with a copy of the Administrative Consent Order, "In the Matter of the C&F Metal Fabricators, Inc. Site, 300 Sunnymead Road, Hillsborough Township, Somerset County Program Interest #544709 AND Yannuzzi Group Inc.", which is a 7-page unnumbered document, signed by Mr. Nasert of the Yannuzzi Group, dated September 15, 2016, signed by NJDEP October 7, 2016. The document was marked as **Exhibit A-6**.

Mr. McKeown gave his concluding statement.

Mr. Maski asked if the Applicant was officially amending the application to include the lot consolidation.

Mr. McKeown said yes.

Mr. Maski summarized, saying based on the application including lot consolidation: variances for minimum rear yard, minimum front yard, and minimum lot coverage; design waivers related to the parking for undersized drive aisle, absence of curbing around the 11-space parking lot, lack of buffer from the 11-space parking lot; submission waivers from submitting an EIS, CIS and TIS; waiver from the lighting requirements; and in lieu of a sidewalk, providing a contribution to the sidewalk fund.

Break

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Mr. Bernstein said he asked for a break to check with Mr. White and Mr. Slager, the LSRP from Maser Consulting, as to whether or not there are any additional questions for the LSRP. He said all questions have been satisfied.

Mr. Maski added there needs to be a dedication of the 30 ft. right-of-way on Sunnymead Road.

Mr. McKeown agreed.

Chairman Lipani called for a motion for the application, as amended and described by Mr. Maski.

Motion to approve File #16-PB-11-SRV, with all conditions, was made by Mr. Peason, seconded by Ms. Forrest.

**Roll Call:** Mr. Peason – yes; Ms. Forrest – yes; Ms. Becorena – yes; Secretary Hesthag – yes; Vice Chairman Julian – yes; Committeeman DelCore – yes; Mayor Suraci – yes; Chairman Lipani – yes. Motion carries.

(Note: Mr. Wagner was not eligible to vote since he had not reviewed the meeting of 11-10-16).

Chairman Lipani noted the next meeting is scheduled for January 12<sup>th</sup>.

**ADJOURNMENT**

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

The meeting was adjourned at 9:31 pm.

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

Approved