

**TOWNSHIP OF MAHWAH PLANNING BOARD
REGULAR/WORK SESSION MEETING MINUTES
MUNICIPAL BUILDING, 475 CORPORATE DRIVE, MAHWAH, N.J.
MONDAY, JULY 27, 2015 AT 7:30 P.M.**

I. CHAIRMAN'S OPENING STATEMENT, ROLL CALL, 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 7:43 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
Mr. Donigian
Mr. Sherer
Mr. Van Duren
Mr. Lo Iacono

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

The following individuals were absent:

Ms. Ariemma
Mr. Bagatelle
Mr. Crean
Mr. Marcus
Mr. Weixeldorfer
Mr. Jandris

II. APPROVAL OF BILLS: None to present.

III. APPROVAL OF MINUTES: None to present.

IV. RESOLUTION FOR MEMORIALIZATION:

Resolution of Approval of the Board's Review of Proposed Amendment to Chapter XXIV, entitled "Zoning," of the Township of Mahwah Code, Ordinance #1767, amending the Township's Affordable Housing Plan to restrict the rental of affordable housing units

Motion to approve the resolution was made by Mr. Donigian and seconded by Mayor Laforet. A roll call of members present revealed 4 aye votes by Mayor Laforet, Mr. Donigian, Mr. Sherer, and Mr. Lo Iacono.

V. OPEN TO THE PUBLIC – 15 MINUTES

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 Mr. Donigian and declared unanimously carried by Mr. Sherer.

VI. PUBLIC HEARING:

- 1. Docket #569 - Ramsey Auto Group** 440 Franklin Turnpike, Block 110.01, Lot 7 Conditional Use Application

Mr. Sherer informed this hearing would be carried to 8/24/15.

At this time, Mr. Sherer referred to Item No. VII. A) 1.

- 2. Docket #559PF & 559PF-S – Apple Ridge Mahwah, LLC** 269 East Crescent Avenue, Block 127, Lots 1, 3-7 Preliminary & Final Major Subdivision and Soil Movement Permit Applications to subdivide the existing seven (7) lots to create 34 new, single-family lots. Public Hearing continued from July 13, 2015

Kevin Moore, of Sills Cummis & Gross PC, appeared on behalf of the applicant and gave brief description of the application. Mr. Sherer questioned the absence of environmental reports. Mr. Moore explained the applicant was not able to get ahold of the Phase I study as it required more investigation. Mr. Donigian expressed his concern that the applicant would be providing testimony without providing paperwork to the Board members in advance.

Kenneth Paul, Executive Vice President of EcoSciences located at 75 Fleetwood Drive in Rockaway, NJ, informed he was a Licensed Site Remediation Professional (LSRP). He appeared on behalf of the applicant and described the current environmental conditions of the site and the proposed remediation techniques. He informed it was the recommendation found in Phase 1 to test soils on the property due to prior use as a golf course and historic apple orchard. The applicant followed the NJDEP's guidance for historically applied pesticides across the 113 acre site. The NJDEP required 26 samples to test for pesticides, including arsenic and lead. In each location, samples were taken at 3 depths totaling 78 samples to find contamination across vertical profiles.

In response to Mr. Sherer, Mr. Paul advised he could provide the physical locations of where the samples were taken at a future date. In response to Mr. Donigian, Mr. Paul informed the sample sites were taken across the property and not based on specific sites of historic use. Sediment samples were also taken from the brook that traverses the property. An additional 14 surface samples were taken from the area where there was a maintenance site; there was a total of 95 samples taken. Lead arsenate was historically used as a pesticide for agricultural applications. All three of the stream samples taken tested clean for pesticides, arsenic and lead indicating no contamination of the stream. All samples were below the residential standard for pesticides. Of the 95 samples, one location was above the standard for lead (the residential standard is 400 ppm and the reading was 437 ppm at the location). Ten samples failed for arsenic (the residential standard is 19ppm and the readings ranged from 19.6-74.8 ppm). Two of

the 26 samples had concentrations at the 18-24 inch level. Of the 14 samples taken in the wooded areas, seven failed for arsenic contamination with 22.2-42ppm and were located in Upper Saddle River. Of the ten samples that failed for arsenic, five were in Mahwah. In response to Mayor Laforet, 13 samples each were taken in both Mahwah and Upper Saddle River. Lead arsenate was the pesticide that had been applied when it was an apple orchard; this pesticide contains a ratio of 1:3/1:4 lead to arsenic, which is almost exactly what was found in the samples. These types of contamination are typically found on the surface level or the 0-6 inch level, which is the case here as well.

Acceptable ways to remediate this contamination include capping the site, removing the soil and replacing it with clean fill, or blending the soil into the clean soil currently on site to ensure appropriate levels. For historically applied pesticides, the NJDEP allows blending or dilution as a remedial approach. Unlike other contaminants, the pesticides were legally applied, as it was a suitable use at the time; this resulted in wide spread use across the state of New Jersey. For this application, blending the soils with a depth of three feet was chosen as the remediation method. The two areas that tested deeper for contaminants will be blended deeper. The applicant, upon completion of blending, will verify the success of the remediation; four samples per acre will be taken through the vertical profile to test for contamination. Once completed and the soils are tested clean, the LSRP will issue a Response Action Outcome (an RAO, formerly known as a “no further action letter”) for unrestricted use for the entire site.

During blending, the health and safety oversight will be monitored by the LSRP office; oversight will include compliance testing samples and a community monitoring program for air quality (to ensure dust particles are below the standard as well). Soils will be wetted to ensure the dust is minimized. In response to Mayor Laforet, Mr. Paul noted that the final four test samples required per acre after blending is the guidance set forth by the NJDEP, who also sets the standard number required for the pre-remediation testing samples. In response to Mr. Boswell, Mr. Paul informed the first Preliminary Assessment Site Investigation first phase was conducted; it will show the remedial action work plan which shows how contamination will be addressed.

Mr. Donigian expressed concerns regarding lack of environmental reports. He noted this information was requested specifically at the last meeting. Mr. Donigian stated that the applicant was looking to develop residential properties atop blended soil; he expressed concern that there was no guarantee the lot would be clean enough to not have any future effect on the health of any future occupants of the property. He added that while four samples may be acceptable for the NJDEP, it may not seem enough to satisfy concerns of future health risks. He advised the information should have been provided and given to the Township Engineer for review. Mr. Donigian stated the Township had an obligation to protect future residents of the community. Mr. Boswell advised the Board was unaware of where the samples were that were contaminated and unsure of the exact levels of contamination. He added the Township Engineer’s office would prefer a more knowledgeable review of the data. He concurred these types of contaminants did not permeate the soils, but he expressed discomfort in reporting without the data. The applicant agreed to provide all the data to the Township Engineer.

In response to Mr. Boswell, Mr. Paul informed the blending depth will vary based upon the data, as the ranges of contamination were between 19.6-74ppm. The applicant may need to blend deeper than three feet. Mr. Boswell questioned the possibility of saving trees if it was feasible to dig shallower in certain areas that were not as contaminated if there was a pattern established for contamination. Mr. Paul explained there was no pattern of contamination; the

contractor will be able to address these issues and can attempt to keep the blending as shallow as possible. They can use the verification sampling to show successful blending and minimize disruption to the site, but he advised the applicant needed to meet the remediation requirements. Mr. Paul further explained that there was one location in Upper Saddle River that was found to be contaminated at a depth of 18-24 inches with 34.5ppm, but at a depth of 36 inches, the soil was clean with a reading of 3.1ppm. At another location, the contamination was 25.1 ppm at the surface, held a reading of 0.94ppm at the 18-24 inch depth, but then was contaminated at 36-42 inches with 26.9ppm. The applicant had thought this could be naturally occurring, but the levels dropped drastically when digging deeper at that location. Seven samples failed for arsenic levels in the wooded area, all were 0-6 inches in depth. Mr. Paul noted that the NJDEP did not require naturally occurring compounds to be cleaned, but the pesticides were applied here and caused the contamination, so they must meet the NJDEP standards.

In response to Mr. Boswell, Mr. Paul explained once issues were found on site, the scope was expanded to check the wooded area; sampling only went to surface depth in this location. The applicant will blend down and take samples again to verify if the location is clean. He advised the area was probably a part of the orchard and the trees located there were planted at some point. In response to Mr. Sherer, Mr. Boswell advised the Board could hear testimony regarding the remediation techniques.

Mr. Paul explained that blending techniques differ for each contractor. A tilling machine or a cylindrical attachment to a bull dozer to churn the soil in a chevron pattern are both acceptable means of blending. There is a less than 10% reblend rate using this type of blending. Mr. Sherer requested a summary of the remediation plan in writing be provided to the Board, which the applicant agreed to provide. Mr. Paul explained the plan is to completely blend 2-4 acres per day and immediately complete the verification sampling. Once the results are back, the section will be revisited for additional blending should the samples come back at levels above standard. Four samples will be taken per acre at six inch vertical increments through the blended profile until the native soil depth is reached.

In response to Mayor Laforet, Mr. Paul explained a health and safety officer with a hand held dust monitor will be on site; tripod dust meters will also be installed downwind of the work area. These will take readings, and if the reading exceeds 150 $\mu\text{g}/\text{m}$, construction will be halted to wet the soil to reduce dust. The applicant agreed to submit a written remediation plan and allow the Township Engineer to review and make recommendations. Mr. Paul advised that with the NJDEP's new draft guidance, the applicant will need to report to the NJDEP with a letter stating the location of the site, the owner and provide applicable information. As per the NJDEP, a Remedial Action Work plan (RAW) will not need to be submitted if the RAO will be completed within one full year; however a RAW will be generated as it is required for land use permits due to the wetlands. A final deed notice to the owners will not be required, as the site will be deemed clean for residential standards. In response to Mr. Boswell, a stormwater pollution prevention program will be in place, but there is no specific stormwater permit required, as they are remediating contaminated soil.

In response to Mr. Sherer, Mr. Paul explained the soils on the property will be blended so movement onto adjacent properties during rainfall should not be an issue. However, the applicant was taking precautionary measures by installing silt fences during construction to prevent this. After the soils are blended, tested, and are certified clean, the site grading is to immediately commence. In response to Mr. Boswell's concerns regarding a lengthy waiting period for results to be obtained, Mr. Paul noted the applicant is anticipating expedited test results within 2-3 days for the areas blended and tested. He reiterated 2-4 acres per day will be

blended, resulting in a maximum of 8-12 acres being complete when the test results are received. The soil erosion plan should cover the movement of soils. The applicant expressed the desire to complete the blending operation as quickly as possible; Mr. Paul estimated 4-5 months for blending to be complete; tree removal will begin prior to blending. He agreed to discuss both the tree removal and blending plans with the Township Engineer.

In response to Mr. Van Duren, Mr. Paul explained the immobile compounds that contaminate the site bond to the surface of the soil immediately, but do not leach into the soils. Mr. Van Duren expressed concerns regarding the location of contaminants found in the woods, as he did not believe orchards were historically present in that area. Mr. Paul explained contaminated soils were moved when the golf course was created for grading. In response to Mr. Donigian, Mr. Paul advised he was the LSRP on a site in of 40-50 acres in Lopatcong where they conducted similar blending for remediation of these contaminants for the construction of residential properties. Mr. Donigian suggested delineating the area for hot zones rather than clear cutting and tilling every acre on site. Mr. Paul reiterated there was no geographic pattern of location nor level of the contaminants across the site. He advised that if additional samples were taken, the same scattering would most likely be found. He noted it would be highly unlikely to find a significant portion of the site that was clean to avoid blending a particular area.

Mr. Donigian questioned the depths of where the sediment samples were taken, as shallow areas may not be indicative of past contamination. Mr. Paul informed a significant portion of the stream has a concrete bottom; they may not have been able to sample at a depth of four feet. Samples were taken at the beginning, middle and end of the stream on site, and no contaminants were found. In response to Mr. Donigian, Mr. Paul advised additional samples would not be tested after construction of the properties and utilities are complete. Mr. Donigian expressed his concerns that the samples would be clean after blending, but the construction crews will move the soils for grading and installation of utilities; he stated it was prudent to conduct additional samples at the 0-6 inch depth after the property is completed as a matter of public health and safety.

Mr. Paul informed the applicant would take additional precautions with a sample every six inches throughout vertical plane of the blended zone until native soil is reached. This was in addition to the required NJDEP samples of four per acre once blending is complete. He explained that for remediation using excavation of soils, one must test every 30 linear feet upon completion and also 900 sq. ft. after the soils were removed. Someone could always test different areas of the site during an excavation remediation and possibly find contamination. Mr. Paul advised this whole site is being blended, and is, therefore, different. Mr. Boswell advised when completed, there should be no concerns as the environmental and health standards would be met as per the NJDEP. He noted this type of contamination is the one area where the NJDEP accepts this blending. In response to Mr. Donigian, the applicant agreed to provide the information on the regulations and remediation plan to enable residents the opportunity to review the information. Mr. Kelly reminded the applicant to provide a remediation plan in writing as per Mr. Sherer's request.

Mr. Roberts noted the predominant samples that Mr. Paul listed as contaminated were in the 0-6 inch depth; he advised the root zones of most trees would be contaminated with the deep contaminated samples that were in Upper Saddle River. Regarding the tree removal, Mr. Roberts informed he counted 60 trees greater than the 30-inch diameter depth. He questioned whether any of the three remediation techniques mentioned were able to reduce the amount of clear cut and accommodate the large trees in the wooded areas. He also questioned whether the applicant would be able to blend the soil at three feet while saving the large trees, as the roots of

those large 30+ inch diameter trees are deeper than the blending depth. The applicant agreed to revisit this possibility and discuss with the Township Planner. Mr. Roberts stated he was not convinced the Township needed to lose the largest trees on the property without further discussion. Mr. Paul advised that moving the soil around the tree radius could damage the trees. He was aware of a project in Floram Park where they are trying to save some of the trees by using an air knife to remove contaminated soil. He noted the process was difficult, but they would discuss this possibility.

In response to Mr. Boswell, Mr. Paul advised the target for the remediation was 19ppm. The applicant will blend to clean as quickly and economically as possible. If the post blending results in a test reading of 18.5ppm, it will be considered clean; the applicant will not blend additionally if the reading is below 19ppm. Mr. Boswell questioned who would hold responsibility if the NJDEP changed the standard to 1ppm. Mr. Paul stated the remediation used currently would not require a deed notice with biannual certification. There will be 78 individual single family home owners; it will be the homeowner's responsibility. He advised this is the case with any property where a remediation has occurred and there is a change in the standard. Mr. Boswell advised the levels were protective of human health at 19ppm. Mr. Paul explained the NJDEP has made some changes with standards for much more toxic contaminants; however, with arsenic, the only way to affect one's health would involve physically ingesting the contaminated soil in a large amounts. He advised he would hold no concerns purchasing a home on the property. Mr. Boswell added the changes were also made for some contaminants because the techniques for remediation were more advanced; he noted that the drinking water standard for arsenic is 5ppm in the country, but in New Jersey it is more stringent at 1ppm.

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

Marianne Masi of Squire Court expressed concern regarding her potable water well. Mr. Paul reassured her that she should not have a concern regarding well contamination, as the compounds are immobile and these specific contaminants do not leach down into the soil. He explained the wells are, most likely, several hundred feet deep; potable wells, in general, are much deeper than the areas that would be typically affected. He added that these compounds do not leach into groundwater. Mr. Boswell concurred, stating the NJDEP considers a well safe with these contaminants if there is a 2 ft. layer of soil above the well that is considered clean. In response to Ms. Masi, Mr. Paul stated there should be no concern regarding dust coming into the homes. The dust meter will be in place and the soils will be wetted if necessary. The blending of the soils is done with small equipment, which will also reduce any noise pollution as well.

Linda Mizell, of 36 Niagara Drive, expressed her concerns regarding drainage. She questioned the tree removal locations along E. Crescent Ave. Mr. Paul stated all the trees within the property boundary will be removed; if these trees are not on the property, they will not be removed. He noted the trees cannot be removed from the Township's right-of-way. He suggested she hold questions regarding drainage for Mr. Omland, the applicant's engineer.

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

Mr. Sherer informed the application would be carried to 8/24/15 with no further notice required. The applicant agreed to provide revised plans to the Board per the comments from 7/13/15 and note sampling locations as well as a summary of remediation procedures. Mr. Sherer noted more information provided to the Board would be best for an application of this magnitude. Mr. Kelly reminded the applicant to submit the plans at least 10 days in advance of the meeting.

VII. WORK SESSION:

A) NEW BUSINESS

1. Docket #533A – 686 Island Avenue, LLC 465 Route 17 North, Block 64, Lot 18 Amended Site Plan Application

James Jaworski, of Wells Jaworski & Liebman, LLP, appeared before the Board on behalf of the applicant and gave a brief history of the property. The children's recreational facility had initially planned for a mini golf and go-kart racetrack, both of which were approved; however, the property is now being proposed for a mostly adult-use property rather than children's use. The owner is desirous of installing a commercial four court squash facility; the building is identical as initially proposed.

Mr. Jaworski informed the access to the property in Ramsey via the right-of-way is still proposed. There will be no more than 16 people on site to play squash and the same number of spaces is proposed as initially put forth. Mr. Jaworski explained squash is a seasonal sport used mostly in the winter; the facility will be used for mini golf in the summer and cross parking would not be used because of these differences. The prior arrangement for off-site parking at the office building on Route 17 S will no longer be necessary. Because of this, the applicant was proposing to remove the initially proposed sidewalk, crosswalks across Constantine Drive, and pedestrian walking signs. The applicant is now proposing to install a green space, as there is no need for additional parking. The applicant agreed to provide an updated resolution to the Township Engineer regarding the change in the off-site parking.

Mike Kelly explained the proposed use is less intense than the previously proposed mini golf and go-kart track use. He requested an updated tree removal plan be provided to the Township. He advised a condition of approval should include the provision of a driveway easement across the proposed site as all traffic will exit through the Home Depot site.

Motion to approve the application with the aforementioned condition for a driveway easement was made by Mayor Laforet and seconded by Mr. Donigian. A roll call of members present revealed 5 aye votes by Mayor Laforet, Mr. Donigian, Mr. Sherer, Mr. Van Duren, and Mr. Lo Iacono.


B) OLD BUSINESS

C) COMMITTEE REPORTS

VIII. ADJOURNMENT

Motion to adjourn the meeting at 9:10 p.m. was made by Mayor Laforet, seconded by Mr. Van Duren and declared unanimously carried by Mr. Sherer.

Provided to the Planning Board
on September 25, 2015 for
approval at the Regular Meeting
to be held September 28, 2015



Donelle Bright DeCouto
Planning Board Recording Secretary