

**HILLSBOROUGH TOWNSHIP PLANNING BOARD**

**PUBLIC MEETING MINUTES**

**May 11, 2017**

Chairman Lipani called the Planning Board Regular Public Meeting of May 11, 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 – Absent  
Robert Wagner, Jr. – Present  
Committeeman Frank DelCore – Present  
Robert Peason – Absent  
Stephanie Forrest – Absent  
**Neil Julian, Vice Chairman** - Present

Sally Becorena – Present  
**Shawn Lipani, Chairman** - Present  
**Kenneth Hesthag, Secretary** – Absent  
Ron Skobo (Seat Alt. #1) – Absent  
Sam Weinstein (Seat Alt. #2) - Present

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.); Michael Lombardozzi, CCR, Covering Court Reporter; and Caz Bielen, Board Videographer (Premier Media, LLC).

**DISPOSITION OF MINUTES**

- April 06, 2017

A motion to approve was made by Vice Chairman Julian, seconded by Mr. Wagner.

**Roll Call:** Mr. Wagner - yes; Vice Chairman Julian – yes; Ms. Becorena – yes; Mr. Weinstein – yes. Motion carries.

**DISPOSITION OF RESOLUTIONS**

- **Neil & Barbara VAN CLEEF / HRC Associates, LLC – File 16-PB-17-SRV**

Ms. Becorena said she recalled at the time of the hearing that the Applicant agreed to meet with the neighbors concerning one of the programs, which she did not see referenced in the resolution.

Mr. Bernstein clarified it was an agreement made, but not a condition of approval.

Ms. Becorena asked if that meeting had taken place or if there will be follow-up to make sure that happens since there were some members of the public that had concerns.

Chairman Lipani asked if anyone in the audience was present for this resolution.

No acknowledgement

Michael K. Ford, PE with Van Cleef Engineering confirmed the meeting took place with the neighbor whose property is right next to the tennis court.

A motion to approve was made by Mr. Wagner, seconded by Vice Chairman Julian.

**Roll Call:** Mr. Weinstein – yes; Ms. Becorena – yes; Mr. Wagner - yes; Vice Chairman Julian – yes. Motion carries.

- **Danielle LEVATINO – File 16-PB-13-MRV**

A motion to approve was made by Mr. Wagner, seconded by Mr. Weinstein.

**Roll Call:** Mr. Weinstein – yes; Mr. Wagner - yes; Committeeman DelCore – yes; Vice Chairman Julian – yes; Chairman Lipani - yes. Motion carries.

**PLANNING BOARD BUSINESS**

**Michael Sopko** – Camplain Road

- Mr. Sopko commented on the Copart site. He stated that trucks leaving the Copart facility continue to run over his front lawn. He said that on March 31, 2017, he made note of a trench approximately 15 - 20 ft. long and approximately 4 ft. onto his property. Mr. Sopko said he has no recourse and does not see why he should have to fix his lawn every time one of the delivery trucks to Copart run over it.
- Mr. Sopko said the last time he appeared before the Board; he requested something more substantial than stone at the end of his driveway.

**PLANNING BOARD MEETING MINUTES**  
**May 11, 2017**

Chairman Lipani said he had recently drove past Mr. Sopko's property and observed the ruts in the lawn. Chairman Lipani asked Mr. Sopko if he has approached Copart on this matter.

- Mr. Sopko stated he had, immediately upon his arrival home on March 31<sup>st</sup>. He said Copart's response was that they would have to look at their videotape to see if there was any evidence of who might have done it. He said when Copart responded, they said they could not make any determination. They offered no assistance of any kind.

Planning Director, Mr. Maski said Mr. Sopko has been in touch with our office on several occasions. Our Zoning Officer responded as often as we can. Mr. Maski said our Zoning Official, Mr. Gorman and Assistant Township Engineer, Mr. Belanger have an appointment with Copart. This meeting is scheduled for next week to make a periodic check to see if they are in compliance with the Resolution of Approval.

- Mr. Sopko said the gate was only supposed to be open from 8 am to 5 pm. He said the gate has been opened as early as 6:45 am; there have been tow-truck deliveries before 8 am; and open at 5 am for snowplowing.

Committeeman DelCore asked Mr. Sopko in general, if Copart has been adhering to the hours, especially in the evening.

- Mr. Sopko said the 11:00 pm curfew is fairly good, the exceptions are when there are deliveries at 10:55, which has the trucks leaving just before midnight. He said the pm curfew has been a lot better.

**SPECIAL COMMITTEE REPORTS**

None

**BUSINESS FROM THE FLOOR**

None

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

- ***Pierson Properties, LLC – 15-PB-05-MSRV (2017 – Wall)*** – Block 151.09, Lot 220 – 340 Valley Road. Applicant seeking amended minor site plan approval for proposed sound wall, as per a condition of prior approval, Resolution dated January 07, 2016, on property in the G1 Zoning District.

**Alexander Fisher, Esq. of Sao Schalk Gillespie, O'Grodnick, Aquilio & Fisher, PA**, representing the Applicant, gave a brief summary of the application. He said the Board approved a minor site plan with associated bulk variances to convert the existing concrete plant to an asphalt plant, and convert the non-permitted residential home to a support office for the asphalt plant.

Mr. Fisher said as part of the Resolution, the Board required that the Applicant match State and local daytime and night time noise levels and provide affirmative proof of noise compliance. The Board also recognized in its resolution that in addition to the localized barriers, an equipment silencer is necessary to meet the daytime noise levels of 65 decibels, "barriers or additional silencing measures would be needed to comply with nighttime limit of noise of 50 decibels."

Mr. Fisher said Pierson has moved steadily forward with the construction of the asphalt plant and will soon be seeking a temporary CO for daytime operations and to conduct the noise study, as was discussed at the prior hearings. Pierson believes the plant will meet daytime noise levels, as designed, with only minor additional silencers on the equipment. Pierson's Acoustical Engineer has determined a sound wall is necessary to meet the nighttime sound limits, which is the subject of the application, showing the location and construction of the sound wall.

Mr. Fisher said the Board will hear testimony from Michael Ford, PE, the Civil Engineer of the project who will speak to the location of the wall and the buffering; Mr. Zyburra, the Acoustical Engineer for the project, will testify as to the necessity of the wall and noise compliance for the wall. He noted Pierson Property's Director of Operations, Curt Mitchell was also present to answer any other questions the Board may have.

**Michael Ford, PE of Van Cleef Engineering**, was sworn in and accepted by the Board. Mr. Ford gave the following testimony, in response to questions asked by Mr. Fisher:

**Exhibits:**

**A-1** – Colorized PLYWALL one-page brochure

**A-2** – Amended Site Plan dated March 29, 2017

Mr. Ford said the proposed sound wall will be located across the front of the property, which is predominantly 180 ft. from the right-of-way, which puts it over 200 ft. from the edge of pavement on Valley Road. The sound wall is to mitigate the

**PLANNING BOARD MEETING MINUTES**  
**May 11, 2017**

nighttime noise levels during the operation of the facility, primarily due to a residential dwelling use directly across from the site on Lot 5, also in the GI Zone.

Mr. Ford said the wall would be 18 ft. high, which is approximately as high as a single story residential dwelling. The wall is approximately 710 ft. long. It will start at the existing driveway on the easterly side of the property, and runs along a paved operations area, traverses across and ends in an existing wooded area. A portion of the wall would be extended within that wooded area which would provide for landscape mitigation measures. The wall would be partially obscured by Cedar trees on Valley Road. Mr. Ford said there is a proposed Evergreen planting immediately along the right-of-way.

Mr. Ford addressed the comments in the May 2, 2017 Maser Memorandum. He said the Applicant would agree to comply with all four of Mr. White's comments to his satisfaction. He said with regards to the drainage, the wall will be erected perpendicular to the contours so there is no need to provide drainage. The wall will go down to the grade surface. The Applicant would agree to provide more plantings to help break up the mass of the wall and provide some additional buffering to be planted along the right-of-way. Mr. Ford said the Applicant will also agree to change out some plantings at Maser's recommendation. The Applicant will also agree to provide a berm along Valley Road to enhance the landscaping, but prefer not to do a berm immediately along the wall. He said they will defer to Mr. White and comply to his satisfaction.

Mr. White said he had no further comments.

Chairman Lipani asked how high the berm would be.

Mr. White said he had requested the berm; it was not part of the plan. The berm will be a condition of approval. The plants will probably be 8-10 ft. tall so the berm will probably be 2-3 ft. in height.

Mr. Ford agreed. He said that size berm could be fit in there so as not to expand the limit of disturbance more to disturb and other vegetation. The planting in the conservation easement runs about 25 ft. wide. The proposed plantings would be far enough from the property line so there would be no issues with snow plowing. This property has a right-of-way dedication as part of the prior approval.

Vice Chairman Julian asked the material make up and life span of the wall with regards to upkeep.

Mr. Ford deferred the answer to the next witness. Part of the application package included a brochure on the wall.

Mr. White noted there is a 25 year warranty on the wall.

**Jack Zyburra, PE from Lewis Goodfriend & Associates**, was sworn in, reviewed his qualifications, was accepted by the Board and provided the following testimony in response to questions asked by Mr. Fisher:

(Mr. Fisher distributed copies of Exhibit A-1 to the Board).

Mr. Zyburra said the exhibit is a one-page brochure on examples of PLYWALL in the field.

Mr. Zyburra said the sound wall is necessary to meet the nighttime noise levels for the house across the street. He said they looked at multiple locations, distances and heights. The proposed is at the best spot for the lowest height, to still be effective. Mr. Zyburra said the wall is only necessary because of the single family home. Because of it, the Applicant has to meet the residential noise standards, which are much more stringent than a commercial or industrial zone.

Mr. Zyburra said the wall is prefabricated fabric wood system. The posts go in the ground and then the panels slide into the posts. The insulated wood walls are about 3-4 in. thick and treated for exterior environments. They come with a warranty and can certainly be repaired along the way.

Mr. Zyburra said he has had projects dating back to the early 80's that use these panels. Mr. Zyburra said he was satisfied this wall will mitigate the noise levels for the house across the street.

Mr. Zyburra confirmed the plant is substantially complete and that the Applicant will be going in for a CO shortly. He also confirmed he will be performing the noise study for daytime operations for the CO.

Committeeman DelCore asked about the daytime noise limits.

Mr. Zyburra said they expect to be within the allowable limits just by doing some small things to the equipment, but do not require the wall for daytime noise limits.

Committeeman DelCore asked if there has been any change in the anticipated hours of operations that would warrant nighttime production.

**PLANNING BOARD MEETING MINUTES**  
**May 11, 2017**

Mr. Zybura deferred to the representative from Pierson.

**Curt Mitchell, Director of Operations for Pierson Properties**, was sworn in. Mr. Mitchell confirmed that this plant will fundamentally be a daytime operation. However, Pierson needs to have the ability to occasionally operate at night to fulfill contracts. Mr. Mitchell said the only time they will operate this plant at night is when it is mandated by the DOT or County. Sometimes a job must be done at night for traffic purposes.

Mr. Maski directed the Board to his Planning Review Memorandum, dated April 28, 2017. Mr. Maski said his report included all of the Findings of Fact from the Resolution of Approval dated January 7, 2016, and asked for comment particularly on items #48 and #49. Mr. Maski asked for clarification as to whether or not the presence of the wall would eliminate the need for these measures.

Mr. Zybura said the Applicant still intends to do localized sound barriers and some additional equipment on the processing equipment.

Mr. Maski said he had contacted Mr. Dotti who had been the Board's Sound Consultant for the original application, on the proposal. Mr. Maski noted that Mr. Dotti's comment was that PLYWALL is accepted as an industry standard.

Chairman Lipani asked how the pylons are installed.

Mr. Zybura said he was not certain.

Mr. Mitchell said he believes they are put into loose stone. The posts would go down 6 – 8 ft. down. From the diameter of the whole the stone will be around, it will be 4 – 6 ft. The installation would be per the manufacturer's standards.

It was said that the Applicant would need to comply with whatever permits are needed. The plans would be signed by a professional engineer as well.

Mr. Mitchell agreed.

Committeeman DelCore asked about the timing of when the wall might be installed.

Mr. Mitchell said if the Township were to approve the application, he would issue a purchase order to the manufacturer. The manufacturer says they require about 60 days to produce the materials. Pierson is a large construction firm so they will be handling the installation. If it were to be approved, it should be in place within 90 days.

Open to the Public

No questions.

Close Public

A motion to approve the amended site plan with the sound wall provided was made by Committeeman DelCore, seconded by Mr. Wagner.

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

**CONSIDERATION OF ORDINANCES**

■ **Amendment to the GA Zone – Extended Care Facility**

Planning Director, David K. Maski, PP, AICP, reviewed the request to amend the GA Zone to include “extended care facility” as an approved principal use. The request has come from the owners of the Avalon, Bridgeway and Pilgrim River facilities. This use is permitted in the GC and HS Zones. Because an extended care facility is not a permitted use, each of those facilities has had to go before the Board of Adjustment for use variances.

Mr. Maski said this complex is the predominant use in the core of the GA Zone so including this use makes sense. The owners have plans to extend the campus beyond the three buildings in the future. The use is consistent with the uses allowed. The suggestion is that a twelfth use be added to include “extended care facility”, which is already defined in the ordinance as “*One or more residential structures which incorporate health care services for the long-term care of the residents, including assisted living, nursing homes and rehabilitation facilities.*”

Mr. Maski said if the Township Committee were to eventually approve this, a parking standard of one parking space for every three beds; plus one space for each employee be implemented. This is the same standard as for the HS Zone, where an extended care facility is currently being constructed.

PLANNING BOARD MEETING MINUTES  
May 11, 2017

Mr. Maski said if the Board wishes, it can send this ordinance to the Township Committee for review and introduction.

Chairman Lipani spoke in favor of the amendment since the use already exists.  
Committeeman DelCore agreed.

A motion to recommend to the Township Committee for potential introduction was made by Mr. Weinstein, seconded by Vice Chairman Julian.

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

■ **Proposed Affordable Housing Zone – Block 180.01, Lots 31, 32, 33, 39 & 41**

Board Attorney, Eric Bernstein, Esq., said he does not only represent the Board, but also represents the Township as the Affordable Housing Counsel. As you are aware, there are ongoing obligations for Hillsborough Township and many other municipalities in New Jersey, to meet their Affordable Housing Obligations. The Township is currently in litigation with a number of land owners and developers within the Township who have sought intervention relative to the Township's Plan, above and beyond that for the Fair Share Housing Center.

Mr. Bernstein said the proposal this evening is for two ordinances related to two separate properties within the Township for which there have been discussions. No formal application is before this Board, or any other. In order to get the process moving, for the purposes of addressing the Township's obligations, these ordinances have been provided for review. The first ordinance relates to what is being referred to as the "MFID" Zone, which relates to a property towards the end of town at the Montgomery border, which would allow for up to 468 total units, of which 112 are affordable. The Zone would allow for a 30% maximum coverage, with significant open space still possible, relative to the ordinance. The ordinance clearly sets forth the standard the Township is proposing, relating to how the site would be potentially developed. It would require ingress and egress off of Route 206, and an "emergency access only" off of Tara Drive. There would be no road per se on the site onto Tara Drive. The proposed zoning would allow for the possibility of an application that would address the Township's needs. The law requires a minimum 20% set-aside; the ordinance proposes a slightly higher set-aside affordable housing obligation at 24%.

Mr. Bernstein said the request is for the Board to review the ordinance and possible approval, if not at this meeting, at the June 1<sup>st</sup> meeting, and forward on to the Township so as to move the process further along. The Township is in the midst of getting direction from the Court's Special Master on this issue.

Mr. Maski clarified that the Board would not be approving the ordinance, but rather a recommendation to the Township Committee. This would not become an ordinance until the Township Committee introduces it; sends it to the Planning Board for formal comment; and then the Board would send it back to the Township Committee where on a second hearing they would decide whether or not to approve it. This review is for initial comments from the Board to the Township Committee. This is the beginning of the process, not the end.

Chairman Lipani said the public would be given time to comment.

Mr. Bernstein said if ultimately approved, it would allow for the possibility of an application before this Board, at a time in the future.

Chairman Lipani gave guidance to the audience on the procedure for comments.

Vice Chairman Julian asked Mr. Bernstein the current state of the Township's obligation.

Mr. Bernstein said the Township is in conversations with the Fair Share Housing Center; various Developer Intervenors; as well as the Court's Special Master, Elizabeth McManus, relative to the Township's ultimate obligation as to what the obligation will be, in an attempt to resolve it with as few additional units as possible. The Township has had an ongoing process of building affordable housing over the past 20 years, and would have to go through 2025, but do not yet know the ultimate number, and are trying to resolve this as part of the overall process.

Committeeman DelCore explained at the prior Round, the Township put forth a compliant Plan with the obligations that we have and were able to significantly reduce the number of units that would be required by various projects and develop certain credits, bonuses and a number of alternatives. The Township had a fully compliant Plan with respect to the COAH requirements, which was worked out with the Court Master. The new Round has since been presented and there is still a lot of confusion and litigation going on around that, but the Township still needs to figure out what that number will ultimately be through the Fair Share organization and approved by our Court Master.

Committeeman DelCore said none of us are happy about the process, but the Township has an obligation to move forward in a compliant manner to ensure we are fulfilling our Obligation under the Affordable Housing requirements. This is only a

**PLANNING BOARD MEETING MINUTES**  
**May 11, 2017**

step in the process for getting the Township where it needs to be, not only for this property, but for many others.

Chairman Lipani gave instructions and called for comments from the Public.

**Glen Watson – 22 Arthur Road**

- Mr. Watson said none of the residents were aware of this meeting tonight. He said they only found out through social media and word-of-mouth. Mr. Watson said his property is the closest to the property line. He questioned why there was no notice provided.

Mr. Bernstein said the requirement for notice within 200 ft. starts once the ordinance has been introduced. The preliminary discussions do not require notice yet.

- Mr. Watson asked if this would be amending the current zone to support this new project.

Mr. Bernstein explained if the Governing Body introduces the ordinance, which means there will be changes to the zone, notice would be necessary. The same is true if there was an applicant that came before the Board with an application.

Committeeman DelCore said as was mentioned earlier, there will not be any amendment tonight. This is simply for a recommendation from this Board to put it to the Township Committee for review.

- Mr. Watson said as you can see, there is a vast amount of concerns.

**Tom LaPlaca – 46 Arthur Road**

- Mr. LaPlaca asked if a Township is planning this, or a Developer.

Mr. Bernstein said the Township is ultimately responsible for the planning by way of the ordinances and the zoning. There has been a prospective developer the Town has been in communications with. If the matter moves forward, the developer may bring an application before this Board, if approved. If it is not approved, they will not come forward with the plan for that zoning.

- Mr. LaPlaca asked who came up with the number of units.

Mr. Bernstein said the number of units is part of an overriding discussion we have had with a number of developers on a number of properties, of which the Township is attempting to maximize the number of affordable units on as few pieces of property as we can agree with, based on the size of the property.

- Mr. LaPlaca asked if some of the affordable housing units can be “over 55” units.

Mr. Bernstein said there may be considerations for that here or elsewhere. Unfortunately, the laws do not now favor “age restricted housing”.

- Mr. LaPlaca asked if the affordables could be age restricted units. If not, could we ask for that consideration?

Mr. Bernstein said it is part of an overall consideration.

- Mr. LaPlaca said there appears to be a proposal for both sides at Mountain View, as is the By-pass. They just opened up the ballpark on Mountain View. Mr. LaPlaca said that is a lot of change in one spot. He said the traffic experts will agree with whoever is paying them. We just spent a lot of money to fix traffic on Route 206; this could be a big problem.

**Jessica Cabral – 26 Arthur Road**

- Ms. Cabral spoke against the proposed ordinance. Ms. Cabral said this action will force people who have lived here all of their lives out of this community.

Committeeman DelCore reiterated that the Township has legal obligations dictated by the State of New Jersey, under the Affordable Housing Requirements. Committeeman DelCore suggested if anyone has an issue with it that they call the Legislators and go to Trenton to ask why we need this number of affordable housing units throughout the State of New Jersey. Every municipality has an obligation.

- Ms. Cabral said she is opposed to putting it all in one spot.

Committeeman DelCore said this is just a portion of what Hillsborough is doing.

PLANNING BOARD MEETING MINUTES  
May 11, 2017

■ Ms. Cabral said it is a large amount in one spot, and noted earlier that it is larger than the norm. Committeeman DelCore said there are a number of proposals being looked at throughout the municipality. They are not all in this location; this is a sizable one. But at the end of the day, we have a requirement to fulfill and have a plan in place. What happens if we don't is if the Township does not develop a plan that minimizes the use of our space effectively, the Courts will ultimately allow the developers to do what they choose, which is what we are trying to avoid.

- Ms. Cabral asked why there was not a plan in place when Beazer Homes or all of the million dollar homes were built.

Committeeman DelCore explained the Township has had a plan. Every development that goes in has a set-aside for affordable units.

- Ms. Cabral asked if there would be group homes included with this development.

Mr. Bernstein said there may be some special needs units included.

- Ms. Cabral commented on a possibility of increased Police calls to respond to issues with emotionally disturbed people.

Mr. Bernstein said Hillsborough recently approved a group home development that we think is going to be one of the models in the State. He said he does not agree with the characterization that somehow "special needs" adults generate more Law Enforcement calls than other developments. The number of special needs units for this project is going to be minimal.

- Ms. Cabral said if you are putting more housing, then you are going to need more Police. She asked if the Planning Board is looking at what the school systems are going to have to absorb when you put all of those people in one area. That area goes to Woods Road School; where are all of those kids going to go?

Mr. Bernstein said we are getting ahead of the game. Assuming it does get built, it is not going to happen now or over a short period of time. The Township, Board of Education, and Planning Board will continue to deal with the issues, as they have been for the last forty years, regarding affordable housing obligations. This is not new, or something the Township has never had to address over periods of time. To the extent that those issues are going to have to be addressed, the Governing Body and the Board of Education will have to address them.

- Ms. Cabral said there has been talk for many years about an expansion for the High School but it just does not happen. Four hundred plus houses in one spot is a lot.

Chairman Lipani said if this housing does not go at your location, it has to go at another location. The impact to the Township is the same. The plan is trying to put it where it makes the least amount of impact. The school system is going to be impacted the same because all of these requirements have to be met. The State is telling us we have to plan for this many homes. If we don't, then we are at the whim of the builder, which you really do not want to happen.

- Ms. Cabral said she did not want any of it to happen.

Chairman Lipani said unfortunately, this is the state in New Jersey now.

Committeeman DelCore said he is not saying he disagrees with you, only that we have an obligation to adhere to the requirements being placed on us by the Affordable Housing Act. He suggested going to talk with someone in Trenton about all of the concerns because they are the ones who can stop it.

- Ms. Cabral thanked Committeeman DelCore for the suggestion and said she would follow up on it. Ms. Cabral said she did not believe the reason for this area to be developed is solely because of affordable housing. She said there also has to be a financial gain for the town.

Committeeman DelCore said that is simply not true.

- Ms. Cabral apologized for the incorrect statement and asked why all of the housing has to be in one spot. Ms. Cabral said she was not opposed to development of the land but was opposed to the number of units proposed for this one area.

Mr. Bernstein said this is not the only spot in the Township being considered for this type of development. The process is moving along and there will be other types of these ordinances elsewhere in the Township, over a period of time, that this municipality may also have to address, similar to the ones we are looking at this evening. As Committeeman DelCore said, there is no financial benefit to allow these types of developments to happen. The Township is going to bear the costs that

**PLANNING BOARD MEETING MINUTES**  
**May 11, 2017**

go with it. Bearing it in this manner is significantly better than being told you have to build significantly more units all over the Township, with a lot more people.

- Ms. Cabral asked where the protection is for all those who have homes here against flooding and other impacts.

Mr. Bernstein said we are at the beginning of the process. When and if this is adopted, and when and if this applicant comes before this Board to develop this site, one of the obligations under the Law is that they have to have a stormwater management plan that does not increase flow off of the property, and actually reduces the flow of water off of the property onto other sites, such as yours, irrespective of “impervious coverage”.

Committeeman DelCore said that happens for every site and every application for development as part of the requirement.

Vice Chairman Julian spoke on some of the existing affordable housing units throughout the Township, stating that the one by him is well maintained and fits in with the surrounding neighborhood.

- Ms. Cabral said she is not opposed to the affordable housing but with the number of units being proposed. She said right now her view is of a farm. Ms. Cabral said she does not understand the “if and when” comments because she has seen plans for development for this property which includes 500 parking spaces. She said it is not the type of housing that has her stymied, but the volume of housing in this plan. Four-hundred-ninety-five units will forever change the landscape of Hillsborough.

Committeeman DelCore gave another example on how the affordable housing units are calculated.

- Ms. Cabral said again that her concern is not with the number of affordable units or the pricing, but with the number of units being put in one area. If we keep up at this pace, we are going to overwhelm the school systems and Hillsborough is not going to be “one of the best places”.

Chairman Lipani told Ms. Cabral that she is missing the point. He said we do not have a choice; we would love to say “no” but this is mandated by the State. Mr. Bernstein has been in court trying for years to get a smaller number for the Township. We cannot control that number.

Committeeman DelCore said all we can do is try to mitigate it and do what we can to try to limit the number we have to come up with.

- Ms. Cabral said she is speaking for her neighborhood. She asked that the Board partner with them and show them how to go through this process. Ms. Cabral said she is a concerned citizen and needs some help in navigating through the process.

Vice Chairman Julian said there is a process which will address all of the concerns.

- Ms. Cabral restated that she has already seen the plans and has them saved to her phone.

Committeeman DelCore said there is a concept plan out there but no formal application has been submitted for development to the Township. He said as we have indicated, there is clearly an idea of what will go there; that is how the numbers come up. Until this process goes forward where we establish what can be permissible on the land, and approved by the Township Committee, then you would have a zone where a site plan application could come in. At that point, all of the issues such as stormwater runoff; traffic; economic impact to the community, etc., all gets addressed during the hearings with the site plan. However, that is not where we are today. Right now we are looking to get through the first step to allow us to meet the obligations that are going to be placed on us.

- Ms. Cabral thanked the Board for their time and thanked Committeeman DelCore for his instruction. Ms. Cabral said she and the neighbors will be at all of the related meetings going forward for this issue.

**Susan Gulliford – Hunt Club Road**

- Ms. Gulliford said she was at the meeting in 2008 when Jennifer Beahm (Affordable Housing Planner) made her presentation to the Township regarding our COAH obligations. At that time, we were still planning the three that are under development: the one going up at Valley and Route 206; the one going up by the High School; and one named “Amwell Road East” that has not started yet.
- Ms. Gulliford said the number of units required has been fluid over the years, being that the Court has changed its mind. She asked if the number of affordables here might reduce the number of affordables that go up by Piney Woods.

PLANNING BOARD MEETING MINUTES  
May 11, 2017

Mr. Bernstein said the overall concept has to look at what might go here; what might go there; and what is already being built.

Mr. Bernstein said he has been the Township's Attorney since 2000 and went through the previous Affordable Housing Round. That "Round" expired in 1998. We are still in what is being called "Round 3" and "Round 4" which was supposed to be for the time periods of 1998 to 2005, and 2005 and beyond. We are now in the 1998 to 2005 Round, in which the Supreme Court held that the Council on Affordable Housing, and other State agencies have failed to do their job, the Court had to step in two years ago and get involved. The Supreme Court recently reckoned a decision a second time, indicating that the obligation was not only a "going forward obligation 2012 – 2025", but backwards, from 1998 to 2012, referred to as the "gap period". The Township is one of the few in this vicinage that is part of a "Court jurisdiction" and has been creating affordable housing both in the vicinage and in the region all along. Mr. Bernstein said we are trying very hard to convince the Special Court Master and the Court, that that obligation is sufficient to meet our needs through 2025, of which the developments Ms. Gulliford indicated are part of those numbers. That number is high and whether we like it or not, that is our obligation.

Mr. Bernstein said the previous speaker just spoke about the subject property as being a farm. That is correct and part of the problem is that we have a lot of vacant land still here in Hillsborough Township that we are trying to maintain in an "open" capacity, as much as possible. But that cuts both ways; it is a benefit for us to keep "open" and it is an opportunity for developers to develop because there is land. The Township is trying to balance along with advocacy groups, such as the Fair Share Housing Center, who basically believe that any open land is fair for "developable", which this Township disagrees with as well. This project has a lot of development, and there will be others. The Township is trying to minimize it and reduce our obligation. The Township is trying to convince the Court ultimately that the Plan we are trying to put together meets our obligations without overburdening.

Mr. Bernstein explained that the other scenario is that every developer who has affordable housing will tell you that they cannot make any money building affordable housing units. In the last Round, the Courts gave builders a "Builders Remedy", which is a "bonus". He said "The Hills" up in Bedminster is the State's largest affordable housing project. That project was built because a developer went to Bedminster, Bernardsville and the like, and told them they were ready, willing and able to build all of their affordable housing. All three municipalities were given no choice but to allow that to happen. All of the affordable units are along Routes 202 and 206. Hillsborough Township is trying through this mechanism and others, to avoid something like that being built here. Mr. Bernstein said there are developers who want to build "The Hills" type of housing here. The Township is trying to avoid that, amongst others.

- Ms. Gulliford said the two developments along Route 206 and Falcon have the same concept where the affordable housing is right off the road and the market rate is further back.

Mr. Bernstein said, but not to the extent of The Hills.

- Ms. Gulliford said her question related to the property by Piney Woods and that that property is only 10 acres. Residents have been wondering if the units will now need to be "crammed in" or if this new development will help alleviate some of the units there.

Mr. Bernstein said those units are already approved. The Township is trying to use those units to try to reduce additional units.

- Ms. Gulliford said at that time, there were 108 "affordable family units".
- Ms. Gulliford asked about the prospective developer for the subject property before the Board. She asked if this prospective developer is currently involved in any other developments being built in this town.

Mr. Bernstein said no, not that he is aware of.

- Ms. Gulliford asked how many acres the Block 180 property is.

Mr. Maski said it is over 90 acres.

- Ms. Gulliford asked about the density and allowable units per acre. She said a lot of people are afraid the housing is being crammed in.

Mr. Maski said there is not a density per se, but rather a maximum residential units of 465. If you do the math over 90 plus acres, you come up with the density. The property is further restricted to only 30% of the property so 70% of the property needs to remain open.

- Ms. Gulliford asked if all of these lots will be merged at site plan.

**PLANNING BOARD MEETING MINUTES**  
**May 11, 2017**

Mr. Bernstein said it is one large piece of property split into a number of tax lots right now. Any merging is up to the developer.

- Ms. Gulliford said this is only for residential development.

Mr. Bernstein agreed.

**John Madda – 23 Brook Drive**

- Mr. Madda said his biggest concern is that he does not want an entrance off of Tara Drive. He asked how they can be assured the “emergency road” will only be used for emergency use.

Mr. Bernstein said the ordinance calls for it only to have an emergency use.

- Mr. Madda asked if that will be “written in stone”.

Mr. Bernstein explained that if this ordinance is ultimately adopted, the ordinance calls for only emergency vehicle access from Tara Drive.

- Mr. Madda asked why it is necessary when you have Route 206.

Mr. Bernstein said the Law requires two ingress and egress on properties. There is not another area to place a second ingress and egress on that property.

- Mr. Madda questioned how the last lot on Tara Drive, which he said was zoned Residential, could have a roadway put through it.

Mr. Bernstein said if this application comes forward, there will be a spot that requires access to Tara Drive.

- Mr. Madda asked if the zoning has to be changed to do so.

Mr. Bernstein said there just needs to be an easement.

- Mr. Madda said you can put a road through a residential road without changing the zoning.

Mr. Bernstein agreed.

- Mr. Madda asked about the taxes on the last property he referenced, stating it was assessed as “farmland” paying \$2.00 in taxes.

Mr. Bernstein said he could not answer the question but will look into it.

- Mr. Madda said people are so upset because it took a lot of money to have these plans drawn so it appears to already be a “done deal”. He expressed his skepticism that the plans are just “preliminary” and said they are well aware of “how Hillsborough operates”.

Committeeman DelCore asked Mr. Madda to explain his comment.

- Mr. Madda made claims of “backdoor deals”.

Committeeman DelCore said his claims were incorrect and unfounded.

- Mr. Madda said this developer has already spent hundreds of thousands of dollars on plans you say may not even happen.

Mr. Bernstein said that is correct. Two things have to happen to do so: first, the ordinance has to be adopted, and two, assuming it is adopted, the Planning Board has to approve the development. He said if someone wants to spend vast amounts of money on a concept plan that may never be built, that is their call.

Committeeman DelCore said the Township is not expending those dollars; that is on the applicant.

- Mr. Madda spoke again about how he is opposed to having access to Tara Drive.

Committeeman DelCore told Mr. Madda he is looking at the access as a thoroughfare for access, which is not the intent of the ordinance.

**PLANNING BOARD MEETING MINUTES**  
**May 11, 2017**

Mr. Bernstein read from the proposed ordinance: "Primary vehicular access to the site shall be from Route 206. Vehicular access to and from Tara Drive shall be limited to emergency use vehicles." He said what is conceptualized here is not what you would consider a "road". It is more of a pathway to allow emergency access vehicles.

- Mr. Madda questioned if it can be changed to a road in the future.

Mr. Bernstein said a developer cannot make such a change. A change would require approval from the Governing Body and from a future Board to do so.

- Mr. Madda asked if they would be notified of that change.

After some discussion Mr. Bernstein said notice would be given to everyone within 200 ft. of the tract.

- Mr. Madda said that is my concern.

Mr. Bernstein acknowledged the Town has the same.

**Brian Geniton – 15 Brook Drive**

- Mr. Geniton said he is probably the newest resident on Brook Drive. He said he and his wife were "sold" on Hillsborough and happy to now live here. He gave recognition that all of the residents present and all of the Board "loves Hillsborough".
- Mr. Geniton referred to himself as a "special interest" and requested that these development obligations be moved further away from his home. He said he understands the issues that need to be addressed but wants the Township to take consideration as to where they are being placed.
- Mr. Geniton said he is concerned with the value of his home and that of his neighbors. He praised the Hillsborough School District and said he wants them to be able to remain "amazing". Mr. Geniton repeated his request for the Board to consider where such development is placed and how it will impact the community.

**Barbara Simms – 28 Brook Drive**

- Ms. Simms said she has lived in Hillsborough since she was very young. She said Brook Drive has always been a place of "peace and relaxation". She said this development, which will be right next to her house, will be the end of that. She said she sees open space and the animals in her backyard; that will all be gone with this development.
- Ms. Simms said she witnessed a herd of 30 deer run across the road from the new development going up on Falcon Road, looking for a place to go. She said we are running the deer off of this property.
- Ms. Simms said she is also concerned with the school budget. She referenced the area from Valley Road to Amwell Road and questioned why some of the development could not be done in this area, rather than cram 460 plus units on a small property.
- Ms. Simms said they had previously fought against Grosso's car wash years ago. She said they were told if there is nothing legally wrong, there is nothing that can be done. Ms. Simms questioned the certainty of Tara Drive not becoming a roadway in the future.
- Ms. Simms said having lived here almost all of her life. She said she has witnessed Hillsborough going from having no apartments or condos, to being over-populated. She said traffic comes to a stop during peak hours once you get to the Valley Road area. She said now that the ballpark is open she has to sit through two lights to get out to 206. There has been a major increase in traffic from the ballpark alone; once you put 460 homes in, it is going to destroy Mountain View, Brook Drive and that whole area.
- Ms. Simms said the school budget cannot be met now so school taxes will be going up. She implored the Board to consider how this will impact the existing residents in this area.

Committeeman DelCore said he can give the same advice he mentioned earlier; go talk to people in Trenton.

Break – 9:07 (9:05) – 9:13 (9:10)

**Edith Levy – 6 Arthur Road**

- Ms. Levy said she did not realize so many of her neighbors did not get the map.

PLANNING BOARD MEETING MINUTES  
May 11, 2017

Chairman Lipani asked Ms. Levy what map she was referring to. He said it was not sent by the Township.

Mr. Maski said over the course of the last year or so, the owner of the property has been going through processes with DEP, DOT and various outside agency approvals. Copies have been submitted to the Township of those concepts as well, but they are just that; concepts.

- Ms. Levy said the garbage area on the plan is right next to her property, which she does not want to see. She said a better place is closer to the Montgomery border where there are no houses. Ms. Levy referenced a parking garage shown on the concept plan. She said she does not want to have lights shining on her property all night. She asked the Board to keep that in mind when looking at the plans.
- Ms. Levy said she was opposed to having a street come through the area.

**Adam Simms – 28 Brook Drive**

- Mr. Simms asked if there were any other lots considered rather than this area. He said the lot across from Mountain View is open. He questioned why the development would be put on farmland rather than vacant lots.

Committeeman DelCore said the Township does not control where the Developers want to develop. The Developers gets access to land from the property owner. The issue here is that in order to meet the Township's obligations, there are a number of properties being considered for developments that would contribute to the Affordable Housing obligation. There are several under consideration. This proposed ordinance applies to this particular one.

- Mr. Simms asked about fencing and buffering blocking view of the site.

Committeeman DelCore said that would all be discussed as part of the site plan application. Fencing and buffering is fairly customary in these circumstances.

No more questions / comments.

Close Public

Committeeman DelCore again explained the process of how a (proposed) ordinance goes from a conceptual review by the Planning Board, to the Township Committee for introduction and review. If a site plan does come forward, it will be before the Planning Board, with notice. He said there will be multiple steps and multiple opportunities for the public to come forward to be heard.

Mr. Bernstein advised the Board the matter can be forwarded on to the Township Committee or scheduled to the June 1<sup>st</sup> Planning Board meeting for further discussion.

Chairman Lipani said he was in favor of moving the matter on to the Township Committee for further discussion with the public. He said if there is ever development in this area, the Township would have some means to control what was built there.

A motion to move the ordinance to the Township Committee for further review and comment was made by Mr. Wagner, seconded by Committeeman DelCore.

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

■ **Proposed Affordable Housing Zone – Block 202, Lot 4**

Mr. Bernstein said the other zoning ordinance this evening is for Block 202, Lot 4 for the Multi-Use Inclusionary District. He said the property is along the Bypass, also with a 24% affordable housing parameter. The proposal is a combination of residential and commercial uses on a minimum of 28 acres; a maximum 45% impervious coverage, of which the building coverage is 20%; the total number of dwelling units not to exceed 175 units; retail, office, fiduciary not to exceed 20,000 sf. to create the MUID District.

Chairman Lipani asked about the access.

Mr. Maski said they will be restricted to one access because of the right-of-way.

Mr. Bernstein said the access is on and off of Route 206; the emergency access is off of the right-of-way.

Mr. Wagner questioned whether the Bypass would bisect this property.

**PLANNING BOARD MEETING MINUTES**  
**May 11, 2017**

After review, Mr. Maski said the map provided does not show the lot correctly and will need to be updated. The Bypass will be connecting to Mountain View Road. The subject property is south of the Bypass.

Chairman Lipani said the difference with the proposed ordinance is that it would have a commercial component to it. He asked if there would still be the same COAH requirement if homes are built on this property.

Mr. Maski confirmed it would have a 24% requirement.

Chairman Lipani asked if the ordinance requires a mixed use or just allows the developer to have both.

Mr. Bernstein said the intent is not to have a full residential development.

Chairman Lipani commented that it encourages a mixed use but does not require it.

Mr. Maski confirmed, not as currently written.

Open to the Public.

**Susan Gulliford** – Hunt Club Road

- Ms. Gulliford said her question about the connection to the Bypass was answered. She asked about the acreage of the property, saying she thought it was more than 28 acres.

Chairman Lipani said the 28 acres is a minimum lot size.

- Ms. Gulliford asked about the differences in allowable building height from the previous ordinance to this for a three-story building.

Mr. Maski noted it is a design difference in the roof.

No other questions/comments.

Close Public.

Mr. Bernstein said the intent of the ordinance is that the mixed-use is truly a “mixed-use”. He said there will need to be some minor edits to the draft which will ensure that the commercial aspect of it actually gets built vs. the possibility of it getting built. The conversations had with the current property owner requires the commercial to be part of it.

Chairman Lipani said they cannot all be residential then. He asked if there will be a minimum requirement included.

Mr. Bernstein said one concept is to have commercial on the first floor; residential above, stand-alone commercial.

Mr. Maski said the adjustments can be made and then sent up to the Township Committee, if the Board wishes.

A motion to refer the ordinance for Block 202, Lot 4, with the changes discussed, to the Township Committee for review, was made by Mr. Wagner, seconded by Vice Chairman Julian.

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

Mr. Bernstein said he wanted to dispel comments from the public earlier in the evening. He said these two ordinances will not be the only of its kind. The Township is in conversations relative to our obligations, not just for this part of town. We will be asking the Board to continue to review these kind of proposed ordinances in the future.

Committeeman DelCore commented this is thanks to the Supreme Court; the State won.

Mr. Maski informed the Board there is no business scheduled to the next meeting.

A motion to cancel the May 25<sup>th</sup> meeting was made by Mr. Weinstein, seconded by Mr. Wagner. All were in favor; none opposed. Motion carries.

Chairman Lipani said the next meeting will be held on June 1<sup>st</sup>.

**CORRESPONDENCE**

None

**PLANNING BOARD MEETING MINUTES**  
**May 11, 2017**

**ADJOURNMENT**

A motion to adjourn was made by Mr. Wagner, seconded by Committeeman DelCore. All were in favor; none opposed. Motion carries.

The meeting was adjourned at 9:33 p.m.

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

Approved