

BOROUGH OF FAR HILLS
Planning Board Regular Meeting
MINUTES
February 7, 2022
VIA REMOTE MEETING ACCESS ONLY

CALL TO ORDER

Chairman Rochat called the virtual meeting to order at 7:04 p.m. and read the Open Public Meetings statement in accordance with the law. Those present stood for the pledge of allegiance.

ROLL CALL:

Present: Chairman Tom Rochat, Mayor Paul Vallone, Councilwoman Sheila Tweedie, Vice Chairman Richard Rinzler, Robert Lewis, John Lawlor, Marilyn Layton, Jack Koury and Suzanne Humbert, Alt. #1

Also Present: Frank Linnus, Board Attorney, David Banisch, Planner, Steve Bolio, Engineer and Shana L. Goodchild, Secretary

Absent: None

There were approximately twenty-seven (27) audience members present.

BILL LIST

- February 7, 2022

Vice Chairman Rinzler made a motion to approve the Bill List. Councilwoman Tweedie seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote

Those in Favor: Mayor Paul Vallone, Councilwoman Sheila Tweedie, Vice Chairman Richard Rinzler, Robert Lewis, John Lawlor, Marilyn Layton, Jack Koury, Suzanne Humbert, Alt. #1 and Chairman Tom Rochat

Those Opposed: None

MINUTES

- December 6, 2021 Regular Meeting

Councilwoman Tweedie made a motion to approve the minutes of the December 6, 2021 Regular Meeting for content and release. Vice Chairman Rinzler seconded the motion. All were in favor.

- January 3, 2022 Re-organization Meeting

Councilwoman Tweedie made a motion to approve the minutes of the January 3, 2022 Re-organization Meeting for content and release. Ms. Layton seconded the motion. All were in favor.

PUBLIC COMMENT

Skip Schwester, Lake Road was present and began to comment on the Pulte Homes application and a financial study he offered to pay for on behalf of the Borough. Mr. Linnus reminded Mr. Schwester that public comment was restricted to any items not listed on the agenda. Mr. Schwester indicated that he was not speaking about the Pulte application but rather a professional financial study for Far Hills and the Board's disregard to the environment and to the original agreement to have the Pulte project serviced by public sewer. Mr. Linnus again interrupted Mr. Schwester to remind him that the Pulte Homes project was subject of the public hearing later in the meeting. He went on to explain that the public was provided the opportunity to comment at the January meeting and that public comment period was closed; any further comments would be subject to the Chairman re-opening the hearing to the public.

There being no additional public comments, Chairman Rochat closed the public comment portion of the meeting.

APPLICATION/PUBLIC HEARING

- Appl. No. PB2021-07
Pulte Homes of NJ, Limited Partnership/Residences at Overleigh
Block 5, Lot 4
220 Route 202
Prel./Final Subdivision and Site Plan and Variance
Time for Decision Deadline – 2/7/22

A transcript of the Pulte Homes of NJ, Limited Partnership/Residences at Overleigh public hearing has been attached to the minutes.

RESOLUTIONS

- **Resolution No. 2022-10** – Pulte Homes of NJ, Limited Partnership/Residences at Overleigh, Block 5, Lot 4
Those eligible: Mayor Vallone, Councilwoman Tweedie, Vice Chairman Rinzler, Mr. Lewis, Ms. Layton, Mr. Koury, Ms. Humbert and Chairman Rochat

Councilwoman Tweedie made a motion to approve the resolution as written. Vice Chairman Rinzler seconded the motion.

The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Rinzler, Mayor Vallone, Councilwoman Tweedie, Mr. Lewis, Ms. Layton, Mr. Koury, Ms. Humbert and Chairman Rochat

Those Opposed: None

- **Resolution No. 2022-11** – Jebara – 199 Lake Road, Block 6, Lot 38
Those eligible: Mayor Vallone, Vice Chairman Rinzler, Mr. Lewis, Ms. Layton, Mr. Lawlor, Mr. Koury, Ms. Humbert and Chairman Rochat

Mr. Lewis made a motion to approve the resolution as written. Ms. Layton seconded the motion.

The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mayor Vallone, Vice Chairman Rinzler, Mr. Lewis, Ms. Layton, Mr. Lawlor, Mr. Koury, Ms. Humbert and Chairman Rochat

Those Opposed: None

- **Resolution No. 2022-12** – Law Office of Karen M. Spano, LLC – 43 Route 202, Suite 201, Block 15, Lot 4

Those eligible: Mayor Vallone, Councilwoman Tweedie, Vice Chairman Rinzler, Mr. Lewis, Mr. Lawlor, Ms. Layton, Mr. Koury, and Chairman Rochat

Vice Chairman Rinzler made a motion to approve the resolution as written. Mr. Lewis seconded the motion.

The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mayor Vallone, Councilwoman Tweedie, Vice Chairman Rinzler, Mr. Lewis, Mr. Lawlor, Ms. Layton, Mr. Koury and Chairman Rochat

Those Opposed: None

- **Resolution No. 2022-13** – DeFilippo and DeFilippo, LLC – 43 Route 202, Suite 100, Block 15, Lot 4

Those eligible: Mayor Vallone, Councilwoman Tweedie, Vice Chairman Rinzler, Mr. Lewis, Mr. Lawlor, Ms. Layton, Mr. Koury, and Chairman Rochat

Councilwoman Tweedie made a motion to approve the resolution as written. Mr. Lewis seconded the motion.

The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mayor Vallone, Councilwoman Tweedie, Vice Chairman Rinzler, Mr. Lewis, Mr. Lawlor, Ms. Layton, Mr. Koury and Chairman Rochat

Those Opposed: None

COMPLETENESS DETERMINATION

- Appl. No. PB2021-20
Chateau De Fleur, LLC
Block 4, Lot 7
66 Lake Road

Height Variance

Robert Garofalo, Attorney on behalf of the applicant was present and explained that the application is for the construction of a single family dwelling. Mr. Bolio, referencing his letter dated January 14, 2022, confirmed that the appropriate application and escrow fees were submitted. He noted that a partial waiver from topo was requested for the area outside of the disturbance. The applicant's engineer submitted information regarding the soil mapping so a waiver was no longer required.

There being no further questions, Mr. Lewis made a motion to grant the partial waiver and deem the application complete. Councilwoman Tweedie seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Rinzler, Mayor Vallone, Councilwoman Tweedie, Mr. Lawlor, Mr. Lewis, Ms. Layton, Mr. Koury, Ms. Humbert and Chairman Rochat

Those Opposed: None

APPLICATIONS/PUBLIC HEARINGS

- Appl. No. PB2020-04
Lakehaus, LLC
Block 4, Lot 5
100 Lake Road
Use and Bulk Variances for Ground Mounted Solar
Time for Decision Deadline – 2/28/22

Councilwoman Tweedie and Mayor Vallone recused themselves as the application involved a Use Variance.

Frederick Zelley, Attorney on behalf of the applicant was present and reminded the Board that the application was for two (2) ground mounted solar arrays requiring both bulk and use variances. Additionally, bulk variances were being sought for a variety of accessory structures, all but one (1) existed at the time the applicant purchased the property.

John Baggett, Sunrun Solar, 26 Worldsfair Dr., Somerset, NJ was present and sworn in by Mr. Linnus. Mr. Baggett provided his professional background and was accepted by the Board. When asked the scope of the company, Mr. Baggett explained that Sunrun installs and maintains systems for residential homes including assessing the needs and layout of the property. He explained that when designing a system they attempt to meet 100% of the annual usage; the applicant's home uses approximately 51,000 kilowatt hours of electricity per year. A system was designed to provide approximately 41,739 kilowatt hours per year for the home only. When asked about the usage for the barn, Mr. Baggett responded approximately 12,000 kilowatt hours. Using the Share Screen function of Zoom Mr. Baggett displayed page 2 of the blueprint from the solar contractor showing the proposed arrays. He explained that the footings will be concrete and the panels will be mounted to the racking. The original design proposed 92 panels however, higher wattage panels are available and the number of panels was

reduced to 84 south facing panels. When asked the height of the panels at their highest point, Mr. Baggett responded 109 inches (approximately 9 feet). When asked why a roof mounted array could not be designed, Mr. Baggett explained that the existing roof did not provide the optimal orientation necessary nor the space necessary for the number of panels required. When asked about the wiring from the house to the panels, Mr. Baggett explained that underground conduit would be installed in trenching from the house mounted meter to the array. When asked if other locations were considered, Mr. Baggett responded in the positive and confirmed that the proposed location was the only suitable location that met all of the requirements. When asked if considerations were taken to place the array in an area that would have the least visual impact from the public roadways, Mr. Baggett responded in the positive. When asked why two (2) tandem arrays were proposed, Mr. Baggett explained that the design was dictated by the existing vegetation and the grade of the lot. He went on to explain that the panels generate EC power that is then plugged into an inverter and converted to AC power for use by the home; there will be multiple inverters for multiple arrays.

When asked by Mr. Linnus the number of ground mounted solar arrays he has installed, Mr. Baggett opined that ground mounted arrays represented 1% of his total installations.

Mr. Bolio noted that at the January hearing the engineer indicated that the area beneath the panels would be grass with a gravel dripline. Mr. Zelley agreed to a condition of approval requiring grass with a gravel dripline. Mr. Bolio noted that point #8 (sheet #3) on the plan depicted the panels at 115 inches high. It was recommended that any approval be based on 115 inches and grading could be adjusted, if necessary. When asked if the eastern most array could be moved eight (8) feet to eliminate the need for the rear setback variance, Mr. Baggett responded in the positive.

When asked by Mr. Banisch the dimensions of the footings and the number, Mr. Baggett noted that the footings would be less than a foot in diameter but was unsure of the number. Mr. Banisch requested that the applicant update the table on page two (2) of the plan to provide the calculation. Mr. Zelley confirmed that the maximum impervious coverage for the zone was 5%; the property is less than 2%. With respect to the grass under the arrays, Mr. Banisch recommended a shade tolerant seed mix to which Mr. Zelley agreed.

When asked by Mr. Lewis if the electricity produced would only be used by the house, Mr. Baggett responded in the positive. Mr. Baggett explained that solar in NJ is connected to the utility and a two (2) way meter is used; during the day the array generates surplus power and a credit is established with the utility, the credit is then used at night. When asked if a property owner gets paid for surplus electricity produced, Mr. Baggett responded in the negative and explained that the surplus is banked to be used at a later date; surplus power is applied to future use but if it is never used it is lost. When asked what percentage of properties are deemed unsuitable for solar development, Mr. Baggett responded approximately 10% noting that many factors are assessed including shade, orientation of the house, etc.

When asked by Ms. Humbert to clarify the length of each array, Mr. Baggett responded 54 feet long (east to west).

Referencing the existing white pines along Pennbrook Road, Chairman Rochat expressed concern with the lower limbs dying out and exposing the back of the array. Mr. Banisch noted that the

applicant was very cooperative in providing requested landscaping and suggested a condition for enhanced shade tolerant shrubbery in the short term and replacement of the white pines in the event they die or are removed. Mr. Zelley agreed to that condition.

There being no additional questions from the Board, Chairman Rochat opened the meeting up to the public.

Dr. Mellendick, Lake Road asked about the cost of the installation to which Mr. Zelley objected. When asked if the trenching would lead to Lake Road, Mr. Baggett responded in the negative. When asked if an approval would have conditions relative to landscaping, Mr. Zelley responded in the positive and noted that the applicant already installed landscaping to achieve the desired buffering and would provide additional landscaping as needed.

Mary and Jim Chimenti, 111 Lake Road were present and asked about the depth of the solar arrays. Mr. Baggett responded ten (10) feet deep. Mrs. Chimenti noted that she walks Lake Road daily and gaps in the landscaping exposes the proposed solar location. When asked by Mr. Chimenti the percentage of the array that will be visible, Mr. Baggett opined that the percentage would be low. Mr. Zelley noted that the applicant committed to making the array as close to invisible as possible. When asked if reflection issues would impact traffic on Lake Road, Mr. Baggett indicated that there would be no reflection in the direction of Lake Road. When asked by Mrs. Chimenti if there have been any studies on the visibility of the array from adjacent properties, Mr. Baggett responded in the positive. Mr. Zelley clarified that extensive testimony was provided in January as to the plantings provided, photos were provided showing various vantage points. When asked by Mr. Chimenti if it was possible to install a smaller array that would produce less power, Mr. Baggett responded in the positive but the objective is to offset as much fossil fuel usage as possible. When asked if he would still recommend a solar array if only 35% of the power could be provided, Mr. Baggett responded in the positive.

When asked by Mr. Banisch if the array could be lowered to the ground, Mr. Baggett responded in the negative noting it would receive fewer hours of sunlight based on the angle of the sun. When asked if there would be an unreasonable loss of efficiency if the array was reduced by two (2) feet, Mr. Baggett responded in the positive. Absent calculations, Mr. Banisch opined that the installation could be lowered without a significant power loss. He opined that shielding the view from the Chimenti property could be accomplished with heavy buffering and landscape enhancement. Mr. Zelley agreed and noted that foliage was been installed close to the array as well as directly in front of their property at the fence line. When asked if the applicant would agree to more landscaping in the general vicinity of the neighbors, Mr. Zelley agreed and suggested the Board appoint a designee (either a Board member or a Board professional) to visit the site after one (1) year to evaluate the effectiveness of the buffering; the plantings need time to mature. When asked by Mr. Zelley if a nine (9) foot high array was typical for a residential ground mount, Mr. Baggett responded in the positive. Mr. Bolio noted that the engineering plan depicted the width as 13 feet (each panel is 5 ½ feet in length) and 58 feet long. Mr. Zelley pointed out that the engineering plan depicted the arrays before they were reduced. Mr. Baggett agreed with Mr. Bolio's calculation and Mr. Zelley agreed to have the engineer revise the plans accordingly.

Dr. Mellendick, Lake Road asked if the Borough had guidelines for solar installations. Mr. Banisch explained that there are no guidelines as it is not a permitted use in a residential zone. Dr. Mellendick opined that the Borough should adopt guidelines for property owners to follow.

There being no additional questions from the public, Chairman Rochat closed the public questions of the witness.

Jessica Caldwell, Planner, 145 Spring Street, Newton, NJ was present and sworn in by Mr. Linnus. Ms. Caldwell provided her educational and professional background and was accepted by the Board. Ms. Caldwell performed a planning analysis for the variances for the solar array as well as the variances for the accessory structures. She confirmed that the application required a use variance and minimum front yard setback for the solar arrays and rear yard setback variances for various existing accessory structures; the variance for the rear yard setback for the solar array has been eliminated. Ms. Caldwell outlined the positive and negative criteria for the variances notably the inherently beneficial use of the solar array. She referenced the Sica vs. Wall Township case which established the Sica balancing test. She opined that the only potential negative impact would be visual which is proposed to be blocked by substantial landscaping. In conclusion, she noted the following: 1) the positives outweigh the negatives, 2) the structures requiring setback variances are all within 10% of the zone minimum, 3) there are no structures within 450 feet of the rear property line, 4) the site is surrounded by residential uses and the proposed development is in keeping with the neighborhood and low-density character of the area, and 5) the accessory uses advance the goals of the Master Plan.

Mr. Banisch agreed that solar panels are an inherently beneficial use and that the setbacks for the generator and chicken coop are de minimis in so far as the deviations from the setbacks required. He also noted that most of the improvements requiring rear setback variances pre-date the applicant's ownership of the property.

When asked by Mr. Lewis if she was familiar with the NJDEP solar siting analysis, Ms. Caldwell responded in the negative. Mr. Lewis outlined the preferred and non-preferred lands noting that natural and agricultural lands are listed as non-preferred lands for solar siting. Ms. Caldwell opined that the property was residential in nature and that the NJDEP solar siting analysis was for larger utility grade, power generating systems (not for net-metering facilities).

Mr. Bolio clarified that the setback from Pennbrook Road should be measured from the right of way therefore providing a setback of 47.5 feet. Mr. Zelley agreed to a condition that the plans be amended accordingly.

When asked by Chairman Rochat if the chicken coop is used, Mr. Hofmann responded in the negative and agreed to remove the chicken coop and eliminate the variance.

There being no additional questions from the Board, Chairman Rochat opened the meeting up to the public for questions.

Dr. Mellendick, Lake Road questioned the need to remove the chicken coop.

Jim Chimenti, 111 Lake Road asked if she was aware of any other visible solar arrays in Far Hills. Ms. Caldwell responded in the positive noting that several applications were referenced during the public hearing process but she was unable to testify to the visibility. When asked if she agreed that after the

solar array is installed there would be less open space, Ms. Caldwell opined that the criteria is about balancing the positive. When asked if there is a net reduction of open space, Ms. Caldwell responded in the positive. When asked if the mitigated vegetation would block the existing scenic vista on the scenic corridor, Ms. Caldwell responded in the negative. Mr. Zelley objected to the questioning noting that the applicant cannot reach 100% invisibility but that has agreed to make every effort to reach that goal. Mr. Zelley went on to say that solar power is welcomed by the State, encouraged by public policy and the applicant went to great lengths to place it in an area that impacts the scenic corridor the least. Mrs. Chimenti, referencing the Far Hills Master Plan noted that the language calls for protecting and preserving the scenic vistas and during her time on the Planning Board these goals and objectives were not compromised. When asked if it is her position that properties along a scenic corridor should not benefit from solar energy, Ms. Chimenti responded in the negative and noted that she has resided in Far Hills for 11 years and only recently found out that her neighbor has solar panels because they are not visible. Mr. Chimenti opined that the approval of the array is the beginning of a slippery slope and degradation of the scenic corridor. To move things along, Mr. Linnus suggested that the Chimenti's go back to questioning the witness. When asked if placing a tree where one (1) didn't exist obstructs a scenic vista, Ms. Caldwell responded in the negative noting that scenic vistas are inclusive of vegetation and trees.

There being no other public questions, Chairman Rochat closed the public questioning of the witness.

Chairman Rochat opened the meeting up to public comments.

Mary Chimenti, 111 Lake Road was sworn in by Mr. Linnus. Mrs. Chimenti stated that she and her husband have been residents of Far Hills for over 11 years, she has served in various municipal capacities and attended multiple meetings and there has always been a common theme of the residents of Far Hills, especially of those on Lake Road. The residents pay a high premium to live in Far Hills because of its beauty. She opined that there is no way to completely conceal solar arrays at the corner of Pennbrook and Lake Road and that the solar arrays would be visible in the gaps that exist in the tree line. She was not against solar power but concerned with the degradation of the scenic corridor. When asked by Mr. Zelley if she objects to the solar panels or just the ability to see them, Mrs. Chimenti indicated that she objects to the placement of solar panels in the frontage of Lake and Pennbrook Roads. When asked to confirm that there would be no variance required if the applicant wanted to plant a forest on their property, Mrs. Chimenti responded in the positive. When asked by Mr. Zelley if the Hofmann's have done their best to buffer the proposed solar array from view, Mrs. Chimenti agreed that the Hofmann's tried to accommodate the neighbors. When asked if there was any location on the applicant's property that could be utilized for solar arrays without impacting the scenic vista, Mrs. Chimenti responded in the negative. When asked if it was her testimony that the applicant should not be permitted to have solar power because doing so would interfere with the scenic vista, Mrs. Chimenti responded in the positive.

Dr. Mellendick, Lake Road requested clarification on the location of the proposed solar array. Mr. Zelley explained that the array was parallel to Pennbrook Road on the other side of the tree line.

Using the Share Screen function of Zoom, Mr. Banisch displayed Exhibit A-1 and explained that the scenic corridor is characterized by a number of factors including the topography, wooded areas and open areas that all add the character of the Borough of Far Hills. He opined that the open vista as

viewed through the permeability of the hedgerow prior to the supplemental plantings is one of the elements in the landscape that should be preserved. He opined that the objective may be to focus landscaping efforts from offsite perspectives. Mr. Zellely agreed and reminded Mr. Banisch that he suggested at the offset that a representative be designated to evaluate the landscaping. He went on to state that his clients share the same concern about blocking everything from Lake Road. The applicant is willing to install any landscaping that is not going to hinder the utilization of the solar array. Mr. Linnus opined that the Board may need a landscape plan prepared to which Mr. Zellely noted that the Board walked the site a year ago and the existing vegetation was supplemented with significant plantings to address the concerns of the Board and neighbors. Chairman Rochat opined that additional landscaping closer to the array may be the best option.

Philipp Hofmann, applicant explained that 12-foot-tall arborvitae were planted immediately in front of the proposed solar panels and they shield the panels completely from Lake Road; he agreed to additional plantings in that location if necessary. He stressed the need for residents to switch from fossil to renewable energy.

Jim Chimenti, 111 Lake Road echoed his wife's concerns and noted that the bucolic nature of the landscape is what attracted them to Far Hills. He went on to state that the nature of the view on Lake Road changes with the seasons and that extensive vegetation can take on an industrial look; it is not native or natural. When asked by Mr. Zellely if he would make the same statement if the applicant tried to address the impact on the view shed, Mr. Chimenti responded by saying that the applicant failed to provide a plan where the solar arrays are not visible. A wall of arborvitae would look unnatural and would not preserve the character of the town. Mr. Zellely noted that at least two (2) solar arrays in the neighborhood were erected without seeking a variance and they are now benefiting from the array.

Dr. Mellendick, Lake Road questioned the ability to put the panels below ground level.

Mr. Zellely requested direction from the Board.

Chairman Rochat opined that it was difficult to visualize the panels on the site walk with the use of stakes.

Mr. Lawlor requested a landscape plan that is less industrial looking but still shields the arrays.

Mr. Lewis noted that setbacks are established for a reason and encroachments should be scrutinized carefully; some lots are not suitable for solar development.

Mr. Zellely recommended the Board appoint a designee to work with the applicant to come to a compromise prior to the next meeting. Mr. Linnus opined that Mr. Banisch would be the best choice as Mr. Zellely should not discuss the application directly with Board members. The consensus of the Board agreed that the applicant should work directly with Mr. Banisch with regard to landscaping and return at a future meeting.

Mr. Linnus announced that the hearing was being carried to March 7, 2022, 7 p.m. to be held virtually with no new notice. Mr. Zellely agreed to grant an extension of time to the end of April.

- Appl. No. PB2021-18

Mahoney
Block 5, Lot 6.03
5 Fox Hunt Court
Use Variance

Ms. Goodchild noted that the application would not be heard due to deficient notice.

Councilwoman Tweedie returned to the meeting at this time.

- Appl. No. PB2022-01
Spacious Skies Campgrounds, LLC
Block 15, Lot 1.01
49 Route 202, Suite 10
Change of Use/Occupancy/Site Plan Waiver

Mr. Linnus raised an interpretation issue and whether a use variance may be necessary based on the application material. He suggested the Board address the threshold issue before hearing the application. Mr. Banisch explained that the applicant provides a service and he likened it to a travel agency.

Anthony Melillo, was present representing the applicant and explained that the company was formed in 2021 to place people in campgrounds in the northeast and mid-atlantic areas. Currently they are working out of their home but have grown at a substantial rate. The prior use of the space was Paladin Insurance company approved by the Board a few years ago. Hours of operation will be Monday through Friday, 8 a.m. through 6 p.m. with a maximum of six (6) people on site; five (5) employees and one (1) visitor - six (6) parking spaces provided. The monument sign and sign outside the door will be re-decaled.

Mr. Linnus noted that professional offices are permitted under the ordinance however it is limited to doctors, dentists, architects, engineers, lawyers, real estate agents, insurance brokers or similar professional uses. He also noted that Mayor Vallone and Councilwoman Tweedie could not vote on the interpretation issue.

Vice Chairman Rochat made a motion to interpret the use as a permitted use. The motion was seconded by Mr. Koury. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Rinzler, Mr. Lawlor, Mr. Lewis, Mr. Koury and Chairman Rochat

Those Opposed: None

When asked by Chairman Rochat if the service is to find campgrounds, Mr. Melillo responded in the positive and noted that there would be no RV's on site; most service is provided online. When asked by Mayor Vallone where they are currently based, Mr. Melillo responded Bernardsville. Mayor Vallone suggested that the Board require, as a condition of approval, no RV's or campers onsite. Mr. Melillo agreed to that condition of approval.

Chairman Rochat opened the meeting up to the public for questions.

Dr. Mellendick, Lake Road asked if he could make a general public comment on the Pulte application. Mr. Linnus noted that the Pulte application public comment was heard at the January meeting and public comment was closed. Dr. Mellendick noted that there was no opportunity to question the variances or conditions of approval. Mr. Banisch noted that the conditions of approval were discussed throughout the public hearing process. Chairman Rochat pointed out to Dr. Mellendick that he was not present at the January meeting when the meeting was open to the public for comments. Dr. Mellendick expressed his frustration that he and Mr. Schwester were not permitted to speak during the public comment period.

There being no additional questions or comments, Chairman Rochat closed the public questions.

Councilwoman Tweedie made a motion to approve the application. The motion was seconded by Mr. Lewis. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Vice Chairman Rinzler, Councilwoman Tweedie, Mr. Lawlor, Mr. Lewis, Mr. Koury and Chairman Rochat

Those Opposed: None

Mr. Melillo noted that Melillo Equities was recently awarded the Somerset County Planning Award for Adaptive Re-use and he thanked the Board for the guidance and approval for that award winning project. The Board congratulated Mr. Melillo on the award and a beautiful project.

CORRESPONDENCE

1. A letter dated January 14, 2022 from Ferriero Engineering re: Chateau De Fleur, Block 4, Lot 7, 66 Lake Road.
2. A letter dated January 27, 2022 from Lea Sura, Amertech Engineering, Inc. re: Chateau De Fleur, Block 4, Lot 7, 66 Lake Road.
3. A letter dated February 2, 2022 from Ferriero Engineering re: Mahoney, Block 5, Lot 6.03, 5 Fox Hunt Court.

ZONING UPDATE

- Zoning memo dated January 31, 2022 – Kimberly Coward

ADJOURNMENT

Motion by Vice Chairman Rinzler, seconded by Councilwoman Tweedie and unanimously carried to adjourn the meeting at 10:47 p.m.


Shana L. Goodchild, Planning Board Secretary

APPROVED 3/7/22

STATE OF NEW JERSEY
COUNTY OF SOMERSET
BOROUGH OF FAR HILLS

APPLICATION NO. PB2021-07
Pulte Homes of NJ, Limited Partnership/
Residences of Overleigh
Block 5, Lot 4
220 Route 202
Prel./Final Subdivision and Site Plan Variance
PLANNING BOARD MEETING
MONDAY, FEBRUARY 7TH, 2022
TIME: 7:00 P.M.

BOARD MEMBERS:
Tom Rochat, Chair, Class IV
Richard Rinzler, Vice Chair, Class IV
Robert Lewis, Class IV
Marilyn Layton, Class IV
Sheila Tweedie, Secretary Class III
Paul J. Vallone, M.D., Mayor Class I
Jack Koury, Alternate #1
Suzanne Humbert, Alternate #2

Shana L. Goodchild, Board Secretary
Francis Linnus, Board Attorney
David Banisch, Board Professional
Steven Bolio, Board Professional

HUDSON COURT REPORTING & VIDEO (732) 906-2078

1 TRANSCRIPT of Proceedings in the
2 above-entitled matter, as taken by and before MARIA F.
3 PIOTROWSKI, Certified Court Reporter and Notary Public of
4 the State of New Jersey, via Zoom.

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6 APPEARANCES

7
8 DAY PITNEY, ESQS.
BY: CRAIG GIANETTI, ESQ.
9 1 JEFFERSON ROAD
PARSIPPANY, NEW JERSEY 07054
10 Attorney for the Applicant
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1 CHAIRMAN ROCHAT: Now, next on the agenda is
2 Application BB2021-07, Pulte Homes of New Jersey.
3 MR. LINNUS: Yes, Mr. Chairman. Just to give
4 the Board members and the public a little brief
5 background as to what we're going tonight, as the Board
6 may recall the public hearing was closed, public comment
7 was closed at the last meeting which occurred in January.
8 At that time the Board instructed me to work with the
9 Board professionals along with the attorney for the
10 Applicant to craft proposed conditions as well as draft a
11 proposed Resolution both of which are before the Board
12 and were presented to the Board.
13 So the procedure tonight would be the Board
14 deliberating on the resolution, deliberating on the
15 conditions, deliberating on the Application and that's
16 where we are procedurally.
17 CHAIRMAN ROCHAT: Okay.
18 MR. LINNUS: All things being equal at the end
19 of those deliberations there would be a vote on the
20 resolution either yay or nay.
21 CHAIRMAN ROCHAT: Okay.
22 MR. LINNUS: I see Mr. Gianetti in the
23 audience. Mr. Gianetti do you have any comments with
24 respect to the procedure.
25 MR. GIANETTI: No, Mr. Linnus, and for the

1 record, Craig Gianetti, the law firm of Day Pitney on
2 behalf of the Applicant Pulte Homes of New Jersey, LP.
3 Correct, Mr. Linnus, I think you outlined it
4 correctly. Last meeting we concluded our presentation,
5 we concluded public comment, the public meeting was
6 closed, there was going to be a vote, some Board members
7 wanted to see conditions of approval and a Resolution and
8 we agreed to extend the time to the Board to act for that
9 to occur. But from a hearing standpoint, you know, the
10 presentation and public comment was all completed.
11 MR. LINNUS: Mr. Chairman, the Board can start
12 deliberations.
13 CHAIRMAN ROCHAT: Okay. Might we start with
14 Dave Banisch just to cover what he has done with this?
15 MR. BANISCH: Well, Mr. Chairman, as Mr. Linnus
16 has explained, Board professionals have prepared a
17 condition -- conditions of approval for the Board's
18 consideration. Following which the body of the
19 Resolution itself was prepared and the entirety of the
20 form a Resolution, including the findings of fact and the
21 conditions of approval have been submitted to the Board
22 for tonight's meeting. I think that if the Board wants
23 to review this Resolution from the standpoint of
24 potentially having comments with respect to what the
25 approval entails, I think the first thing the Board has

1 to keep in mind is that the Application is presented is
 2 essentially what's being approved by the Board in this
 3 resolution and that is the market rate townhouse
 4 component as well as the affordable component.
 5 The conditions of approval begin essentially on
 6 Page 16 of the Resolution and some of them are fairly
 7 standard and boilerplate, some of them are more specific.
 8 I don't know, Mr. Chairman, if you would like us to run
 9 through the conditions so that the Board has a chance to
 10 hear them. That would normally be the procedure, I
 11 think, in the course of an approval for an Application
 12 like this and maybe the appropriate starting point here.
 13 Mr. Linnus, does that make sense to you?
 14 MR. LINNUS: It does and it's up to the Board
 15 Chair if he wants to follow that procedure, but that is
 16 an appropriate procedures.
 17 CHAIRMAN ROCHAT: Correct, that's kind of what
 18 I was looking at whether if there was any questions as we
 19 go through the list from the Board members so there could
 20 be a comment period just to run through them.
 21 MR. BANISCH: Okay. I'll read each condition,
 22 I suppose, and, Mr. Chairman, you can stop me, I think,
 23 whenever you think it may be necessary or I can just read
 24 through all of the conditions and Board members may
 25 choose to make notes of any of the conditions that they

1 may have a comment or a question about.
 2 CHAIRMAN ROCHAT: That's fine.
 3 MR. BANISCH: Okay. I'll run through them
 4 then.
 5 So the site plan approvals being approved with
 6 the variance relief and the exceptions that were
 7 discussed and presented at the hearing subject to the
 8 following conditions.
 9 Number one, compliance to the satisfaction of
 10 the Board Engineer with the comments of the Borough
 11 Engineer in his May 19, 2021 and July 2nd, 2021 letters
 12 and the November 5th, 2021 letter.
 13 Compliance to the satisfaction of the Board
 14 Planner with the comments of the Borough Planner and his
 15 review letters of July 5, 2021, August 2, 2021, November
 16 23, 2021 and January 3, 2022.
 17 Compliance to the satisfaction of the Board
 18 Traffic Engineer with the comments of the Traffic
 19 Engineer and his review letters of August 23, 2021,
 20 November 19, 2021.
 21 Condition Number 4, the Applicant shall apply
 22 an as-built plan set from a licensed surveyor and furnish
 23 same to the Borough Engineer for review and approval.
 24 The as-built of the individual buildings shall be
 25 provided prior to the individual buildings receiving

1 Certificate of Occupancy. The as-built of the
 2 infrastructure shall be provided by prior to 90 percent
 3 of the Certificates of Occupancy being issued for the
 4 project. That equals 121 total units or 121 Certificates
 5 of Occupancy when the as-built on the infrastructure is
 6 required.
 7 Number 5, the Applicant shall obtain
 8 confirmation of the block and lot numbers of the property
 9 from the Tax Assessor and revise all plans as may be
 10 required.
 11 Condition Number 6, approval by the governing
 12 body of the street names.
 13 Condition Number 7, the Applicant shall submit
 14 the following easements to the Borough Attorney and
 15 Borough Engineer and the Borough Planner. All easements
 16 to which the Borough is a party is subject to review and
 17 approval by the Borough Engineer. These include the
 18 scenic corridor, Letter A; B, is the stream corridor;
 19 letter C is the conservation easement; letter D are
 20 utilities including sanitary, water, electric, telephone,
 21 and cable; letter E is drainage easements; letter F is
 22 storm water maintenance easements; letter G are
 23 cross-access easements between Lots 401 and 4.02; and
 24 letter H, driveway site easements. The Board Traffic
 25 Engineer shall also review those.

1 Condition Number 8, the Applicant shall obtain
 2 any necessary local, County, State or Federal approvals
 3 for the project, particularly A, all required NJDEP
 4 approvals -- permits and approvals, excuse me, including,
 5 but not limited to wetlands, sewer service area, and
 6 treatment works approval; letter B, Somerset Union Soil
 7 Conservation district approval; letter C, Somerset County
 8 Planning Board approval; letter D, NJDOT approvals,
 9 including an access permit.
 10 Condition Number 9, the Applicant shall prepare
 11 and submit the requisite number of prints of the final
 12 plan subject to review and approval of the Borough
 13 Engineer.
 14 Condition Number 10, the Applicant shall submit
 15 engineering estimates and performance guarantee security
 16 for all required improvements in accordance with the
 17 Municipal Land Use Law subject to the satisfaction of the
 18 Borough Engineer and the Borough Attorney.
 19 Number 11, the condition -- the Applicant shall
 20 enter into a Developer's Agreement with the Borough.
 21 Condition 12, taxes, municipal charges, escrows
 22 and other fees are to be paid and kept current in
 23 accordance with the Municipal Land Use law.
 24 Condition 13, the affordable housing apartment
 25 building materials will be the same as the townhouses

1 with similar and compatible exterior architectural
2 elements.
3 Condition Number 14, the Applicant shall submit
4 a restriction which shall be included in the Homeowners
5 Association Declaration of Covenants regarding the
6 maintenance of the meadow area satisfactory to the
7 Borough Attorney and the Borough Engineer.
8 Condition Number 15, demolition and removal
9 and/or disposal of any existing structure shall be in
10 accordance within all laws and regulations.
11 Condition Number 16, not way of limitation, but
12 to the extent not specified elsewhere or already
13 satisfied, the Applicant shall furnish, perform or
14 otherwise satisfy those matters identified in the
15 October 1, 2021 submission letter from Gladstone Design.
16 Condition Number 17, the Applicant shall
17 install a conduit for laying of wire of the electrical
18 vehicle EV charging stations for nine guest parkings
19 spaces for the apartment building and shall comply with
20 the State's recently adopted EV Supply Equipment Statute
21 to the extent it is applicable. The location of the EV
22 parking spaces shall be reviewed and approved by the
23 Borough Engineer. EV parking spaces shall be limited for
24 use by only the residents and their guests of the
25 development.

1 Condition Number 18, the Applicant shall submit
2 Homeowners Association documents subject to review and
3 approval by the Borough Attorney and the Borough Engineer
4 prior to obtaining a building permit.
5 Number 19, the Homeowners Association shall be
6 responsible for maintenance of the common improvements
7 including the storm water management system for the
8 project.
9 Condition Number 20, the Homeowners Association
10 shall be responsible for the operation and maintenance of
11 the sewer treatment facility and system and will
12 demonstrate adequate security for the benefit of the
13 Borough in the form of a reserve schedule set forth in
14 the Homeowners Association annual budget regarding
15 continuing operations, proper maintenance, and protection
16 against the results of catastrophic failures which will
17 not include bonding.
18 Condition Number 21, the Homeowners Association
19 shall be responsible for maintenance of any electric
20 vehicle charging stations located in common areas and
21 guest parking spaces. All electric vehicle parking
22 stations located on the affordable housing shall be
23 maintained by the owner of that lot.
24 Condition Number 22, before the movement of any
25 soil, export or import, the Applicant shall schedule the

1 times, routes, and volumes, tracking pads, street
2 cleaning with the coordination of Borough Police
3 Department and the Borough Engineer as part of a
4 preconstruction meeting. The Applicant shall test all
5 imported soil and sourcing information. That should
6 probably read and provide sourcing information at the end
7 of that sentence. So it would read, in Condition Number
8 22 the Applicant shall test all imported soil and provide
9 sourcing information.
10 Condition Number 23, the Applicant shall
11 furnish water main extension plans to the Borough
12 Engineer for review and approval.
13 Condition Number 24, the Applicant shall obtain
14 United States Postal Service and local postal office
15 approval of the gang mailboxes prior to the issuance of
16 the first Certificate of Occupancy.
17 Condition Number 25, prior to (audio
18 interference) approval the Applicant shall stake out the
19 clearing limits in the field which shall be subject to
20 review and approval from the Board Professionals. Tree
21 removal shall be in accordance with NJDEP requirements as
22 applicable and shall be reviewed and approved by the
23 Borough Engineer and Borough Planner. Applicant shall
24 avoid damage to trees that are to remain and shall avoid
25 root compaction by restricting heavy equipment traffic

1 within the drip line of the trees to remain.
2 Condition Number 26. The Applicant shall
3 provide satisfactory installation of appropriate
4 protection for tree removal. The tree removal schedule
5 to the extent applicable shall avoid erosion problems.
6 During construction the Borough Engineer may require the
7 Applicant to install erosion control measures such as
8 double silt fencing, stay cays, etc., where in
9 the reasonable opinion of the Borough Engineer such
10 measures are necessary to address possible erosion
11 concerns and emergent weather conditions.
12 Condition Number 27, the Applicant or the
13 Homeowners Association, as the case may be, shall test
14 the emergency generator for waste water treatment
15 facility once per week which shall be limited between the
16 hours 10 a.m. until 2 p.m., Tuesdays through Thursdays.
17 Condition Number 28, the Applicant shall amend
18 its landscape plan to provide plan notes regarding
19 maintenance and retention of the general wooded area
20 along the front portion of the property. The walking
21 path is to be natural and not be mowed.
22 Condition Number 29, the Borough Engineer and
23 Planner shall review the proposed reforestation tree
24 species to be planned and the Applicant agrees to
25 accommodate any reasonable tree species replacements or

1 substitutions that may be recommended by the Borough's
 2 Professionals that are consistent with the NJDEP approved
 3 list of tree species for reforestation.
 4 Condition Number 30, the sewer treatment plan
 5 will be constructed with the same materials and
 6 compatible designs and features as the townhouses and the
 7 affordable housing building.
 8 Condition Number 31, the Applicant shall submit
 9 a plan for clearing to create site easements at the
 10 access driveway. The execution of same shall be subject
 11 to review and approval by the Board's Traffic Engineer.
 12 Clearing for any site easements for required site
 13 distance of the access driveway shall be subject to
 14 review and approval from the Board Traffic Engineer and
 15 Borough Planner. Supplemental planting shall be provided
 16 as may be required outside the site easements subject to
 17 review and approval from the Bureau Planner.
 18 Condition Number 32. The Applicant shall
 19 remove invasive species from the wooded area to remain
 20 along Route 202 frontage and within the conservation
 21 easement and reforestation area and this shall be
 22 coordinated with the Borough Engineer and the Borough
 23 Planner and subject to any NJDEP requirements.
 24 Condition Number 30 -- excuse me, 33, any
 25 adjustments to the site plan to address storm water

1 management comments of the Board engineer or comments
 2 from the NJDEP shall not result in changes to the layout
 3 of the buildings or the roadway network. Any such
 4 material change must be brought back to the Board for
 5 review as an amendment to the current approval.
 6 Condition Number 34, the Applicant shall comply
 7 with the HOA phasing schedule for producing the
 8 affordable units except as may be modified by the Borough
 9 In the Developer's Agreement since the market rate
 10 for-sale townhouses are provided in 23 4- and five-unit
 11 buildings and the affordable units are rental apartments
 12 contained wholly within one building.
 13 Condition Number 35. As noted on the sales
 14 trailer and model home plot plan, the hours for
 15 displaying and location of the feather flags shall be
 16 addressed as part of the Developer's Agreement. Sales
 17 trailer and model home improvements shall be removed no
 18 later than after marketing and sales are completed with
 19 best efforts to conclude within three years of the
 20 commencement of building construction.
 21 Condition Number 36, the Applicant's
 22 satisfaction of all comments and agreements made during
 23 testimony before the Board, except as may be modified
 24 here in.
 25 Condition Number 37, all conditions contained

1 in this resolution and in the record of proceedings in
 2 this matter, including any agreements made by the
 3 Applicant were essential to the Board's decision to grant
 4 the approvals set forth herein.
 5 Condition Number 38, the development of this
 6 property shall be implemented in accordance with the
 7 plans submitted and as approved. In the event the
 8 Applicant shall make or propose any material changes to
 9 the project or structures on the property from those
 10 shown on the revised and approved plans and exhibits
 11 approved for this Application. Whether these changes are
 12 voluntarily undertaken or required by any regulatory
 13 agency applicants shall submit any such material changes
 14 to this Board for review and approval and determination
 15 as the case may be.
 16 Number 39, the Borough reserves the right to
 17 request additional, reasonable, and customary site
 18 improvements should actual field conditions vary from
 19 what is depicted on the approved plans and/or is
 20 indicated (audio interference.)
 21 Condition Number 40, site work shall not
 22 commence prior to compliance with the terms and
 23 conditions set forth herein, except for those conditions
 24 that cannot be satisfied until after commencement of site
 25 work.

1 Condition Number 41, the granting of the site
 2 plan approval specified herein shall not be construed to
 3 include satisfaction of the Uniform Construction Code of
 4 the State of New Jersey.
 5 Condition Number 42, the Applicant shall comply
 6 with all applicable affordable housing requirements as
 7 required by the Borough Ordinances which have been
 8 adopted to implement Uniform Housing and Affordability
 9 Controls Regulations including but not limited to income
 10 distribution, phasing in the affordable units, except as
 11 may be modified by the Borough. Heating source,
 12 accessibility, and adaptability, amenities, size of units
 13 and bedrooms.
 14 Letter A of Condition 42, the 29 affordable
 15 rental units shall be comprised of 25 family units, 4 age
 16 restricted units in accordance with the following bedroom
 17 mix and affordable income requirements.
 18 Mr. Chairman, rather than reading each of those
 19 individually suffice it to say that the family units and
 20 the age restricted units conform to the bedroom mix and
 21 affordable income requirements in the regulations. Will
 22 that be acceptable?
 23 CHAIRMAN ROCHAT: That's acceptable.
 24 MR. BANISCH: Condition Number 43, the
 25 Applicant shall engage in experienced affordable housing

1 administrative agent responsible for affirmative
 2 marketing, tenant income verification and qualification.
 3 The Applicant shall obtain approval of the Affordable
 4 Housing Professional Services Agreement by the Borough
 5 Attorney and/or the Borough Planner. Affirmative
 6 marketing, perspective tenant verification and tenant
 7 qualification activities shall ensure that a qualified
 8 pool of applicants is established for building occupancy
 9 at the time a Certificate of Occupancy is issued for the
 10 affordable housing apartment building.

11 This particular condition, Mr. Chairman, is
 12 notice to the Applicant that they have to be prepared
 13 with qualified residents to occupy the affordable units
 14 when that building becomes ready for occupancy.

15 Condition Number 44, with respect to the
 16 affordable control period for the affordable units, the
 17 Applicant shall submit Deed restrictions in accordance
 18 with the Uniform Housing Affordability controls. At the
 19 end of the affordability control period nothing shall
 20 preclude the Borough from electing to release the
 21 affordability controls in accordance with applicable law.

22 Condition Number 45, wheel turning movements
 23 for school buses needs to be provided for review and
 24 approval to the Board's Traffic Engineer.

25 Condition Number 46, the emergency generator

1 for the waste water treatment plan should be enclosed
 2 within a waterproof, sound attenuating, enclosure.
 3 Enclosure details shall be subject to review and approval
 4 by the Board Planner.

5 Condition Number 47, the Applicant has
 6 indicated a hotbox is not required for the project.
 7 Should a water connection hotbox be needed at some point
 8 in the future design and installation will require
 9 amended site plan approval from the Board.

10 Condition Number 48, the Applicant agreed to
 11 provide a backup power source, a battery pack for the
 12 affordable housing building to ensure common areas and
 13 emergency lighting would have power during power outages.
 14 Details and all notes for the backup power source shall
 15 be provided on the plans.

16 Condition Number 49, the Applicant shall
 17 maintain control of the construction site at all times to
 18 prevent unauthorized access to the site.

19 Condition Number 50, Applicant shall submit a
 20 Resolution Compliance Package itemizing and addressing
 21 each condition of approval which must be satisfactorily
 22 completed prior to exercising the rights and privileges
 23 of this approval and the relief granted.

24 Condition Number 51, Applicant shall comply
 25 with all statutes, ordinances, rules and regulations in

1 the United States of America, State of New Jersey, County
 2 of Somerset, and Borough of Far Hills.

3 Condition Number 52, this memorializing
 4 Resolution shall be recorded with the Somerset County
 5 Clerk's office, a copy of the recorded instrument shall
 6 be filed with the Borough Attorney, Borough Clerk, and
 7 Planning Board Secretary.

8 Condition Number 53, it is acknowledged that
 9 the developer, the market rate townhouses, and the
 10 developer of the affordable rental building may be
 11 undertaken by separate entities. The conditions of this
 12 Resolution are applicable to and binding upon all
 13 entities responsible for all aspects of the development.

14 Condition Number 54, applicant may appear
 15 before the Planning Board for a final determination to
 16 the extent there may be disagreement between the
 17 Applicant and the officials and professionals on
 18 satisfaction and/or implementation of any of the
 19 conditions of approval.

20 Conditions Number 55, the Applicant shall
 21 comply with the terms of the Affordable Housing Agreement
 22 with the Borough of Far Hills as may be hereinafter
 23 (audio interference) modified.

24 So those 55 conditions, Mr. Chairman, are what
 25 we presented for the Board as part of this approving

1 Resolution. And the plan -- the resolution itself
 2 identifies the specific architecture as the second round
 3 of architecture that was submitted on the townhouses as
 4 that which is being approved as part of this approval.

5 CHAIRMAN ROCHAT: Okay. Thanks, David, for
 6 reading all those.

7 MR. LINNUS: Thank you, David.

8 CHAIRMAN ROCHAT: Any comments from the Board
 9 or questions.

10 VICE CHAIRMAN RINZLER: I've got a quick
 11 question.

12 Mr. Gianetti, has a name been selected for this
 13 property yet.

14 MR. GIANETTI: No name has been selected at
 15 this time.

16 VICE CHAIRMAN RINZLER: Oh. Just out of
 17 curiosity is there a reason why no name's been selected
 18 so far?

19 MR. GIANETTI: I know since they decided had to
 20 move back from the prior name and they're going through
 21 their marketing research, it took months to come up with
 22 the prior name and I'm sure it will take months to come
 23 up with this one as well. As we indicated, the Board and
 24 the Borough will be advised when a name is selected.

25 VICE CHAIRMAN RINZLER: All right?

1 CHAIRMAN ROCHAT: Any other questions, Rick?
 2 VICE CHAIRMAN RINZLER: No.
 3 MR. LEWIS: I have a question about, and this
 4 may have been covered, the internal roads they're all
 5 private; is that correct?
 6 MR. GIANETTI: Correct, they'll be owned by the
 7 Homeowners Association. It will be Title 39, I think it
 8 is, that gives police enforcement, but it will be a
 9 common element of the Homeowner Association.
 10 MR. LEWIS: Thank you.
 11 CHAIRMAN ROCHAT: Dave?
 12 MR. BANISCH: Yeah.
 13 CHAIRMAN ROCHAT: Question 20, at the end of
 14 Question 20, you said something about bonding, I believe
 15 catastrophic failures.
 16 MR. BANISCH: Okay. I'll reread Condition
 17 Number 20, Mr. Chairman.
 18 CHAIRMAN ROCHAT: It was just at the last
 19 sentence.
 20 MR. BANISCH: Yeah. Well, it says, the
 21 sentence I thought read awkwardly so I changed it
 22 slightly, but not the effectiveness of it.
 23 CHAIRMAN ROCHAT: Okay.
 24 MR. BANISCH: Condition Number 20 actually
 25 reads the HOA shall be responsible for the operation and

1 maintenance of the sewer treatment facility and system
 2 and will demonstrate adequate security to the benefit (no
 3 bonding) of the Borough in the form of a reserve schedule
 4 set forth in the Homeowners Association annual budget
 5 regarding continuing operations, proper maintenance and
 6 protection against the results of catastrophic failures.
 7 So what that condition is saying is that the
 8 HOA is going to be responsible through its annual
 9 budgeting to maintain those systems and to be prepared
 10 for a potential catastrophic failure.
 11 CHAIRMAN ROCHAT: Okay. All right. That's
 12 fine.
 13 Any other questions from the Board members?
 14 So Mr. Linnus we're at a point where we would
 15 vote on the resolution and approval and the same point.
 16 MR. LINNUS: That's correct. Although
 17 Mr. Schweitzer [phn] at the beginning of the meeting
 18 started to talk about this application. As I cautioned
 19 the Board and Mr. Schweitzer at the time that the public
 20 hearing is over, the public comment's over, but it would
 21 be up to the Chair as part of your responsibilities,
 22 duties, and discretion to allow him to make any comment
 23 regarding this particular matter.
 24 MR. GIANETTI: I would just note, Mr. Linnus,
 25 at the last meeting you'll recall we were hoping for a

1 vote at the last meeting, we made it clear as part of
 2 granting an extension to tonight that it would be clear
 3 there would be no more presentation, the public hearing
 4 was closed, no more public comments, and would just be
 5 consideration of the Resolution and the conditions.
 6 MR. LINNUS: I acknowledge that you stated that
 7 at the time, Mr. Gianetti, however it is within the
 8 discretion of the Board Chair, if he so chooses, to allow
 9 the public comment, but that's up to the Chair. But I do
 10 acknowledge that occurred at the last meeting.
 11 CHAIRMAN ROCHAT: Yes, Mr. Gianetti, we did
 12 have that discussion. I just have feelings that
 13 Mr. Schweitzer has a few comments, not to be --
 14 MR. GIANETTI: Mr. Chairman, I would object.
 15 It was -- we discussed this at the last meeting, it was
 16 represented to me by the Board that we would not be
 17 opening it back up for public comment and we'd only be
 18 considering the conditions of approval and the
 19 Resolution, which is part of the reason why we agreed it
 20 to go through this process and grant an extension of time
 21 for the Board to act.
 22 CHAIRMAN ROCHAT: Any comments isn't gonna
 23 be -- there's not gonna be any back and forth. It's just
 24 gonna be a statement and that's it.
 25 MR. GIANETTI: Then what if another member of

1 the public wants to make a comment and then another
 2 member. I object and I am I'm frankly disheartened that
 3 it was represented to me this would be the case at the
 4 last meeting and now we're talking about changing it.
 5 CHAIRMAN ROCHAT: I don't think there was any
 6 guarantee that we would have a vote on the Resolution In
 7 the last meeting. We would vote on the application, but
 8 we weren't going to vote without the Resolution to look
 9 at so -- because we didn't know what we were voting on.
 10 MR. GIANETTI: Correct, and the Board had the
 11 Resolution well in advance of this meeting as well as the
 12 conditions as we said we would work hard to do.
 13 CHAIRMAN ROCHAT: Correct. Any objections from
 14 the Board to open it up to Mr. Schweitzer? Board
 15 members?
 16 MS. TWEEDIE: I would prefer not to. I believe
 17 that Mr. Schweitzer has said what -- he'll be repeating
 18 what he has said previously.
 19 SECRETARY CHILD: Chairman Rochat, just keep in
 20 mind that we also have Dr. Mellendeck [phn] who has a
 21 hand up as well.
 22 CHAIRMAN ROCHAT: Well, I guess in that case,
 23 as Mr. Gianetti says, I don't want to open up a can of
 24 worms and have an all night discussion either. I think
 25 we'll just move forward and vote. There was public

1 comment last meeting and they could have made comments
 2 then.
 3 So can we move forward, Mr. Linnus?
 4 MR. LINNUS: Yes, you could move forward. You
 5 have a Resolution of Approval of the Application in front
 6 of you, the conditions were read. Assuming someone would
 7 move the Resolution and someone would second it, then you
 8 take a vote on the Resolution which would be an approval
 9 of the Application with conditions.
 10 So the motion would be to approve the
 11 Resolution with conditions.
 12 CHAIRMAN ROCHAT: Do I have a motion?
 13 MS. TWEEDIE: Yes, I move to approve the
 14 Resolution.
 15 VICE CHAIRMAN RINZLER: I'll move to second.
 16 MS. TWEEDIE: With the conditions noted in
 17 the -- that have been read previously.
 18 VICE CHAIRMAN RINZLER: I'll second it.
 19 CHAIRMAN ROCHAT: Okay. Role call, please.
 20 SECRETARY CHILD: Vice Chairman Rinzier?
 21 VICE CHAIRMAN RINZLER: Yes.
 22 SECRETARY CHILD: Mayor Vallone?
 23 MAYOR VALLONE: Yes.
 24 SECRETARY CHILD: Counselwoman Tweedie?
 25 COUNSELWOMAN TWEEDIE: Yes.

1 discussed during all the --
 2 MR VALLONE: I agree. I think the Chairman and
 3 the Members of the Planning Board have done an exemplary
 4 job. I know it's been a very, very long time and a lot
 5 of back and forth and I just want to thank all the
 6 Members of the Board and the Chairman for their diligence
 7 in this matter. Thank you.
 8 MS. TWEEDIE: You're welcome.
 9 (Hearing concluded at 7:47 p.m.)
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1 SECRETARY CHILD: Mr. Lewis?
 2 MR. LEWIS: Yes.
 3 SECRETARY CHILD: Miss Layton?
 4 MS. LAYTON: Yes.
 5 SECRETARY CHILD: Mr. Koury?
 6 MR. KOURY: Yes.
 7 SECRETARY CHILD: Miss Humbert?
 8 MS. HUMBERT: Yes.
 9 SECRETARY CHILD: And Chairman Rochat?
 10 CHAIRMAN ROCHAT: Yes.
 11 SECRETARY CHILD: Motion carries.
 12 MR. GIANETTI: Thank you, Chairman, Members of
 13 the Board, I appreciate everyone's time and effort on
 14 this. I know this was not an easy application for
 15 anyone. I appreciate all your time and consideration to
 16 it. Thank you.
 17 MR VALLONE: Thank you, Mr. Gianetti..
 18 CHAIRMAN ROCHAT: And thank you, David, for
 19 reading all those. It's great to have the public hear
 20 them.
 21 MR. BANISCH: Yes, you're welcome.
 22 COUNSELWOMAN TWEEDIE: And I just want to say I
 23 think that our professionals have done an excellent job
 24 putting this Resolution together. I think it's very
 25 comprehensive and takes care of everything that was

1
 2 CERTIFICATE
 3
 4 I, MARIA F. PIOTROWSKI, a Certified Court
 5 Reporter and Notary Public of the State of New Jersey,
 6 certify that the foregoing is a true and accurate
 7 transcript of the Hearing.
 8 I further certify that I am neither attorney
 9 nor counsel for, nor related to or employed by any of the
 10 parties to the action in which this deposition was taken;
 11 and further, that I am not a relative or employee of any
 12 attorney or counsel employed in this case, nor am I
 13 financially interested in this action.
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 17
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 19
 20 Maria F. Piotrowski
 21 Certified Court Reporter
 22 License No.: 30XI00128900
 23
 24
 25

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