

**TOWNSHIP OF MAHWAH PLANNING BOARD
REGULAR/WORK SESSION MEETING MINUTES
MUNICIPAL BUILDING, 475 CORPORATE DRIVE, MAHWAH, N.J.
MONDAY, SEPTEMBER 28, 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
Ms. Ariemma
Mr. Crean
Mr. Donigian
Mr. Sherer
Mr. Marcus
Mr. Van Duren
Mr. Weixeldorfer
Mr. Lo Iacono

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

The following individuals were absent:

Mr. Bagatelle
Mr. Jandris

II. APPROVAL OF BILLS:

Maser Consulting	February 2015	Additional Services	\$ 290.00
Maser Consulting	7/13/15	Meeting Attendance	\$ 200.00
Maser Consulting	8/24/15	Meeting Attendance	\$ 200.00

Motion to approve the bills for Maser Consulting was made by Mr. Crean and seconded by Mr. Donigian. A roll call of members present revealed 9 aye votes by Mayor Laforet, Ms. Ariemma, Mr. Crean, Mr. Donigian, Mr. Sherer, Mr. Marcus, Mr. Van Duren, Mr. Weixeldorfer, and Mr. Lo Iacono.

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Peter Scandariato, Esq.	8/24/15	Meeting Attendance	\$ 250.00
Phillips Nizer	August 2015	General	\$ 75.00

Motion to approve the bills for Peter Scandariato and Phillips Nizer was made by Mr. Van Duren and seconded by Mr. Marcus. A roll call of members present revealed 9 aye votes by Mayor Laforet, Ms. Ariemma, Mr. Crean, Mr. Donigian, Mr. Sherer, Mr. Marcus, Mr. Van Duren, Mr. Weixeldorfer, and Mr. Lo Iacono.

III. APPROVAL OF MINUTES: July 27, 2015

Motion to approve the minutes was made by Mr. Donigian and seconded by Mr. Van Duren. A roll call of members present revealed 5 aye votes by Mayor Laforet, Mr. Donigian, Mr. Sherer, Mr. Van Duren, and Mr. Lo Iacono.

IV. RESOLUTION FOR MEMORIALIZATION:

- 1. Docket #567 – Cleymore, LLC 219 & 225 Ramapo Valley Road, Block 132, Lots 2 & 3, Resolution of Approval**

Motion to approve the resolution was made by Mr. Marcus and seconded by Mr. Weixeldorfer. A roll call of members present revealed 8 aye votes by Mayor Laforet, Ms. Ariemma, Mr. Crean, Mr. Donigian, Mr. Marcus, Mr. Van Duren, 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. 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. Crean, seconded by Mr. Marcus and declared unanimously carried by Mr. Sherer.

VI. PUBLIC HEARING:

- 1. 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 August 24, 2015**

Kevin Moore, Esq. of Sills Cummis & Gross PC appeared before the Board on behalf of the applicant.

Eric Keller, P.E., of Omland Engineering, appeared before the Board and gave a brief description of the traffic study. He explained the intersection traffic counts were conducted at five locations and did not include the traffic oriented to and from the existing golf course. The counts were conducted during peak hours between 8am-9am and 5-6pm. Mr. Keller explained E. Crescent Ave. morning traffic is heavily directional heading south towards Route 17. The traffic is more evenly split in the evening peak hour. Operations of the intersection level of service movements were determined to achieve level service D or better, which is an acceptable level of service for unsignalized intersections.

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Mr. Keller explained the traffic volumes would increase at 1% per year, which is the accepted growth rate as per NJDOT. When conducting the study, he looked for any projects constructed or approved in the area that would impact the anticipated traffic with this development. He included the added homes from Upper Saddle River to the conditions, which resulted in minor changes in average delay and no change in level of service for any of the studied intersections. The proposed development would result in an additional 26 morning peak hours trips and 34 evening peak hour trips. Traffic is assigned in the same pattern as found from existing conditions. Mr. Keller asserted that the additional traffic that would be added from this development would not have a significant impact on the traffic that exists today. He also noted the site distance provided is well in excess of that required.

Mr. Kelly advised the measures provided by the applicant were standard and the applicant did not expect the development to create any reductions in levels of service for any intersection included in the traffic study. He requested the applicant petition Bergen County, upon any approval given by the Board, to determine whether the speed limit on E. Crescent Ave. is accurate. He suggested it could be brought down to 35mph, which would be assessed according to the development proposed. He advised the proposed lots that front on E. Crescent Ave. should have ample space on site to complete a three point turn to avoid vehicles backing out onto E. Crescent Ave. In response to Mr. Weixeldorfer, Mr. Kelly explained the location for school bus stops is determined by the Board of Education, but he advised it could be similar to how Apple Ridge residents are currently picked up; he believed the pick-up would most likely take place on E. Crescent Ave. In response to Mayor Laforet, Mr. Keller confirmed the County requested the widening of E. Crescent Ave.

Stanley Omland, P.E., of Omland Engineering, appeared before the Board. He explained the widening of the roadway will be 23ft from the center line of E. Crescent Ave. It will be widened approximately 16ft. In response to Mr. Crean, Mr. Kelly explained the Township does not require street lighting in the development; this is typically left up to the developer to work out with Orange and Rockland. The Township usually recommends lighting be provided at the intersections. Mr. Omland noted that the applicant was proposing lighting be installed at the intersections of the new roads, the bends in the new roadway, and the end of the new cul-de-sac. Mr. Kelly advised these locations were appropriate and advised the locations suggested by the applicant for lighting should be made a condition of approval. Mr. Roberts advised there is a change in level of service for the Meadowbrook Rd. intersection in the no-build calculations; however, he advised all other intersections remained at a level of service D or greater. Mr. Keller concurred.

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

Mr. Omland marked the exhibit "Estates at Apple Ridge Grading Impact Plan," the exhibit detailing the trees to be removed from the site as per the Board's request at the prior hearing. At the request of Mr. Kelly, the applicant agreed to provide a list of exhibits to the Board. Mr. Omland detailed the exhibit, noting the areas required to be graded as well as the stream restoration area, where grading will not take place.

At 8:10 p.m., Mr. Sherer recessed the meeting.

At 8:20 p.m., Mr. Sherer called the meeting back to order.

Kenneth Paul, LSRP and Executive Vice President of EcoSciences, appeared before the Board. He reminded that he conducted the initial investigation on the property and will be preparing the Remedial Action Work plan (RAW) that will detail the blending remediation of the property to bring the arsenic and lead contaminants to acceptable levels. He reiterated, as an LSRP, he is held accountable by the State of New Jersey and not the developer. He gave brief description of the results of the investigation on the property and noted the areas by the stream that did not require grading. Once the blending remediation begins on site, he will do additional sampling in the Board's locations of concern to determine if they can save the trees in those particular areas. The applicant will primarily focus on the northern portion of the property and part of the southern portion to minimize the amount of blending in those areas in order to possibly salvage trees. In response to Mr. Weixeldorfer, Mr. Paul explained the property needs to be staked in order to better determine where to conduct additional sampling. The property is currently functioning as an active golf course; therefore, sampling now is not feasible.

In response to Mr. Sherer, Mr. Paul advised they will not remove trees that are neighboring the property. Mr. Sherer expressed concern regarding neighboring trees dying as a result of the blending. In response to Mr. Sherer, Mr. Moore stated the applicant holds no liability for trees on neighboring properties that could die as a result of the blending conducted on site. Mr. Weixeldorfer noted there are five trees on the property line. Mr. Sherer expressed his discontent, noting the claim of absence of liability is not acceptable in this situation; he requested this be revisited by the applicant. Ms. Ariemma concurring, stating if trees were destroyed on a neighbor's property as a result of the blending on site, they should be replaced. Mr. Kelly requested the soil be vacuumed and blown from the roots of these neighboring trees to minimize possible issues. Mr. Paul advised stone walls are present in some locations where trees neighbor the property; these and other features present should keep the blending far enough away from the neighboring properties. Mr. Sherer advised that if the applicant is proposing to possibly conduct the blending right up to the property line where the neighboring trees could be adversely affected, it would be challenging for the Board to approve such a project if those trees are not anticipating being replaced.

Mr. Donigian expressed his discontent that the additional sampling would not be conducted prior to the Board's approval. Mr. Paul reiterated the additional sampling will be conducted before the blending commences. Mr. Weixeldorfer stated if the applicant conducted additional sampling in those areas now, the homeowners and the Board would feel better about knowing whether those specific areas of concern are contaminated or not. In response to Mr. Crean, Mr. Paul explained the intention is to do additional testing in those areas to determine if those trees along the north will remain. Mr. Paul explained tests in the general area were conducted and one test failed, but another did not fail. Therefore, the applicant will conduct additional testing to fine tune and determine what trees can and cannot be saved. In response to Mr. Lo Iacono, Mr. Paul noted that they conducted the testing on a day the course was probably closed. Mr. Kelly suggested that the applicant state that the trees will be saved unless they are found to be contaminate rather than testifying that the trees will be removed unless they can be saved. He reiterated the Board's concerns were largely with the trees along the northern portion of the site; if the additional soil tests are found to be contaminated, then those trees will need to

be removed. The applicant agreed the tests to be conducted were subject to the review and approval of the Township Engineer. Mr. Kelly advised he could review the test results himself or report back to the Board.

Mr. Sherer noted a condition of approval would include the applicant's confirmation to provide additional landscaping to replace trees neighboring the property if they are adversely affected by the remediation on site. Ms. Ariemma stated it must be a tree replacement, as additional landscaping alone is not acceptable. In response to Mr. Marcus, the applicant agreed to explore various avenues to attempt to save the trees. Mr. Paul explained that every tree saved and every portion of the site not blended saves the applicant money; this is to the benefit of the applicant and the Township concurrently.

Ms. Ariemma expressed her desire to have the samples taken now rather than later. Mr. Weixeldorfer concurred, noting he would rather know prior to voting and it would benefit the Board and the applicant. Mr. Paul explained the site must be remediated and the test results today will be the same as those found in the future. Mr. Sherer questioned if there was another reason other than the golf course being open why the tests would not be conducted now; he noted the Board wanted clarity. Mr. Kelly advised that both the trees on the north and south side should be included in the additional testing. Mr. Marcus noted the applicant would be able to tell neighbors whether their trees would be impacted or not if the testing was conducted now; neighbors could be comforted and get clarity rather than waiting to see what happens. He stated it could help the public understand that the applicant is trying to do the right thing. In response to the applicant, Mr. Donigian expressed his discontent with the information provided thus far to the Township.

The applicant agreed to provide the additional testing and provide the results 10 days prior to the next hearing, which will be 10/26/15. Mayor Laforet reiterated the sole purpose is to determine the fate of those trees in areas of concern.

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.

Gene Jaekel, 331 and 800 E. Crescent Ave., informed she was the neighbor with the rubble retaining wall. She expressed her concerns regarding the tree removal and questioned how the development will affect the trees and the wall. She also questioned if the applicant will stake the property line and was unsure if the applicant intended to blend up to the property line. Mr. Paul explained they will not do anything to affect the stone wall. He explained the property will be staked. Mr. Kelly advised they will need to stake the property lines and put up orange construction fence to limit disturbance; he noted this will be conducted by a licensed surveyor to ensure accuracy. In response to Ms. Jaekel, Mr. Omland explained the slope proposed will be 1:4; the 1:3 slopes are those slopes proposed at the rear of the lots. Ms. Jaekel questioned the absence of some trees in the depicted plan; Mr. Omland explained that these trees are located on her property line and are not on the golf course property.

William Jaekel, 331 E. Crescent Ave. questioned the construction of the detention basin. Mr. Omland explained that the two detention basins on the project will be dry. The basins will collect water from pipes and release the water into the brook at a steady rate; also, a fence will be constructed to surround the basins.

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John Brotherton, 249 E. Crescent Ave., questioned the plan for the northern property line where his home is located. He noted there are tennis courts in the area designated for grading and was unsure what the final proposed area would entail. Mr. Omland explained a three-foot high retaining wall would be constructed eight to ten feet off Mr. Brotherton's property line. Mr. Brotherton stated it would make sense to keep the trees down the northern side of the property to the east of his property line, unless they will be removed for home construction. He added that it would seem appropriate to keep as many trees as the applicant could. Mr. Omland explained there is a significant amount of trees already proposed along Mr. Brotherton's property line. He noted additional plantings could be provided at full build-out, but the minimum is what was proposed and provided in the current plan; the proposed plantings are trees that are 2.5-3 inches in diameter, which would typically result in a 10-12 foot tree.

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

Regarding COAH, Mr. Moore explained that the Highlands Council required seven affordable housing units be provided on or off site. The applicant is presently in discussions regarding funding seven units in the senior citizen affordable housing units that the United Way is constructing. If this does not pan out, the applicant intends to purchase seven properties and deed restrict them as affordable housing units. Mr. Roberts explained the situation with affordable housing compliance is being addressed across the state. Municipalities are unsure as to the extent of what COAH regulations will be adhered to; he cautioned that whatever units are finally decided upon must actually be approved and count towards the affordable units required by the Highlands Council. Mayor Laforet explained these additional units will help to bring the Township to the 13 required affordable senior housing units. The community should acknowledge this contribution of seven units would greatly aid the Township in its completion of this requirement.

Mr. Donigian questioned whether the two detention basins would be the responsibility of a homeowner's association or individual homeowners. Mr. Kelly advised the recommendation of the Township is to require maintenance responsibility be held by a homeowner's association or the property owner. The Township should not be responsible for the maintenance of these basins or the Filterra units proposed. Mr. Donigian reminded that a property owner was responsible for the maintenance of one known basin and it was never maintained properly. Mr. Omland noted there was a change in the submission and the previously proposed Filterra units were removed; the basins would be a part of any homeowner's association maintenance requirements. Mr. Kelly concurred the roadways would be maintained by the Township. Mr. Moore advised the applicant had not determined whether a homeowner's association will be established or whether maintenance will be held by the property owners individually; he will have that answer at next hearing.

In response to Ms. Ariemma's concerns regarding obtaining credit for the proposed senior housing units, Mr. Roberts advised the units seem they will be credited. Mayor Laforet stated the Township would obtain full credit for the entire building; the Township will get credit for special needs and senior housing. Mr. Weixeldorfer recapped the items to be provided at the next hearing, noting the Board will be notified if there will be a homeowners association and will also have the results of additional testing. Mr. Kelly suggested providing explanations of the testing results to better discuss the specifics; he noted the Board will want an idea of what trees

will remain and which will be removed. Mr. Donigian requested the applicant provide a map of same, with copies of the map provided to the Board members.

The applicant agreed to grant an extension for the Board to make a decision on the application to 10/27/15. Mr. Moore advised he would provide a letter stating same to the Board's Engineer and Attorney.

The application was carried to 10/26/15 without need for further notice.

VII. WORK SESSION:

A) NEW BUSINESS

- 1. E-BD-216-2852 – Peter Miller** 3 Fox River Crossing, Block 1, Lot 190 Waiver from Section 28-2.4b(6) requesting to create slopes greater than 1V:4H

Peter Miller, the applicant, appeared before the Board and explained the application. He noted he was requesting an exemption for the existing slope, as it is already greater than 1:4. He explained he was looking to extend his driveway and make a safer environment. Mr. Kelly advised the Township had received a complaint from a resident in the area for soil movement activities. The property owner mistakenly began work without a permit. The applicant advised he was continuing the existing grade, which seems to be approximately 1:2.

In response to Mr. Donigian, Mr. Miller noted that trees greater than 12 inches in diameter will not be removed. One large tree in the area will remain and the soil will be moved around it to preserve the tree. In response to Mr. Crean, Mr. Kelly concurred the trees being removed are smaller than 12 inches in diameter. Mr. Miller noted they will back fill the plastic area with soil to create a barrier. Mr. Kelly advised this will serve to stabilize the slope. Mr. Miller also noted there will be a guardrail installed.

Mr. Miller explained he would require an exemption or waiver from the insurance requirement, as the insurance company will not provide him with a certificate. Mr. Donigian questioned the liability of the township. Mr. Scandariato advised this was a requirement to protect adjacent properties and workers on the site. Mr. Miller explained he tried for a \$500k policy, which is possible, but it is difficult to obtain; the insurance company will not issue a \$1,000,000 policy. Mr. Kelly advised they have not run into the situation in the past and requested the applicant obtain \$500k; he reminded the applicant had to provide an accord certificate in an amount to be determined by the Township Engineer.

Motion to approve the application was made by Mr. Weixeldorfer and seconded by Mayor Laforet. A roll call of members present revealed 9 aye votes by Mayor Laforet, Ms. Ariemma, Mr. Crean, Mr. Donigian, Mr. Marcus, Mr. Sherer, Mr. Van Duren, Mr. Weixeldorfer, and Mr. Lo Iacono.

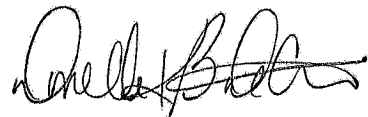
B) OLD BUSINESS

C) COMMITTEE REPORTS

VIII. ADJOURNMENT

Motion to adjourn the meeting at 9:14 p.m. was made by Mr. Marcus, seconded by Mr. Donigian and declared unanimously carried by Mr. Sherer.

Provided to the Planning Board
on October 23, 2015 for approval
at the Regular Meeting to be held
October 26, 2015



Donelle Bright DeCouto
Planning Board Recording Secretary