

**TOWNSHIP OF MAHWAH PLANNING BOARD  
REGULAR/WORK SESSION MEETING MINUTES  
MUNICIPAL BUILDING, 475 CORPORATE DRIVE, MAHWAH, N.J.  
MONDAY, APRIL 24, 2017 AT 7:30 P.M.**

**I. CHAIRMAN’S OPENING STATEMENT 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 7:33 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.

**II. ROLL CALL**

The following individuals were present:

- Mayor Laforet
- Mr. Crean
- Mr. Donigian
- Mr. Ervin
- Mr. Grewal (in at 7:35 p.m.)
- Mr. Howard
- Mr. Sherer
- Mr. Van Duren
- Mr. Lo Iacono

Professionals: Peter J. Scandariato, Esq., Michael Kelly, P.E., Ms. Debbie Lawlor, P.P.

At this time, Mr. Sherer informed Mr. Bagatelle had to resign due to work responsibilities. He recognized the students from Mahwah High School as well as the two Councilmen present.

**III. APPROVAL OF BILLS:**

Maser Consulting	2/3/17	Miscellaneous	\$75.00
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Motion to approve the bills was made by Mr. Crean and seconded by Mr. Van Duren. A roll call of members present revealed 8 aye votes by Mayor Laforet, Mr. Crean, Mr. Donigian, Mr. Ervin, Mr. Sherer, Mr. Howard, Mr. Van Duren, and Mr. Lo Iacono.

**IV. APPROVAL OF MINUTES: None to present.**

**V. RESOLUTION FOR MEMORIALIZATION:**

**1) Tenant Application #17-0019 – Firehouse Subs.** Block 137, Lot 4, 380 State Highway 17 South, Resolution of Approval

Motion to approve the resolution was made by Mr. Donigian and seconded by Mr. Crean. A roll call of members present revealed 7 aye votes by Mr. Crean, Mr. Donigian, Mr. Ervin, Mr. Sherer, Mr. Grewal, Mr. Howard, and Mr. Lo Iacono.

**2) Docket #535, Crossroads Developers Associates** Block 183, Lot 1, Clock 26, Lots 2, 10 & 11 1 International Boulevard, Resolution of Approval for the Extension of Preliminary Site Plan and Waiver Approval

Motion to approve the resolution was made by Mr. Donigian and seconded by Mr. Howard. A roll call of members present revealed 8 aye votes by Mayor Laforet, Mr. Crean, Mr. Donigian, Mr. Ervin, Mr. Sherer, Mr. Grewal, Mr. Howard, and Mr. Lo Iacono.

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

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

**VII. PUBLIC HEARING:**

**1. 2017 Master Plan Reexamination Report & Master Plan Amendment**

Ms. Lawlor noted the Township's desire to adopt a Wellhead Ordinance. They have a recommendation to amend the land use element to ensure proactive movement to protect the wellheads. The maps provided focus more on the zoning itself. Mr. Kelly informed the Board would make a recommendation for the ordinance and the Wellhead Protection Ordinance would be introduced at the Council's meeting on 5/4/17. The ordinance would then come back to the Board to determine consistency with the Master Plan. Mr. Kelly noted that he drafted the ordinance and it was reviewed by Boswell's geologist. The draft is similar to those in place and approved by the Highland's Council. The goal is to protect the drinking water. In response to Mr. Crean, the ordinance could affect a residential home. Some wells are in the Fardale area, but if these wells are actually closed, they will be removed from the map.

In response to Mayor Laforet, Mr. Kelly explained the wellhead protection areas limit the uses in those areas due to the possible contaminants that could be present. Certain contaminants that businesses may work with may not be permitted in the area; because of this, certain uses may be limited. In response to Mr. Donigian, Mr. Kelly explained the Township has not yet adopted the Highlands preservation element into the Master Plan, but they have petitioned the Highlands for plan conformance in the planning area. They are looking to have the town centers approved, which would diminish the Highlands zoning regulations and permit the Township to use its own zoning and land use regulations for the centers. In response to Mr. Kelly, Ms. Lawlor explained this would have no bearing on the requirements of COAH in the future.

Mr. Sherer noted that if a hospital wished to move into Mahwah on Route 17, it would not be possible due to the use being a major pollutant source. Mr. Kelly clarified the applicant would have to go before the Zoning Board for a new use, for an expansion of use, or for a change of use. In response to Mayor Laforet, Mr. Kelly explained the detention ponds and retention basins could be designed to meet the requirements in the ordinance. In response to Mr. Sherer, Mr. Kelly informed the recycling center is indicated, but the well in this area will be removed because it is closed. He will also add the individual lots to the map. Mr. Grewal questioned how underground storage of tanks would be replaced with this ordinance. Mr. Kelly explained that replacing in kind it would not trigger any requirements to go before any board unless the change would significantly change the circulation on site.

In response to Mr. Scandariato, Mr. Kelly confirmed some uses are prohibited. He clarified that an applicant could make the argument that they meet all the best management practices; this would trigger going before the Board of Adjustment. In response to Mayor Laforet, Mr. Kelly advised that any pipeline installation concerns were beyond the purview of any Board and would, most likely, come in under a regulation requiring it as a necessity. Even if the Township had an ordinance prohibiting unregulated pipelines, it may not stop the pipeline construction. These types of ordinances will act as more fuel for support against a pipeline, but he was unsure these documents would be able to stop a pipeline from being constructed. He confirmed that preexisting structures would not be affected.

Mr. Lo Iacono noted that some of the uses in the proposed ordinance are already prohibited uses in these areas. In response to Mayor Laforet, Mr. Kelly noted the compost facility may be removed because the Township already has one and he will need to check if it's in the Tier 1 or Tier 2 protection area. Mr. Sherer suggested taking care with prohibiting publishing as a use because of the widespread use of digital publishing; Mr. Howard also noted much of the chemicals used in publishing today is green. Mr. Sherer suggested a more in-depth review of the medical uses so as to not preclude those types of facilities. In response to Mayor Laforet, Mr. Sherer explained the Board could alter some prohibited uses to minor from major if they so desire. Mr. Kelly explained a new well would most likely be in an area already covered in the maps. The area along the base of Stag Hill Rd. and the Ramapo River have wells in areas of development.

In response to Mayor Laforet, Mr. Kelly explained that the detention basins of the box stores proposed at the Crossroads project will have to be designed to fit these requirements and those presented by the State. He believed the applicant was going to line detention basins anyway, but they may have to adjust the detention basin design. Mayor Laforet referred to the Bolla site, noting the site was full of contaminated soil that was in close proximity to the wellheads at the base of Stag Hill. Without this type of development, the clean-up would have never happened. Mr. Kelly advised fuel dispensing would not be a permitted use near wellheads according to the proposed ordinance. Regarding the Bolla site, if this ordinance was in effect, they would not have been a permitted use. However, looking at that application, they could have used their cleanup as criteria for a use variance before the Board of Adjustment.

Mayor Laforet noted the Coremark site did not have a detention pond; he questioned the plausibility of another possible future use at this site. Mr. Kelly advised other uses could take place; however it would not be a prohibited use. Any future permitted use would necessitate the detention requirements or drainage moved through underground piping. In response to Mr. Donigian, Mr. Kelly explained the list of prohibited uses was developed by looking at other municipal ordinances, different Highland's permitted/prohibited uses, and reviewed with the geologist for high potential pollutant sources. In response to Mr. Donigian, Mr. Kelly advised

horse ownership may not be considered a legitimate livestock operation, as prohibited in the ordinance.

In response to Mr. Donigian, Mr. Sherer advised an ordinance that was too broadly written would leave much at the discretion of the land use administrator and others for interpretation. He further explained any applicants proposing prohibited uses would have the ability to go before the Board of Adjustment and get a variance. Mr. Kelly explained the ordinance does not permanently prohibit anything, as an applicant can go before the Board of Adjustment. If an application is for a permitted use and meets best management practices, then the applicant is fine. Mr. Crean noted the Board did not want to place anyone's property in a position where it cannot be safely utilized.

In response to Mr. Donigian, Mr. Kelly explained all applications are subject to the MLUL and the Township's Zoning Ordinance. He clarified that the wellhead protection areas established by each municipality are not permitted to encroach on other municipalities. Mr. Crean noted that Oakland's wellhead protection follows their own portion of the Ramapo River. In response to Mayor Laforet, Ms. Lawlor advised the Board would review the Highlands town centers once they are created. Mr. Kelly advised the wells in Fardale were sealed over a decade ago, but he will review. In response to Crean, Mr. Kelly explained that the Township abandoned wells in those areas most likely due to production issues.

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

Motion to approve the amendment to the Master Plan was made by Mr. Crean and seconded by Mayor Laforet. A roll call of members present revealed 8 aye votes by Mayor Laforet, Mr. Crean, Mr. Donigian, Mr. Ervin, Mr. Grewal, Mr. Sherer, Mr. Howard, and Mr. Lo Iacono.

## **VIII. WORK SESSION:**

### **A) NEW BUSINESS**

#### **1) Wellhead Protection Ordinance Discussion**

Discussed during the Master Plan Reexamination Report in the public hearing portion of the regular meeting.

### **B) OLD BUSINESS**

#### **1) Docket #488, SMS Developers Block 109, Lots 2 & 3, Airmount Road & Heritage Lane Amended Subdivision – Discussion regarding sidewalks**

Mr. Kelly explained that since the sidewalks were part of the condition for approval, the developer is here regarding the sidewalks along Airmount Rd.

Samuel Diaz, the applicant, noted that the sidewalks were not desired by the homeowners. Mr. Kelly noted that it would make sense to have the remainder of Airmount Rd. done with the funds deposited into the Sidewalk Fund for those areas without sidewalks. Mr. Sherer expressed

concern that if home is sold, the new homeowner may want a sidewalk installed. Mr. Kelly explained the fund would cover this in case future homeowners go to Council to request same. He noted that the developer should receive this decision on the sidewalks before the road is final paved.

Mr. Diaz explained one resident does not want the sidewalk installed on her property, as she installed sprinklers on her property that encroach into the Township's right of way. He noted, however, that the sidewalk fund requirement is higher than it would cost to put in sidewalks. He was requesting a decrease in sidewalk fund contributions. Mayor explained the amount was based on the cost for the Township installing a sidewalk. Mr. Kelly advised if this would be for half of Airmount Rd., it would total \$10,500. Regarding Heritage Lane, Mr. Kelly advised he would look at the numbers with a detailed proposal from the developer and return to the Board with an agreement on the fund contribution. Mr. Scandariato advised not to eliminate the condition until Mr. Kelly reviews and comes back to the Board. In response to Mr. Crean and Mayor Laforet, Mr. Kelly informed the numbers for contributions are based on current estimates and this is a unique situation where the homeowners do not want sidewalks installed, despite them being a condition of approval.

Mr. Sherer informed this would be carried to the meeting of May 8, 2017.

#### C) COMMITTEE REPORTS

Mayor Laforet informed the Township would create a Committee to Create Centers for Highlands. Mr. Crean would be heading up this committee.

#### IX. ADJOURNMENT

Motion to adjourn the meeting at 8:52 p.m. was made by Mr. Van Duren, seconded by Mr. Crean and declared unanimously carried by Mr. Sherer.

Provided to the Planning Board  
on August 11, 2017 for approval  
at the Regular Meeting to be held  
August 14, 2017



Donelle Bright DeCouto  
Planning Board Recording Secretary