

MINUTES OF THE NOVEMBER 13, 2014 PLANNING BOARD
BOROUGH HALL, BOROUGH OF HILLSDALE

MEMBERS PRESENT: E. Alter, E. Lichtstein, M. Kates, M. Giancarlo, Councilman T. Kelley,
Mayor M. Arnowitz, F. Franco, J. Miano, Z. Horvath

MEMBERS ABSENT: L. Calabria, J. Traudt

EMPLOYEES PRESENT: Nylema Nabbie, Esq., Board Attorney
Christopher Statile, P.E., Board Engineer
Caitlin Chadwick, Acting Deputy Secretary

Acting Chairman Giancarlo called the meeting to order with a reading of the Open Public Meetings Statement at approximately 7:40pm.

OPEN TO PUBLIC (for matters not on the Agenda):

As no one wished to speak, the meeting was closed to the public.

MINUTES:

The *November 4, 2014* meeting minutes were approved by the Board.

BILLS:

Invoices from the Board Attorney were approved by the Board for payment.

Invoices No. 417.014, 417.015 and 417.016 from the Board Engineer were approved by the Board for payment.

COMPLETENESS REVIEW:

PZ-13-14; Anne Sirkin; Block 1302, Lot 6; 82 Crosley Terrace

Bulk "c" variance for side yard setback to existing single-family dwelling was deemed complete and scheduled for a public hearing on December 16, 2014.

PUBLIC HEARINGS:

PZ-07-13; Caliber Builders; Block 506, Lot 1; Golden Orchards

Final Site Plan Application for construction of age-restricted, single-family dwellings

Counsel for the Applicant – Siobhan Spillane Bailey, Esq.

Counsel for the Northgate Condominium Association, Opposition – John Lamb, Esq.

Witness Dr. Stephen T. Boswell, President of Boswell Engineering was sworn in before the Board. Dr. Boswell's resume was labeled as **Exhibit O-25** and qualified by the Board as a Professional Engineer. Boswell referenced both the Preliminary Site Plan, dated 8/10/07 and the Final Site Plan, dated 1/26/14, stating that there was a major change in the landscaping plan. Boswell explained that the applicant originally proposed a buffer strip of trees in Washington Township along the southerly property line, but relocated them from to the wetlands area in the western portion of the property, as mandated by NJDEP.

An excerpt of Alex Zepponi's testimony from 2/25/14 was then read from a transcript and labeled **Exhibit O-26**. The excerpt consisted of Mr. Zepponi stating that many changes had been made between the preliminary and final site plans. Dr. Boswell then spoke to the stormwater management report which required 23 infiltration fields for rooftop stormwater runoff, but saying that the final site plan only shows 22 fields. Boswell also explained that the locations of the infiltration fields have changed between from preliminary and final site plans. In addition, the infiltration fields scale on the plans smaller than they need to be, and according to Boswell, and the area they are being installed also needs to be larger.

Dr. Boswell was also opined about site grading and drainage. He referenced **Exhibit O-14E**: Final Site Plan dated 3/28/13, saying there are proposed homes straddling over Washington Township and Hillsdale which cannot be built with Hillsdale approval alone. Based on the final drainage plan if the houses are not constructed, grading and stormwater near those homes which was to run westerly, will run south. Boswell stated that removing seven homes from the final site plan (lacking Washington Twsp. Approval) constitutes a significant change from Preliminary Approval. Boswell also offered his professional opinion on construction phasing. The applicant should provide a standalone plan showing only the Hillsdale portion of the project, rather than a comprehensive plan showing site work in both municipalities with their proposed structures. Boswell discussed the differences between subdivision approval and site plan approval wherein site plans require the location of buildings and structures.

Board member Alter asked Dr. Boswell if he left out any of the infiltration systems in Washington Township when he was counting and found only 22 rather than 23. Boswell stated that he included the Washington Township infiltration systems. Boswell then stated that the 23rd infiltration system was never included in the Preliminary Plan that was approved by the Board, it was only included in the stormwater management report, which the Board approved. Dr. Lichtstein asked Boswell about site grading. Boswell said he hadn't looked at the grading plan carefully. Dr. Lichtstein asked Boswell how he knows if the grading is a substantial change if he didn't look at it closely. Ms. Kates asked Boswell if a change occurred mandated by a higher government agency mandated would still be a substantial change, and whether the applicant still needs to amend the site plan if that were the case. Boswell replied yes to both her questions.

Dr. Boswell asked if the applicant intends to seek approval in both Hillsdale and Washington Township or if he intends to seek approval only in Hillsdale. Boswell did not know. Ms. Bailey interjected that her client intends to seek approval in Washington Township for the presented Final Site Plan. Mr. Horvath asked Ms. Bailey if her client would still complete the Hillsdale portion of the project if Washington Township denied him approval. Ms. Bailey responded yes. Boswell then stated that based on the current final site plan, the applicant cannot construct the dwellings only in Hillsdale.

Dr. Lichtstein noted that even in the event that Washington Township denies the application, the drainage issues will still be improved for Washington Township residents because of the reductions in stormwater management for work which is constructed, and lands left undisturbed in Washington Township.

Board Engineer Statile asked Dr. Boswell if the applicant can build less homes than he is proposing to build, or none. Boswell responded yes. Mr. Statile asked Boswell if he knew the total caliper of

all trees proposed for planting on the preliminary site plan, versus the final site plan. Boswell replied no. Mr. Statile stated that he never realized a change in species of tree could be considered a substantial change, for if it does, than other approvals the Board made would have to return to the Board such as Mr. Lamb's client Inserra Supermarkets for the Shop Rite site plan.

The meeting was then opened to the public. Kenneth G. Poller, Esq. Township Attorney for the Washington Twsp. asked if the applicant would be willing to stipulate from starting construction until he receives final site plan approval in Washington Township. As this was not a question for the witness, no response could be given.

Resident Theresa Pendergast, 281 Ell Road, Hillsdale asked Dr. Boswell about 100-year storms. Boswell explained the necessity of stormwater detention and discussed groundwater recharge. Resident Peter DuBois, 226 Ell Road, Hillsdale asked drainage questions of the witness. Resident Laura Landesman, 297 Ell Road, Hillsdale asked if it would be possible for the applicant to receive approval in Hillsdale, begin building in Hillsdale, and then be denied approval in Washington Township. Boswell explained that if the final site plan were approved in Hillsdale, what happens in Washington Township would depend on how the Hillsdale approval was written. There being no more questions from the public, the meeting was closed to the public.

Dr. Boswell and the Board then discussed the seven houses straddling the municipal boundary with Washington Township. Boswell repeated that if the applicant is seeking approval from one town, there should be a standalone plan. The Board then took a short recess.

Upon returning from the recess, Ms. Bailey began her cross-examination of Dr. Boswell. Ms. Bailey asked Dr. Boswell if his testimony was that there were significant and substantial changes made between the preliminary and final site plans. Boswell responded in the affirmative. Ms. Bailey asked Boswell to read from Section 310-92 for Final Approval of Hillsdale's Land Use Ordinances, marked as **Exhibit A-10**. Ms. Bailey asked Dr. Boswell where in the Hillsdale site plan ordinance for a final plat does it mention that the final site plan must contain final grading. Boswell stated that it's part of New Jersey Land Use law and he assumes Hillsdale isn't exempt from following state law. Boswell stated that the applicant might remove dwelling units from the plan. Ms. Bailey repeated her previous question. Boswell responded stating that such information can be found on page 19 of the resolution for preliminary site plan approval, paragraph C.

A sheet from the approved preliminary plan, entitled "Lighting Plan & General Notes" was marked as **Exhibit A-11**. Note 15 of this drawing was read stating that the project is proposed to be constructed in two phases, the first phase entirely in Hillsdale, and the 2nd phase in Washington Township.

Architectural styles were also discussed and the section of the resolution pertaining to such was referenced (page 9, paragraphs 1-5). Ms. Bailey asked Boswell if the applicant needs to commit to an architectural style right now and Boswell answered no. Ms. Bailey asked Boswell if the applicant can make those decisions at the time of construction. Boswell replied that applicant will have flexibility between different options.

Dwelling basements was also discussed and page 19, paragraph E of the resolution was referenced. Notes from the "Utility and Grading Plan" of the final site plan were also referenced.

Ms. Bailey then asked Dr. Boswell if the landscaping being proposed in the wetlands is part of the development. Boswell stated that it is. Ms. Bailey asked him if the wetlands are located near any of the houses. Boswell responded yes. Ms. Bailey then asked Boswell what impact the additional trees being planted in the wetlands would have on the residents of the development. Eventually, Boswell responded that he does not believe it would have any impact however he still considers it a substantial change. Ms. Bailey then asked Boswell if the final site plan follows all the conditions that were previously set forth during preliminary site plan approval, would he still consider those changes to be substantial; Boswell said yes. **Exhibit O14C**, the approved Landscape Plan from the preliminary site plan was then referenced by Ms. Bailey, who stated that the Board previously directed the applicant to change the Landscape Plan.

The number of units being proposed was then discussed by Ms. Bailey and Dr. Boswell. Ms. Bailey had no further questions of the witness. Mr. Lamb then spoke about stormwater management on the site and asked if the final site plan complies with the stormwater management report, dated 2007. Boswell answered that no, it does not. Councilman Kelley asked Boswell if grading can still be done in Washington Township in the event that the structures in Washington Township are not approved for construction. Boswell replied that while the premise of that question was correct, he could not offer an answer.

The meeting was opened to the public. As no one wished to speak, the meeting was closed to the public. Due to scheduling conflicts of Mr. Lamb, the previously scheduled December 11 special meeting may not occur. Therefore, Caliber Builders is carried to the next regularly scheduled Planning Board meeting on November 25 without further notice. On November 25, Mr. Lamb will decide his appearance on December 11. Since another applicant is being heard on November 25, Caliber Builders' portion of the hearing will begin at 8:30pm. At this hearing, Ms. Bailey will offer either Mr. Zepponi or an engineer from Costa Engineering to appear for rebuttal testimony. Mr. Lamb spoke about his letter request to the Board for a motion to require the applicant to either submit the other stormwater management report/plan. Again he asked the Board to dismiss the application without prejudice. Ms. Bailey reminded Mr. Lamb that the Board had responded and decided to proceed with the current hearings. Furthermore, Ms. Bailey said, Mr. Zepponi will address that issue in his testimony. Unfortunately, Ms. Bailey does not know the exact dates Mr. Zepponi will be available for testimony due to health issues. Possible dates in December for additional special hearings were discussed, but nothing was assigned.

Ms. Bailey stated on behalf of her client that the Applicant waives all statutory time frames for the Board to act. The meeting was adjourned at approximately 10:50pm.

Respectfully submitted,

Caitlin Chadwick
Acting Deputy Secretary