

**TOWNSHIP OF MAHWAH PLANNING BOARD
REGULAR/WORK SESSION MEETING MINUTES
MUNICIPAL BUILDING, 475 CORPORATE DRIVE, MAHWAH, N.J.
MONDAY, OCTOBER 26, 2015 AT 7:30 P.M.**

I. CHAIRMAN'S OPENING STATEMENT, ROLL CALL, AND FLAG SALUTE

The combined public/work session meeting of the Planning Board of the Township of Mahwah held at the Municipal Building, 475 Corporate Dr., Mahwah, N.J. was called to order at 7:42 p.m. by Mr. Sherer. The Opening Statement was read according to the Sunshine Law followed by the flag salute.

These minutes are a synopsis of the meeting. A verbatim audio recording is on file at the Planning Board Office, 475 Corporate Dr., Mahwah, N. J. Copies may be purchased for a fee.

The following individuals were present:

Mayor Laforet
Ms. Ariemma
Mr. Bagatelle (in at 7:49 p.m.)
Mr. Crean
Mr. Donigian (in at 8:14 p.m.)
Mr. Marcus
Mr. Sherer
Mr. Weixeldorfer
Mr. Howard
Mr. Lo Iacono

Professionals: Peter J. Scandariato, Esq., Michael Kelly, P.E., David Roberts, P.P.

The following individuals were absent:

Mr. Van Duren

II. APPROVAL OF BILLS:

Phillips Nizer	September 2015	General	\$ 150.00
----------------	----------------	---------	-----------

Motion to approve the bills was made by Mr. Crean and seconded by Mr. Marcus. A roll call of members present revealed 8 aye votes by Mayor Laforet, Ms. Ariemma, Mr. Crean, Mr. Marcus, Mr. Sherer, Mr. Weixeldorfer, Mr. Howard, and Mr. Lo Iacono.

III. APPROVAL OF MINUTES: September 28, 2015

Motion to approve the bills was made by Mr. Crean and seconded by Mr. Marcus. A roll call of members present revealed 7 aye votes by Mayor Laforet, Ms. Ariemma, Mr. Crean, Mr. Marcus, Mr. Sherer, Mr. Weixeldorfer, and Mr. Lo Iacono.

IV. **RESOLUTION FOR MEMORIALIZATION:**

1. **Docket #568PF & #568PF-S- TWJ Mahwah Real Estate, LLC** 64 Ramapo Valley Road, Block 40, Lots 25 & 57, Resolution of Approval

Motion to approve the resolution was made by Mr. Crean and seconded by Mayor Laforet. A roll call of members present revealed 5 aye votes by Mayor Laforet, Mr. Crean, Mr. Sherer, Mr. Weixeldorfer, and Mr. Lo Iacono.

2. **Docket #488S, SMS Developers, LLC** 18 Heritage Lane, Block 109, Lot 2.06, Resolution of Approval

Motion to approve the resolution was made by Mr. Crean and seconded by Mayor Laforet. A roll call of members present revealed 5 aye votes by Mayor Laforet, Mr. Crean, Mr. Sherer, Mr. Weixeldorfer, and Mr. Lo Iacono.

V. **OPEN TO THE PUBLIC – 15 MINUTES**

Motion to open the meeting to the public was made by Mr. Marcus, seconded by Mr. Crean and declared unanimously carried by Mr. Sherer.

No one wishing to be heard, motion to close the meeting to the public was made by Mr. Marcus, seconded by Mr. Crean and declared unanimously carried by Mr. Sherer.

VI. **PUBLIC HEARING:**

1. **Docket #559PF & 559PF-S- Apple Ridge Mahwah, LLC** 269 East Crescent Ave, Block 127, Lots 1, 3-7. Public Hearing continued from September 14, 2015

Kevin Moore, Esq., appeared before the Board on behalf of the applicant.

Kenneth Paul, VP of EcoSciences and LSRP for the applicant, gave brief history of the application and acknowledged the requests for additional testing at prior hearings. The applicant took an additional 27 samples in specific zones desired by the Board; 11 total samples failed for arsenic contamination. He advised they could not save trees along the northern boundary, but they did find some trees to save along the southern boundary. There were no failing results found for lead; six arsenic samples failed along the northern boundary.

Mr. Kelly noted there was an intermingling of clean and dirty samples on the northern border. He asked if the applicant could attempt to save the trees in those small pockets that tested clean. Mr. Paul noted that if they wished to save some of those trees, they would take additional samples, which would, most likely, test as contaminated and it would be difficult to save those trees. Mr. Kelly suggested the applicant take the approach to attempt to save more trees or go to extended lengths to save those trees. He expressed his concerns and noted an opportunity could be taken to attempt to save those small pockets of trees.

Mr. Sherer requested additional sampling be taken in those areas to determine if those trees really need to be removed to have the soils blended. Mr. Kelly noted that Mr. Paul would be the one that ultimately certifies the site as clean, and his priority would be to ensure the site is *actually* clean. Mr. Sherer concurred, citing the Board's priority is also to ensure the site is clean and safe. In response to Mr. Weixeldorfer, Mr. Paul advised the test results in #T11-T14 area

MAHWAH PLANNING BOARD
REGULAR/WORK SESSION MEETING MINUTES – MONDAY, OCTOBER 26, 2015

tested at approximately 14ppm, not at very minimal levels for arsenic. Therefore, he would recommend blending because any additional samples taken would, most likely, result in readings within the vicinity of closer to failing than passing. He advised he would be responsible for verification that the site is clean and he must use his professional judgment. Given the distribution of arsenic on this side of the site, Mr. Paul advised he would not be comfortable with not blending around those trees on the northern edge.

In response to Mr. Crean, Mr. Paul explained vacuuming the soil is not a practical solution; the soil must be blended and mixed. The plan is to blend 2- 2.5 feet in depth, so vacuuming soil out is not practical. In response to Ms. Ariemma, Mr. Paul clarified that the arsenic is not isolated to the top six inches of the soil; it is varied throughout the vertical profile. It is not practical to vacuum out six inches of soil and test it; it is neither feasible nor economical. In response to Mr. Weixeldorfer, Mr. Paul noted that they would take four samples per acre of blended soil; additionally, one sample every four acres would be taken vertically through the profile. If one sample fails in an acre, they will reblend that acre and retest. A grid will be created and acres will be tested after blending accordingly.

Mr. Paul explained 11 samples were taken along the southern boundary and only one failed for arsenic contamination. The failed area will be blended; however they will not have to blend to the property line and can save a small portion of those trees in the southeastern corner of the site. In response to Mr. Crean, Mr. Paul explained that he was not required to be the LSRP for the site and another LSRP could have another viewpoint on the blending/tree vacuuming issues. Mr. Kelly noted if another LSRP handled the site, they would most likely have the same opinion as presented by Mr. Paul. Mr. Kelly advised he would report back to the Board if another LSRP came onto the project and then decided additional trees could be saved. He noted the Board could put into the resolution something to the effect that “if the developers can save more trees, they should save more trees.” Mr. Scandariato advised the Board cannot tie the hands of the DEP, but the Board can place something into the agreement that is similar to this suggestion. Mr. Roberts concurred.

Mr. Sherer reminded the Board and public that the first priority of the Township is ensuring safety of the site. Mr. Scandariato advised that the Board can decide to permit Mr. Kelly to approve trees being saved if the applicant finds they can save additional trees. Mr. Weixeldorfer explained if the applicants flip this property to new developers, there would be all new professionals involved. He questioned whether a new LSRP could make the decision to remove all those trees along the southern border. Mr. Scandariato advised the Board could make the saving of the trees along the southern property line a condition of approval, and if the ability to save those trees changes, the applicant would be required to come back before the Board for review. Ms. Ariemma noted another group of trees #T9-T11. Mr. Paul explained the blue section of the plan denotes grading; all the trees will be removed from that location for grading and construction.

Motion to open the meeting to the public was made by Mayor Laforet, seconded by Mr. Marcus and declared unanimously carried by Mr. Sherer.

John Brotherton, 249 E. Crescent Ave., appeared before the Board and expressed concerns regarding the northwest corner of the lot where his property abuts the site. Mr. Paul confirmed the trees will be removed and the soils will be blended. The applicant referred to the final site rendering and noted trees will be planted at the location to be blended upon final site

construction. Mr. Paul advised that the insecticides historically used on site stopped being used in the 1960's and blending would be as deep as two feet.

William Jaekel, 800 E. Crescent in Ramsey, questioned the width of the area on the south side of the property that will not be blended. Mr. Paul advised this is approximately 15-20 ft. wide and blending will not occur in this hatched area; he noted the blue and green sections on the plan will be blended.

Motion to close the meeting to the public was made by Mayor Laforet, seconded by Mr. Marcus and declared unanimously carried by Mr. Sherer.

Jonathan Grebow, one of the owners of the project and manager of the entity that owns the project, appeared before the Board to give an update on the affordable housing aspect of the application. He explained they were obligated to provide for 20% affordable housing on or off site as per a consistency determination received from the Highlands Council in April. Therefore, seven units total are required. They were introduced to the United Way, which is currently working on a project with the Township. Since then, they have agreed to make a contribution of \$800,000 towards their ultimate development of 13 units (seven would be responsibility of the applicant). This would satisfy the requirement.

The alternative plan would be to purchase existing market rate units off site and deed restrict them as affordable housing units. They came to the calculation of \$800,000 when discussing this with Tom Toronto of United Way. The formula used is based upon what the units would be purchased for offsite and what the potential income would be. Mr. Grebow explained the estimated cost was approximately \$1.3-1.4 million for the seven-unit purchase, resulting in a \$1.5 million total cost. They further approximated the rental income/sale price to be approximately 50% of that value. The United Way is looking for an equity position, cash towards the ultimate build out of the project, which is what would be provided here.

In response to Mayor Laforet, Mr. Grebow explained \$800k would probably not be enough for the specs the United Way would build their units out to; however, this is \$100k more than what the developers would spend to satisfy the requirement by purchasing off site. In response to Mr. Sherer, Mr. Grebow informed they are required to buy a certain number of bedrooms; the majority require a 2BR (only 10% required are 1BR); on average, they would cost \$200k per unit. The amounts per unit range due to the formula and income received from each unit; however they would be able to sell that \$200k unit for approximately \$100K as affordable housing, on average. Therefore, the applicant would receive \$700k in gross income on those units.

In response to Mr. Scandariato, Mr. Grebow explained approval of this contribution was from combination of multiple parties. With the letter written to the Board, the applicant wanted to bring the Township in, as they are the ultimate party expressing satisfaction with this plan. The Board would put a condition of approval that states that the affordable housing needs to be satisfied and the Council will need to accept the \$800k. The funds are then administered through the municipality. Mr. Scandariato informed the resolution would be submitted to the Highlands Council and the applicant is responsible for complying with the affordable housing requirements set forth by the Highlands' requirements. The condition can only be that the applicant comply with the applicable requirements; the Board can put in their intentions on how to comply with the condition, however.

Mr. Roberts advised that, in addition to compliance with the Highlands consistency, the Board wanted to be sure there is a link between their decision and ultimately what the Township Council will decide and agree upon. He advised referencing that agreement in the resolution. In response to Mr. Roberts, Mr. Grebow explained the agreement must be between the applicant and the Township, not the applicant and the United Way. He noted that Brian Campion, the Township Administrator, preferred this; therefore, the Township, who has a contract with United Way, would administer those funds.

Mayor Laforet explained the third parcel of land is not fully funded currently and this is the area designated for low income rental housing for seniors. He noted this arrangement goes a long way to reach the end goal of needed affordable housing for seniors. In response to Ms. Ariemma, Mr. Weixeldorfer advised the developer could definitely purchase those units and sell or rent them on their own. In this case, the applicant is helping the Township; if they purchased on their own, they could recoup 40-50% in rent or sales. He explained some three bedroom units are selling for over \$200k currently. Mr. Grebow explained, if they purchased units off site, they could sell the units for whatever the applicant desired as long as they came back as deed restricted for affordable housing. In response to Ms. Ariemma, Mr. Grebow explained the applicant would be in a better financial position by purchasing units and selling them afterwards; however, they wanted to enter into an agreement with the Township. He added that the Township is taking the responsibility of building those seven units with those funds through the United Way project. Mr. Marcus reminded that the Board is approving the concept of the seven units and the Council would ultimately approve this arrangement.

In response to Mr. Kelly, Mr. Grebow advised a homeowner's association will maintain the detention basins.

Motion to open the meeting to the public was made by Mr. Donigian, seconded by Mr. Marcus and declared unanimously carried by Mr. Sherer.

Motion to close the meeting to the public was made by Mr. Marcus, seconded by Mr. Donigian and declared unanimously carried by Mr. Sherer.

Mr. Moore advised the applicant is requesting to have a sales trailer as well as approval for the construction for two model homes in Mahwah. These would be occupied as furnished model homes only and not occupied by residents.

Mr. Scandariato advised an interlocal agreement for the sewer is also a condition of approval.

Motion to open the meeting to the public was made by Mr. Donigian, seconded by Mayor Laforet and declared unanimously carried by Mr. Sherer.

Motion to close the meeting to the public was made by Mayor Laforet, seconded by Mr. Donigian and declared unanimously carried by Mr. Sherer.

Mr. Kelly read the following conditions of approval: the applicant agreed to address all COAH requirements, all comments from the Township's professionals' reports, and obtain all government agency approvals and consistency with Highlands. The applicant agreed to provide a homeowner's association to maintain the drainage and easements on site; no soil movement

will take place on municipal roadways. Dust issues during construction will be monitored to prevent dust from leaving the site; they will provide a detailed project schedule and abide by the health and safety plan. Lighting will be provided at a minimum of the intersections, bends and cul-de-sac; sidewalks will be provided along E. Crescent Ave.; and the boundary of the site will be delineated with orange construction fencing. Fire flow data will be provided as requested as well as a sanitary sewer interlocal agreement for the site. The applicant will recommend future property owners install rain sensors for sprinklers; a temporary sediment basin will be installed for construction. Should the stream corridor restoration project change significantly, the applicant is required to come before the Board. The proposed detention basins will be fenced with four foot chain-link and black mesh fence. The applicant will provide all DEP correspondence from the LSRP. The development will not adversely affect trees on neighboring properties; and the applicant will not disturb or damage the rock wall along the southern side of the property; they also will not remove or disturb trees along the hatched area of the southern site of the property as per the plan depicted this evening. Silt fencing will be installed; the conservation easements will be subject to DEP not the Township; and the applicant agrees to protect as many trees as possible.

In response to Mr. Weixeldorfer, Mr. Kelly explained sidewalks will be installed along one side of the street, which is the requirement. In response to Ms. Ariemma, Mr. Kelly advised street trees will be replaced along the roadway in accordance with the landscaping plan. In response to Mr. Donigian's concerns regarding possible need for soil movement on municipal roadways, Mr. Kelly explained it was reasonable to have some trucks coming in and out of the site to bring in stone, landscaping, etc... The Township did not want excessive truckloads. He suggested leaving the determination to the Township Engineer, who will decide, within reason, the amount be determined to be significant. He would then require the applicant to return to the Board for review. The applicant agreed to come back before the Board if this occurs. In response to Mr. Grebow, Mr. Kelly noted import of top soil is part of the soil movement permit application. In response to Ms. Ariemma, Mr. Scandariato advised it was up to the Council to decide on affordable housing.

Mr. Donigian explained that blending is the only economical feasible way to develop the property.

Mayor Laforet acknowledged the applicant had answered all the questions posed by the Board and made all the concessions possible. He expressed his belief that the end product would result in a good development for the community. He appreciated the senior housing commitment and noted the applicant had convinced the residents of their intentions to be good neighbors. He was satisfied that the end result was in the interest of the safety of the community.

Ms. Ariemma expressed her discontent with the removal of the trees and preferred additional trees be saved.

Mr. Marcus noted that Ordinance #1634 stated automatic sensors for sprinklers are required for new construction.

Motion to approve the application with conditions was made by Mayor Laforet and seconded by Mr. Donigian. A roll call of members present revealed 10 aye votes by Mayor Laforet, Ms. Ariemma, Mr. Bagatelle, Mr. Crean, Mr. Donigian, Mr. Marcus, Mr. Sherer, Mr. Weixeldorfer, Mr. Howard, and Mr. Lo Iacono.

VII. WORK SESSION:

- A) NEW BUSINESS
- B) OLD BUSINESS
- C) COMMITTEE REPORTS

VIII. ADJOURNMENT

Motion to adjourn the meeting at 9:00 p.m. was made by Mr. Crean, seconded by Mr. Donigian and declared unanimously carried by Mr. Sherer.

Provided to the Planning Board
on November 20, 2015 for
approval at the Regular Meeting
to be held November 23, 2015



Donelle Bright DeCouto
Planning Board Recording Secretary