

HILLSBOROUGH TOWNSHIP PLANNING BOARD
PUBLIC MEETING MINUTES
February 21, 2013

Chairman Sireci called the Planning Board meeting of February 21, 2013 to order at 7:30 p.m. All stood for the Pledge of Allegiance. The meeting took place in the courtroom of the Municipal Complex.

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

ROLL CALL

Mayor Frank DelCore - Present
Michael Merdinger – Present
Committeewoman Gloria McCauley – Absent
Steve Cohen, Vice Chairman - Present
Tod Mershon, *Secretary*- Present
Neil Julian - Present

Sam Conard - Present
Steven Sireci, Jr., Chairman - Present
Robert Wagner, Jr. - Present
Daniel Marulli (Alt. #1) - Absent
Robert Peason (Alt. #2) - Present

Also present: Robert Ringelheim, P.P., A.I.C.P., Township Planner; Eric Bernstein, Esq., Board Attorney (Eric M. Bernstein & Associates); Susan Baber, C.C.R. and Caz Bielen, Premier Media, LLC, Videographer.

ACCEPTANCE OF MINUTES

None

ACCEPTANCE OF RESOLUTIONS

RFDC Realty, LLC (DeCanto) – 12-PB-09-MRV

A motion to approve was made by Mr. Conard, seconded by Mr. Julian.

Roll Call: Mr. Julian – yes; Mr. Mershon – yes; Mr. Conard – yes; Mayor DelCore – yes; Chairman Sireci – yes. Motion carries.

PLANNING BOARD BUSINESS

None

BUSINESS FROM THE FLOOR

None

CONSIDERATION OF ORDINANCES

Ordinance 2013-04 – Ordinance to add a definition of "Health Club/Fitness Center" in Section 188-3 and also amending Article V (Districts and Standards) in order to permit Health Clubs/Fitness Centers in the C-1 District as contained in Section 188-100

Township Planner, Robert Ringelheim, said the Township Committee has introduced this Ordinance on January 22, 2013. A public hearing is scheduled for February 26, 2013. The Board has been asked to review this Ordinance for any recommendations.

The Business Advocate has indicated that 'Work Out World' (WOW), a health and fitness club, is considering the former K-Mart site, which is located in the C-1 District. The C-1 District currently permits tennis courts, gymnasiums and swimming pools which represent active recreation uses not necessarily aligned with the typical health and fitness clubs we see these days. These permitted uses in the existing ordinance date back several decades when the zone was established. We have a number of pre-existing and newly created zones that address indoor recreation, which has also included health and fitness facilities. However, the health and fitness facilities are more appropriate stand alone uses, in light of the current real estate and economic marketplace.

Ordinance 2013-04 defines and permits health clubs/fitness centers in the C-1 District and is being offered for your consideration. This is consistent with the recommendations of the 1996 Master Plan Land Use Element which last addressed the C-1 District. The zoning analysis in it provided support for the 10 year Plan indicating the purpose of the C-1 District is to recognize areas of existing retail characteristic and provide new areas near existing and proposed population centers for convenient access. The proposed use of health and fitness centers serves the purpose of updating what was intended in the existing zone into a more current framework without impacting the intent of the C-1 District.

Mayor DelCore said I think it is appropriate to tie the C-1 as a use for this type.

Mr. Ringelheim said I am sure the K-Mart building will be remodeled and substantially improved as a result of the new tenant. We are not taking the health and fitness facilities out of any of the permitted zones, just adding to the C-1 at this time.

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A motion to recommend Ordinance 2013-04 back to the Township Committee for adoption was made by Mr. Wagner, seconded by Mr. Peason.

Roll Call: Mr. Peason – yes; Mr. Wagner – yes; Chairman Sireci – yes; Mr. Conard – yes; Mr. Julian – yes; Mr. Mershon – yes; Vice Chairman Cohen – yes; Mr. Merdinger – yes; Mayor DelCore – yes. Motion carries.

Ordinance 2013-07 – Ordinance to change the zone designation for Block 180.01, Lots 42, 43, 44, 45, 46, 47, 48, 49 and 50 in the AG, Agricultural District to the HS, Highway Service District

Mr. Ringelheim said this Ordinance has been introduced by the Township Committee at the February 12, 2013 meeting and has referred the Ordinance to the Planning Board for review and recommendation.

This Ordinance goes back to 2012. At that time the Ordinance had proposed a rezoning from the existing AG District to the HS District for a triangular area consisting of 9 lots at that time. It was recommended in the 2011 Master Plan Amendment - Land Use Element adopted by this Board on March 24, 2011. The subject property is to the west side of Route 206 and bounded by the freight line. It is right against the municipal boundary with Montgomery.

At the time of the hearing for the original ordinance, the residents from Montgomery came out and noted there were 4 residential lots with portions of their backyards included in this area. The residents were very concerned with being rezoned to a commercial designation. The proposed rezoning would have implemented the recommendations in the 2011 Master Plan Amendment – Land Use Element and recognized the following: There is no farming or agricultural activities being conducted on any of the properties in the existing AG District; the subject area is adjacent to a larger HS District to the north; and combined with the property to the north and the property across the street which has been rezoned to HS, it would form an HS ‘gateway’ into Hillsborough along the southern end of the Route 206 corridor.

However, because these 4 properties have a residential component, in Montgomery, known as Lots 46, 48, 49 and 50. All of these lots range in size but are under an acre so they are undersized in both districts. The revised proposal is to have the 4 residentially oriented lots remain in the existing AG designation. The remaining lots, Lot 42, 43, 44, 45 and 47 would then be rezoned to the Highway Service Zone, in accordance with the recommendation contained in the 2011 Master Plan Amendment.

It is important to point out that this would make the proposed Ordinance inconsistent with the Master Plan and the Township Committee would have to address that at the time of adoption.

Chairman Sireci said it may not seem like a big deal to just include these 4 residential properties but leave them as residences. The big deal is that each of these property owners does not trust the other not to sell out to a nonresidential use. This seems to make the most sense to leave these few pieces in the AG Zone.

Mr. Ringelheim reviewed the display map.

A motion to recommend Ordinance 2013-07 back to the Township Committee for adoption was made by Mr. Conard, seconded by Mr. Merdinger.

Roll Call: Mr. Peason – yes; Mr. Wagner – yes; Chairman Sireci – yes; Mr. Conard – yes; Mr. Julian – yes; Mr. Mershon – yes; Vice Chairman Cohen – yes; Mr. Merdinger – yes; Mayor DelCore – yes. Motion carries.

Mr. Julian asked the Board to look over the report on the soil samples from the Westover property. As you may recall, the Planning Board recommended that some investigation be done based on a prior walkthrough that the Environmental Commission had done. I went over the report provided to us tonight and see that there are some exceedances but there is also going to be some remediation done to the exceedances.

Mr. Ringelheim said that the request of the applicant is that this report replace the full Phase I study as outlined in Condition 10 of the draft Resolution. Please let me know how the Board would like to proceed so that we know which way to go with the Resolution.

Chairman Sireci asked for a clarification on the exceedance for Aluminum and what the difference in standards is. Other than a minor exceedance for Benzo(a)pyrene, it does not look like it exceeds anything else.

Mr. Merdinger said the only thing I questioned is that they pulled the sample with a backhoe in the winter with the ground frozen. It usually turns out to be a composite sample so I am not sure if it totally meets the standards for the actual sampling.

Mr. Julian said I know there was a particular area near the garage when I walked the site. It looks like a lot of the discharge came from the overflow of the oil tank. There was stained soil there. I think this is where the sample came from. We have to decide if we want him to do a Phase I vs. a composite sample.

Mr. Merdinger said I will talk with Sorge.

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Mayor DelCore asked if the concerns with the sample, would tend to suppress or potentially inflate some of the numbers. Mr. Merdinger explained when you dig up a distressed area it then becomes a composite. When you dig up a sample when the ground is frozen, any oil and water separates, even if it is partially soluble. In all likelihood you do not need a Phase I if the area is small but to make a decision on what has been provided is more difficult because of the fact they did it with frozen ground.

Mr. Julian said we can ask them to resample when it is warm out.

Mr. Cohen asked, given the circumstances of the sampling taken, if we were to do this correctly in the same spot, for a layperson, is there much of a difference between a more accurate sampling and the one we have now?

Mr. Merdinger said absolutely. When I talk to Sorge I will find out exactly how the sampling incurred.

Mr. Mershon said the applicant received an approval from us but it was not unanimous. We asked for a Phase I Environmental Report as part of the draft Resolution. Why are we not requiring that now?

Chairman Sireci said we are debating what we even have at this point. Mr. Merdinger will need to find out and let us all know what we are looking at. No one is looking to make a decision right now on letting anyone off the hook.

Mayor DelCore said assuming you are comfortable that the samplings was done properly and the readings are okay, what more would need to be done to convert from just the soil sample to the Phase I to satisfy the Resolution.

Mr. Merdinger said remediation is recommended in the report. What we want to do is go back to the Board with is the difference between a Phase I and this one sample. It would be what Mr. Julian saw on the site walk and things of that nature. This is what the applicant would have to do beyond this sample. That is the real deciding point.

Mr. Julian said I just did a visual inspection.

Mr. Merdinger said I look for arsenic because arsenic was used on the orchard.

Mayor DelCore asked, if the sampling was done properly, that in and of itself would not qualify to meet the Phase I requirement.

Mr. Merdinger said absolutely not.

Mr. Julian added, a Phase I is a lot more thorough.

ADJOURNMENT

The meeting adjourned at 7:59 p.m.

Submitted by:
Debra Padgett
Planning Board/Board of Adjustment Clerk