

**HAINESPORT TOWNSHIP JOINT LAND USE BOARD
MINUTES**

Time: 6:30 pm

November 1, 2023

1. Call to Order

Mr. Krollfeifer called the meeting to order at 6:30pm.

2. Flag Salute

All participated in the Flag Salute

3. Sunshine Law

Notice of this meeting was published in accordance with the Open Public Meetings Act By posting on the municipal bulletin board, publication in The Burlington County Times and Courier-Post Newspapers, and by filing a copy with the Municipal Clerk

4. Announcement of “No new business after 10:30 PM”

5. Roll Call

Present: Mayor Clauss, Mr. McKay, Mrs. Kelley, Mrs. Gilmore, Mr. Tricocci,
Mrs. Baggio, Mrs. Tyndale, Ms. Kosko, Mr. Murphy, Mr. MacLachlan,
Mr. Krollfeifer

Absent: Mr. Noworyta, Mr. Bradley

Also Present: Robert Kingsbury, Esq., Board Attorney
Scott Taylor, Planner
Martin Miller, Engineer
Kathy Newcomb, Zoning Officer
Paula Tiver, Board Secretary

6. Items for Business

**A. Case 18-04C: Longbridge Farms
Block 103 Lot 1 & Block 113 Lot 4.05
Final Major Subdivision
Attorney: Douglas Heinold**

Mr. Heinold: We were here last month and made it through 95 percent of the issues. There was much discussion on the final renderings. There was direction given to us regarding that. There was some follow up on that and made submissions to Mr. Taylor. There was an interim meeting with Mr. Taylor and the applicant’s team.

Jason McNee explained his position with Ryan Homes.

Mr. Krollfeifer: Ryan Holmes will be the builder.

Mr. McNee: We will be the builder.

Mr. Heinold: Can you give an overview of the exhibits as you want to present them and discuss the high points with them. Then we can take any questions from the Board.

Mr. McNee: The first exhibit (A3) here is an overview of the entire site. These breakout boxes are to show each of the different buildings. If you look here, you have the seven-unit building. This is what the exterior of the façade will look like from the street. The same for a 4-unit building, 8 unit here, and six unit here. These are exactly what you will see as you drive through the community. The colors and textures will all match.

Mr. McKay: Are we to understand that the color schemes as laid out in these exhibits that you just marked are essentially fixed in stone.

Mr. McNee: Yes.

Mr. McKay: If I came in to buy one of your houses and I wanted powder blue, you would say no. You could take the 1st one, the 3rd, or 5th one over and that is all we can do.

Mr. McNee: Correct. Marked exhibit A4, a representation of the seven-unit building. This would be the front façade and what the rear façade would look like. Adding window wraps. There will be architectural in the gable. As well as shutters and stone along the bottom kind of get more curb appeal on the sides. This is what the seven building would look like from the front, the rear, sides and it also included the building height recommendations. Then labeled the decks, patios and optional selections.

Mr. Krollfeifer: Mr. Taylor, does this answer most of the questions that you and the Board had from the last meeting?

Mr. Taylor: It does and I know Mr. McNee has a couple more. We did as Mr. Heinold indicated. We had a meeting basically with the applicant's team and the Ryan folks. Took those other exhibits that we had several of and combined them into this final presentation. They did make a number of changes. The only thing I did want to note to the Board because I know there was some discussion about shutters on the back of the building. With the new Ryan prototype, those windows are very close together. They have more windows and some of those are very close to the edge of the building. So, to try to squeeze shutters on there, they would be very narrow. Which would not look appropriate. One of the things that we did discuss was using a chunk of your window frame wrap around that instead of the very narrow trim to try to create a little better appearance.

Mr. McKay: So, in some windows you did shutters where you could and where you couldn't you used the window wrap.

Mr. McNee: All the windows on the rear are wrapped, no shutters on the rear. On the sides we incorporated the shutters where we had the space.

Mr. Taylor: On the fronts you will notice where there was room, shutters were included. In other areas, the thickened trim.

Mr. Miller: In the back, you have the option of the patio and/or the deck. If both are done, what is the potential of them screening in the patio?

Mr. McNee: It is a possibility. Obviously, something like that we could put a restriction in the HOA documents. The zoning department would need to be part of an application.

Mr. Miller: As soon as you screen it in, somebody's going to want to enclose it.

Mr. Heinold: We are not going to allow that under the HOA documents.

Mr. Miller: Screening?

Mr. McNee: No.

Mrs. Gilmore: I am a little confused with the side elevation, where is the front door and driveway?

Mr. McNee: There not shown there.

Mr. Taylor: They should have been two different drawings.

Mr. Heinold: That is not the actual layout. They are not going to actually sit that way. It is just showing each side. It should have been two pictures.

Mrs. Gilmore: You eliminated the driveway in the front.

Mr. McNee: Yes, they are just not shown.

Mr. Taylor: The space in between should have been a white space because those are actually the front. There would be that little front porch and a driveway out front.

Mr. McKay: What are you using for the siding finishes and you have some stone facade then it looks like aluminum, vinyl, hardy board.

Mr. McNee: It's all vinyl.

Mr. McKay: Whether it be vertical or horizontal.

Mr. McNee: Correct.

Mayor Clauss: It looks like t1-11.

Mr. McNee: The windows will be the pvc.

Mr. Kröllfeifer: I have a question for the Board. Do you have any other questions because I believe this was the only thing being carried over?

Mr. Heinold: Correct.

Mr. Taylor: The only thing which I should have mentioned this before. If we could just get the four-color schemes added when this gets submitted for comments so the actual color names are labeled. So, when they go to get built to make sure it is exactly the same.

Mr. McNee: Okay.

Mr. Krollfeifer: Having no further questions, I will open public comment. Is there anyone that would like to make a comment on this application? Please raise your hand. Any questions online.

Mr. Kingsbury swore in Geraldine Dunley.

Ms. Dunley: I live at 101 Weatherhill Court. Am I able to see the parking lot, the entrance, or is that the only thing that's being presented today.

Mr. McNee: So, the entrance to the community will be here. These are overflow parking areas here and these boxes here in front.

Ms. Dunley: Being that I live across the street from where this is going to be built what is the distance from the street to the structures?

Mr. McNee: I believe they are a minimum of 25' depending on location,

Ms. Dunley: Is there only the one entrance?

Mr. McNee: Yes, one entrance.

Mr. Krollfeifer: Are there any more public comments on this application? Hearing none, I'll turn it back over to the Board.

Mr. Heinold: We are here for final approval, subdivision approval and site plan approval. Mr. Kingsbury per the discussion last month was kind enough to draft a resolution that's on your agenda later that sets forth the relief that we are obtaining tonight. I think at this time there is no special additional conditions or changes that I'm aware of to what was circulated by Mr. Kingsbury in advance of the meeting.

Mr. McKay: Does this resolution have a number?

Mrs. Tiver: Yes, 2023-17.

Mr. Kingsbury: What you are voting on is final major subdivision approval and site plan approval.

Ms. Kosko: That also includes the single-family lots.

Mr. Kingsbury: For 45 townhouses and the 4 single lots.

Mr. McKay motion to approve.

Second: Mayor Clauss

Roll call: Mr. McKay, yes; Mayor Clauss, yes; Mrs. Kelley, yes; Mrs. Gilmore, yes; Mr. Tricocci, yes; Mrs. Baggio, yes; Mrs. Tyndale, yes; Ms. Kosko, yes; Mr. Krollfeifer, yes

Motion carries to approve.

B. Case 23-06: JDEB Marne Highway LLC
Block 18 Lots 1-9 & 14-16
Use Variance
Attorney: Vincent D'Elia

Proper notice was given.

Mr. Krollfeifer: Mayor Clauss and Mrs. Gilmore will have to recuse themselves.

Mr. Kingsbury swore in the following witnesses: Michael Miller, marketing representative real estate broker; John Helbig, professional planner; Jeff Livingston, applicant; Bill Nicholson, site engineer; Kyle Spohn, site engineer.

Mr. McKay: Can you have whoever has personal knowledge tell us how long these two facilities been shut down, closed, not operating? The two facilities would be the gas station on Marne Highway and everything that is behind the gas station.

Mr. D'Elia: I would like to clarify one thing. I made a mistake in the application. In the narrative that I submitted at Mr. Taylor's request; it is not a gas station. It's a service station. There is not going to be any pumps. There will not be gas serviced there.

I am Vincent D'Elia and I represent the applicant. Good evening to all of you. This is our application; I just want to say a few words to set the stage because Mr. McKay has already kind of touched on the fact that there are a number of issues and side issues. I have this in contemplation of the law, every piece of property is unique. This piece of property sets a new standard for unique as far as I'm concerned, when I look at it, we also have a unique applicant in this case, and they're probably the only two puzzle pieces that are ever going to fit on this site. First of all, it's zoned residential property. As you all know, the property was used for petroleum storage and distribution and what have you. Hazardous Waste has been found on the site and needs remediation. The standards for remediating a residential site are dramatically more stringent, then for commercial or industrial use. We've already had one housing developer take a look at this. When he realized the parameters of the environmental issues, realized that there was no way that you can make it work. For that reason, like I say, zoned residential, obviously, you make your own decisions, but to me, it's this one will never be developed as residential. In addition, the owner of this property is an estate, that estate to my knowledge is currently insolvent. The likelihood of them ever being able to do anything with the site in terms of environmental remediation is impossible to see. I've been advised that there are other sites in the township where property owners had environmental issues and eventually defaulted on real estate taxes and now become a burden to the township. This piece of property has the potential to follow that path. But for the fact that we have an applicant who can fit into the pieces that are there. The three pieces being the residents, the service station, as Mr. McKay has referred, property in the back, which has been an intense environmental industrial use. We're prepared to replace that with a very light industrial, primarily warehouse use. Warehouses, restaurant equipment, repairs, restaurant equipment, and what have you. This buyer, should he get his approvals and move forward with this. He is going to be responsible for doing the cleanup. The property is rundown. It's in need of a freshening up and this applicant is going to do that as well. I just wanted to start that off with my opening statement, because you're going to see how

I'm going to try to fit those two pieces together and try to essentially get you understand my feeling that as a practical matter, this will never be residential despite zoning.

With that, I wanted to start with Mike Miller. He's a real estate broker. He's very familiar with the site and I want him to give you the history, answer Mr. McKay's question, and we can go from there.

Mr. Miller: You're under oath. Why don't you tell us how you got involved in this property and the history the best you can.

Mr. Miller: I had been a real estate broker for 44 years specializing primarily in commercial property. The way I got involved in this property was that there was another real estate representative who had met with the estate state representative, Ms. White and understood the I guess the complexity of this property and how, there were many, many issues with it. That company probably being smarter than me five years ago or six years ago, deferred and asked me if I would represent the property and I choose to do so. I say it in that fashion because as I got further into the aspects of this property, a lot of things with the contamination issue that exists on the property, the mixed uses that are on the property, the zoning issue that exists that we're here to address tonight. Much of it said, this is a lot of work. It's going to take a lot of people wanting to accomplish a good ending.

I became acquainted with this property, probably back in early 70s, when I was in a different line of work as a financial planner, and I met Mr. Wayne Rife. I was acquainted with him for a number of years, when they had their fuel operation that was run by the Rife family. This at the time had the operation or items that were on the property was the family homestead. The house that you see as you ride down Marne Highway. What was at the time, I believe it was a gulf gas station. That was the banner that was out there, which was a retail service station. Back in those days, everything was done there, lube oil and stop to get your gas. There was a community focal point for that. Also, Mr. Rife was well known throughout the area, not only in Hainesport, throughout most of Burlington County as one of the primary fuel suppliers to residences and the commercial industrial buildings that were out there. It continued this way for many years until his passing. At that time, other family members were involved in the operation of that. As time went on, that diminished and ceased in that fashion. I got involved, as I said in the property in 2018. At the time, I got involved with it, pretty much all the operations had, as far as the fuel oil operation had been ceased. The garage facility service center, gas station, had pretty much ceased. The gas dispensing operation and then became a repair shop. There were a couple of local people who rented that facility and that conducted their operation. During that period of time one of them since it moved down the road, down to the Aziza's. breakfast place. At that point that ceased its operation.

Mr. McKay: Cipollone's garage?

Mrs. Newcomb: Ron Copsetta.

Mr. Miller: That was the last operation in the service garage area. The home was rented up until about maybe 18 months ago. There was a tenant in there and it was a continuous use with a tenant occupying that. The additional buildings were utilized by family members. One of them uses the upper level of the building, which will be addressed and one of the buildings for his train collection. His hobby is trains and he has the whole

second floor of the one building. I don't remember what your number is right now. But that's where he goes, has his hobby and enjoys himself. One of the other buildings was used by one of the family members in conjunction with a business that he ran and runs. So, there's been continuous activity on the property ever since they ceased actually dispensing fuel from the site. Contamination issue was acknowledged back in probably 2015 and an LSRP was engaged. Wells or all the efforts were undertaken at the time with the LSRP. The LSRP at the time, had engaged a law firm or one of the regional law firms to represent them. They went through the process and they were moving forward with that. So, monitoring wells were placed. The activity of cleanup had begun a remediation. As time went along, when I got involved, there was a change in both the environmental representation and environment fir representation, when we engage active environmental from Mount Holly, to further the effort and bring it to a conclusion. Also, we retained local counsel. In conjunction with that, that process was continuing on. Unfortunately, the gentleman who was our LSRP, at active suffered a major health issue and can no longer continue that. Then some other activities took place with active and we then look to acquire. I say we because I got more involved than I thought as a real estate person. I was sort of ushering the direction of this activity, hopefully, bringing it to a conclusion. I don't want to seem like I'm writing a book here for you. It's been a long story. So, we at that particular point, with what amounted to no income coming in, the state was depleting the resources that it had to pay people and people don't like to work unless they're getting paid. So, I was able to secure a contract of sale for the property. It was an organization that did affordable housing. We came and had discussions with the staff here about doing affordable housing in their multi multifamily dwellings. Under state law there, the engineer and the attorney can address it's far better than I. But there are two levels of remediation is done for property, one to meet a residential, subsequent use, and one for commercial use. As the residential developer got into it, so the costs of what was going to have to be involved in getting the proper to a conclusion. They bailed on it. Thereafter, I get calls, I'll be honest with you, three or four a week. Generally speaking, they're from people with a trucking company, it might be a dump truck company, it might be a tractor trailer, or somebody that wants to use it as the trucking operation center. I guess in looking at that, is that the highest and best use for it. That's not for me to determine highest and best use for it is for you to determine as the Board. I felt that was not the highest and best use in the marking of it. As time went on, I was able to secure an interest from Mr. Livingston. Just so happened that Mr. Livingston was looking to move from Pennsylvania to New Jersey. He had had exposure to cleanups in a property that he previously bought. He understood, so to speak, what he was getting into. And in doing that, he also understood the cost and procedurally what had to be done. To me he was an ideal candidate, because he knew what it was, how to do it, correct it and had the financial wherewithal to do it. That sort of brought us to where we are here to tonight.

I've been doing this for a long time. And I know that municipalities have had difficulties with properties that they have had to undertake on their own. This the municipality is not an exception to that rule. Once you get into a property, it's contaminated and no money was a fallback to, whatever governmental agency will pick it up. I've seen that throughout the county and throughout different municipalities. It comes down, if you can get the right person, get the right need. It might not end up being the ideally preferred use, but it's a use that it will benefit not only Mr. Livingston, but in my opinion, it also benefits the community and allow us to go forward. I would say that this is something that is should be considered positively.

Mr. McKay: I know you're not an engineer or scientist, but can you describe to us, generally speaking, the nature of the contamination on the site?

Mr. Miller: Yes, it's a benzene residue contamination. Now, benzene is a product. Again, I'm not an engineer or a petrochemical scientist.

Mr. McKay: My question covers you on that point.

Mr. Miller: Okay. Very good. On the basis of that, it was a best, it's been explained to me in many meetings. This was a residual of a leaking tank that leaked the gasoline product. Basically, went to a level of groundwater, which further complicates things in a cleanup situation because you have to deal with the groundwater issue.

Mr. McKay: Do you know if that once leaking tank is still there?

Mr. Miller: The documents that I've seen says no, they are not there. They have been removed.

Mr. McKay: Were these underground tanks?

Mr. Miller: Correct, these were underground tanks.

Mr. McKay: You're saying there's more than one?

Mr. Miller: I don't know how many leaked but there were multiple tanks on the premises that were removed.

Mr. McKay: Your belief is they've been removed?

Mr. Miller: That is correct. I can see they are not physically now. So, I would have to say yes, they had been removed, but I did not physically see that removal.

Mr. McKay: How far has the contamination spread from the tank locations?

Mr. Miller: I would have to defer on that. I've been told there's the potential for some off premises migration. That was part of what the LSRP's were telling us and that they would like to continue the monitoring via the wells. The monitoring wells are there and of the LSRP's there are three. I've dealt with two of them. The two of them once told me, it didn't have to be done. No one told me it had to be done. You know, and as I understand the role of the LSRP, it's to ascertain what work has to be done. I've had one that told me it hadn't gone beyond it and another one said it had. They wanted to do another well. It is inconclusive as far as I am concerned.

Mr. McKay: When you say it hadn't gone beyond hit it, meaning the property line.

Mr. Miller: Correct.

Mr. McKay: Where does the remediation stand. I realize it hasn't proceeded any further from recent time, but where does it stand? There were wells drilled to determine the spread.

Mr. Miller: That is correct. There are monitoring wells on the property. I will add this to what I was saying. There is an actual monitoring well. There are two that are off the property already. And again, I can't address the current situation as to what has happened with the migration or the lack of migration to those wells that are off the property. But the last time they were checked. There was I don't have the document in front of me. But there was some migration where there was a suggestion by one of the LS RPS, that an additional well be put out further outbound property or outside property.

Mr. McKay: All right. If you're not able to address this, just tell me but the council was referring to the estate being the present owner of the property essentially, and that estate is either insolvent or near insolvent. You sort of hinted at some estate expenses during your speech. Do you know, are you prepared to offer testimony about the financial viability of the estate, the wherewithal that they have or don't have?

Mr. Miller: I have not seen financial documents. The only thing I could say is that I know there is no income flow into the property. There was a deposit that was advanced by Mr. Livingston. That is a forfeitable deposit which he has acquiesced to allow some of those monies to be continue to work on the property.

Mr. McKay: So, as we sit here today, is anybody checking the monitoring wells as of right now?

Mr. Miller: The LSRP status is indeterminate, there's negotiations going on right now with Mr. Livingston and hopefully the party that will be his LSRP to carry this to conclusion.

Mr. McKay: If remediation has to be done, can you describe to us at least in general, layman's terms, what that remediation would consist of?

Mr. Miller: The reason I'm hesitating is because every time you talk to an LSRP, you get a different opinion. I can only tell you what I've been told at this particular point with the activate LSRP that we had engaged. That was that the ratios, the numbers were diminishing back to acceptable levels, and that we would only have a period of maybe 18 months to resolution. That's what we were hoping for when we were working with them. The party that took over from the gentleman who had the health issue, then told us no, he needed two more wells to determine whether or not there was a continued spread. That took it to a different level. And that this was the contamination that had to do with the tanks that have been leaking. When you bring in LSRP in, this is my experience in having done with other properties, each one of them has a different view of the property. And until they get the hard science that says okay, here's your readings and here's the establish what it is. Everything is trial and error. All you're doing is putting out money and money and money until you get to that point that they're satisfied that they're going to put their name to it and sign off that will be acceptable to the State of New Jersey. I guess what I'm saying is, I can't tell you any more than that we were progressing on a path. We had a path. We thought it was, even before Mr. Livingston got involved, such that we could bring it to a conclusion and get the property approved by DEP and not have to continue the way in which its continuing. To be very honest with you. It's an unknown right now. Because you put three LSRP in a room, you're going to have three different opinions.

Mr. McKay: Other than the benzene contamination that you've just talked about, are you aware of any other type of contamination upon the property?

Mr. Miller: As of this point, nothing has been ascertained. So no, I'm not aware of any other on there. Could there be? Yes, sir. There's been talk of different things. One is potential soils that they need to be remediated.

Mr. McKay: Thank you. I was getting to that.

Mr. Miller: But yes, there may be some soils, but it hasn't been ascertained. We've had estimates \$90,000 and \$600,000 to \$700,000.

Mr. Krollfeifer: Mr. McLaughlin, one of the alternates on our Board has a question.

Mr. MacLachlan: I am trying to set the stage. Isn't somebody operating on that property right now?

Mr. Miller: There is an activity on there. We have actually, it's kind of a storage operation and that's a continuing operation, which is a family member who runs his business out of there long term.

Mr. MacLachlan: This applicant is not conducting any business of sort at this location?

Mr. D'Elia: The applicant can answer that.

Mr. MacLachlan: Are you sure you are not speaking of the elevated tanks that might have been leaking as opposed to underground tanks? The above ground tanks were removed. I never saw any digging going on.

Mr. Miller: If you drove past the place and would look at the service station, to the left of the service station, between the house was the area where the underground tanks were. You'll see that's a disturbed area. As I know, there was no issue with the above ground tanks as far as any action. There's no reportable action at DEP that there was ever a leak.

Mr. MacLachlan: If the applicant would address what activities are taking place there now.

Mr. D'Elia: He made a statement that the agreement between the applicant and the owner had a deposit that was forfeitable. Wasn't that deposit nonrefundable?

Mr. Miller: That is correct.

Mr. D'Elia: The reason was because the owner needed to pay some critical bills and didn't have the money.

Mr. Krollfeifer: Is there a representative of the estate in the audience?

Mr. D'Elia: We did not bring anyone and I am unaware of anyone.

Mr. McKay: Are you able to give better information with any of your witnesses. You raised the insolvency issue. Anybody prepared to offer testimony about that?

Mr. D'Elia: The applicant may be able to, I only know from negotiating the agreement of sale and talking with the other attorney. There were representations made that led to certain conclusions that I felt comfortable presenting.

Jeff Livingston is a representative of the applicant. What I want Mr. Livingston to do is, we talked to you about the existing conditions and the problems with the site. Why this site is unattractive to any residential development? But was very attracted to Mr. Livingston, for what he does. So, Mr. Livingston give them a little background on how you got into the business you're in now, and what your plans for the property ultimately are and how you intend to use it.

Mr. Krollfeifer: Can I ask a question before you answer that? When Mr. D'Elia just started to introduce you, he said that you're representing the applicant.

Mr. D'Elia: He's testifying under oath. He is the managing member of the LLC that's the applicant.

Mr. Krollfeifer: I just wanted to clarify it.

Mr. Livingston: I'm planning on using the building as a restaurant equipment supply and I plan on doing reconditioning and rebuilding of the restaurant equipment. I've been doing it for about 30 years. I have been in the Philadelphia area a little bit over thirty years. I used to be a Domino's Pizza franchisee from 1989 to 1996. In those years, there was never any other alternatives from an equipment outlet for example, you had to buy new, there was no other alternative. So, I found a niche and capitalized on it. I started buying and selling restaurant equipment in that particular case was franchise equipment and exponentially grew into a 35,000 square foot warehouse in Bristol PA. Which I sold that and moved to Norristown, Pennsylvania than to Pottstown, Pennsylvania and my ultimate plan is to move here for my primary location here in Hainesport. The location is ideal for what I'm using it for, especially the location for the proximity, there's about 50,000 restaurants within a five-hour drive. There's New York City, you can be in two hours, less than two hours. So, proximity wise, it's ideal. I really, really like the location and I know that it's going to be ideal for my application. I have been downsizing. So, I'm focusing mostly on just oven and mixers. So that's pretty much what I do.

Mr. McKay: So, what structure on the property, there are a couple, and a house, would be used for this manufacturing process. What would you call it, manufacturing, repair?

Mr. D'Elia: It's a repair and a resale. It's a repair and a warehouse use repair.

Mr. McKay: It's repair, storage and resale.

Mr. Livingston: To answer your question, the large 6,000 sq. ft. building (#3 on the layout, as well as 4). I am using these for my staging, storage, and warehousing. I only need about 1,000 ft for the reconditioning.

Mr. McKay: Three is the big building and 4 is?

Mr. Livingston: It's like a two-car garage on the proposed plan. The overstock, I have very large equipment that will be stored in these containers and potentially one or two of the road ones. I use to ship all over the world and I'm still doing it. What I normally will

do is store one particular trailer that would be staged and be loading it taking as much as 14, 15 months to fill it and they ship it out, ship it internationally.

Mr. McKay: Under your proposal, what is the old house to be used for?

Mr. Livingston: It will be a rented residence as well as a service center. I'm going to rent out and lease the service center.

Mr. McKay: That service center is simply being used as a cash generation.

Mr. Livingston: Yes.

Mr. McKay: As is the rental house. Neither one of them are involved in any way in the primary use of the property being your repair, remanufacturing process.

Mr. Livingston: It would not be used for office space or any of that.

Ms. Kosko: Mr. Livingston, will you be also leasing building number three?

Mr. Livingston: No, I will not be.

Ms. Kosko: Okay. Mr. Helbig's letter dated September 21, states that building three proposed commercial kitchen fixture repair says is expected that JDEB would be leasing the building to Pei Services, or their affiliates who would employ plus or minus three full time employees and the facility would operate on a standard 7am to 6pm operational schedule for fabrication and logistics works.

Mr. Livingston: JDEB would be leasing to Pei Services which is my restaurant business.

Ms. Kosko: So, that is you.

Mr. Livingston: Yes.

Mr. McKay: Other than the obvious cash generation function that reopening the service station might have. Is there any other reason to keep that building?

Mr. Livingston: I never really thought about it. It is a cash flow opportunity.

Mr. McKay: What do you propose to do about the rest of the stuff that's on that property? There is a large tank out behind the service station. There may be other tanks, I did not go on the property.

Mr. Livingston: All those particular tanks will be removed. I actually have somebody that wants them. I completely stepped back and ceased those particular removals until everything comes to light.

Mr. McKay: I'm not sure this plan that you have up, present exhibit. Is that a theoretical sketch or is it intended to be what you actually propose to do? Or is it for discussion purposes?

Mr. D'Elia: If I may answer that myself, Mr. McKay. We are here for the variances. We know that we can't do anything without also getting a site plan approved. Getting all the details of the site plan. We wanted to make sure we knew what the Board was willing or not willing to do before we incurred that expense to put together the detail of the site plan. Well, I know if you approve this, you're going to make it contingent on-site plan approval. One of the problems I always had when I came in asking for variances subject to a site plan is I'm really not sure where you draw the line. For example, Mr. Taylor raises some good points about parking and turning radiuses and what have you, we have to convince you and you have to be satisfied that all that meet your ordinance and all that actually works and is safe and is fair. I would say you make that call, when you make the variances subject to a site plan approval.

Mr. McKay: Well, let me continue because I want to ask Mr. Livingston a few other factual questions. Building number three, which is your principal repair. Can I use the phrase remanufacturing?

Mr. D'Elia: No.

Mr. McKay: How do you describe what you do?

Mr. Livingston: We break down ovens and basically rebuild them, components down the carcass. It would be like an analogy of a car by taking the engine, the transmission, the tires, all the suspension and putting all brand-new stuff in. I build the carcass.

Mr. McKay: You talked about mixers and ovens. Do these come in on pallets or how do they get delivered?

Mr. Livingston: They would be coming in on pallets or loose. Depending on if I took them out to be loose. I have modified car trailers. I drop the gate and roll them right out on dollies.

Mr. McKay: You would be buying used equipment here and there, where you can and then you'd be bringing it to the site, storing it until you were ready to work on it or have a buyer for it. Then it has to be stored someplace, and then you'd be working on it to rebuild it, refurbish it, whatever term you want to use. Potentially, you'd have to continue to store it until you had a buyer or a sufficient number of units to fill a container.

Mr. Livingston: Correct. Yes, for my international customers.

Mr. McKay: So. there's two types of storage, there's finished goods storage and storage.

Mr. Livingston: It's for long term staging, it's storage that just is not going to move. Some would be stored that when I need them, I will grab them.

Mr. McKay: How long is the rebuilding, repair process going to last?

Mr. Livingston: From ground zero, approximately 16 hours.

Mr. McKay: That is going to be done in building three?

Mr. Livingston: Yes.

Mr. McKay: I don't know anything about the construction of that building, whether it's insulated, or whether it needs to be repaired itself in order to do the work you want. Can you size up the structure of that building?

Mr. Livingston: Yes, it is a block building. It has a concrete floor. That is all I need. As long as I have lights, concrete floor, and electricity, I'm fine.

Mr. McKay: How many employees would you expect this facility would hold? When it's up and running?

Mr. Livingston: In this facility, I wouldn't need any more than five or I would grow out of this building.

Mr. McKay: What about noise generated for the repair work that's done?

Mr. Livingston: The only thing you probably would hear is forklifts. On occasion, maybe some very minimal noise. So, not doing any major work. It is more taking the components out and putting a component in. There's no real noise. Forklifts and trucks coming in and out will probably actually be the only real noise.

Mr. McKay: I get the sense from your application and you can correct me if I'm mistaken. That you're also proposing sort of general storage, outside storage on the property for vehicles. Maybe boats, there is a boat there now. There is a big speedboat sitting there that's as big as a tractor trailer. Maybe even storage in C boxes. There are a number of those or maybe their tractor trailers, I don't know. But there's a number of them sitting on the property. Is that storage business going to also be included on the property under your proposal?

Mr. Livingston: Yes. It is Mr. Barto's, who is here. According to the agreement of sale, we're going to allow him a 50 by 90 open area where he can park a dump truck and some personal piece of equipment that is on the outside of the property. Inside the fence, this plan is pretty close to our site development. The containers that I have right now, there's two containers that are dropped on property now. One is a trailer, two were containers that will be relocated to this location, if we receive approval. All the other logistical trailers, I call them, the smaller trailers are usually used for my transfer of equipment.

Mr. McKay: Alright, let me get to the final issue that I have until unless I think of something else. Take piece by piece, when was the gas station last utilized for any commercial purpose?

Mrs. Newcomb: Probably 5 years ago, when Mr. Copsetta was last there.

Mr. McKay: Same question for building 3.

Mr. Livingston: It has been used consistently since I was under agreement. It's been used for storage.

Mr. D'Elia: Before you had it under agreement, when was it last used?

Mr. Livingston: As far as the use of it was probably sort of admin office by the estate in conjunction of the closure of the business and I would say that has been 5 years plus. It was just paying bills and stuff. Then there was storage of some family things.

Mr. Krollfeifer: Where are the trains?

Mr. Livingston: Building number 4.

Mr. McKay: The second floor of building four, the mezzanine building. They are the only questions I have right now.

Mr. D'Elia: Clarify for me. Mr. McKay asked a question about outside storage. Is there kitchen equipment, kitchen items, or repair items left outside of any structure?

Mr. Livingston: We have no intention of using the outside to store any of the equipment.

Mr. D'Elia: Now, I know that since he signed the agreement, you had an opportunity to do some due diligence with regard to an LSRP and with regard to the environmental condition of the property. Can you give the Board a description, cliff notes description, of what that is.

Mr. Livingston: Adding a little bit what Mr. Miller had mentioned. I'd retained and engaged a LSRP at some very large expense to do so. But they did do all the monitoring wells, they did all that, and they did see some very good drop of delimitation in regards to the benzene. Never seen any elevated levels from the test that they got. Unfortunately, they did a little bit more than what Active did. They did not do the whole property. The company that I engaged did the whole property, drilled multiple additional wells. The good news is that they didn't really find anything. Unfortunately, they still came up with a substantial number to remediate the property, about 700 cubic yards of material has to be removed.

Mr. McKay: Please put it in terms of dump trucks.

Mr. Livingston: So, 18 yards on an average dump truck, and it's 600 to 700 cubic yards of material. So, it's quite a few truck dump trucks.

Mr. McKay: When you remove that quantity, obviously you have a hole in the ground someplace. You have to fill it in.

Mr. Livingston: Yes, it has to be a certified clean fill. It has to be removed first and then clean fill comes in.

Mr. McKay: Do we know where that area is more or less. If you can show it on the exhibit.

Mr. Livingston: Right here by the service station, this area here and here.

Mr. McKay: So behind and alongside the street next to the service station.

Mr. Livingston: Yes. In between the house and the service station.

Mr. McKay: That is the general area where the tanks had been.

Mr. Livingston: Yes. All the tanks have been removed. There are no inground tanks, all of them have been removed.

Mr. D'Elia: Anything else on the LSRP that you would like to tell the Board.

Mr. Livingston: It is currently in the status of we will let you know. I have to get certain things certain variances approved before I would engage in a situation like that. I still feel that the property has value even with that type of number from a remediation standpoint. But right now, that they are in a hole holding situation until I give them further acknowledgement

Mr. D'Elia: With regard to the property presently, what activities are going on the property now?

Mr. Livingston: We are storing and staging equipment. I am in and out of there quite often. I do have quite a bit of my inventory in in the buildings right now. I expected this hearing to happen several months ago. I do have two other locations in Norristown and Pottstown which I go back and forth as well.

Ms. Kosko: Is the residential property being used?

Mr. Livingston: No. Not any further.

Mr. MacLachlan: My concern is, I don't know how you are in there. I don't know what it has to do with the application but you are already in there. I am curious how they are in there.

Mrs. Newcomb: Mr. Livingston and the estate are in violation with me since approximately the beginning of March. We have had several meetings with Mr. Livingston prior to him moving in. The property is being used in full. I have been in the building and have witnessed it myself. This is not a proposed use; this building is being used as they are proposing it. Mr. D'Elia, I apologize in one sense, but I'm not going to hold back as the zoning officials. With that being said, in fairness to the applicant, they did come forward with the application, and there were many issues with it. It has taken a long time to get to this Board. But this has not stopped this business being used. I have seen his worker welding in there, I have seen the trucks that had to be forced off the property, I have seen the gentleman who works for him in the house. So many of the things that are proposed here, including outside storage, everything else is already there. This place is operating. This is not a proposed use, and from adamant about it is because I have had major issues with this. So, with respect to everybody, this is not something that the applicant is looking to come to do. He's already doing it here. Whether he has operations in other places, that's irrelevant, he's operating here out of Hainesport. I've had issues where I have met Mr. Livingston out on the site for many different things. So, this is not something that is, you know, whether it gets approved or not, that's not up to me. Nor do I care less. Either way. That's the board's job to make that decision. But nonetheless, this is a full-blown operation.

Mr. McKay: Do you agree Mr. Livingston?

Mr. Livingston: I do not agree. Are there things happening in the warehouse? Absolutely.

Mr. McKay: So, you're quibbling over the term of full-blown operation?

Mr. Livingston: Yes. Am I using it for staging and storage? Absolutely. I'm not going to argue the fact that there's things happening in the warehouse.

Mr. McKay: Like welding.

Mr. Livingston: I don't know about welding. There are things that are happening in there, I've got, like I said, about 80%, 90% of my equipment over there. So of course, I'm going to be using the facilities as much as I can, I am paying all the real estate taxes, all the insurance in regards to that. So, there's a large expense that I've been giving. It's a situation where I'm not going to argue the fact that I really expected to be in front of this Board way back in April, May of this year. Here we are October going on November now. I doing business in state Pennsylvania, I don't have to go through all this, I would have been in this, I really didn't expect to have this type of an issue. I really thought I'd be able to open up a simple business. This is not something that's anything near what originally was there. I mean, oil, and that type of contaminates. It is just dirty stuff. So, I really didn't think it would even be a question for me to be able to revitalize this property.

Mr. Kröllfeifer: Is the estate being compensated for you using the property now?

Mr. Livingston: The compensation now is that I keep up on the property taxes. It is about \$20,000 a year between taxes and all the other associated costs.

Mr. MacLachlan: One of the things that we've tried to do when property changes hands is not feel sorry for ourselves. We have this horrible property on our hands, but we've tried to improve the property. That's the only opportunity that a municipality has to make any improvements is when the property changes hands. So, that is thought in mind. Your application needs to be looked at pretty seriously is it in fact, an improvement over there? I know Mr. Taylor will talk about a landscaping plan and a lot of things to shield the activity that you are proposing.

Mr. D'Elia: We understand what we are buffering against. If you recall, I stated I don't know where the line is when you're applying for the variance and the site plan. Buffering and those things are site plan issues. We have to satisfy the Board, you have to satisfy Mr. Taylor, with regard to the buffering that has to be done. And it's, you're correct, it's a lot. That buffering, whatever it is, it's still going to be a significant improvement over what is there now.

Mr. MacLachlan: I don't necessarily know if it's all that bad the way it is versus what you're proposing. I'm aware of the fact that he is already operating there. I'm not an attorney, I don't know what that has to do with the case. I appreciate you being frank about it.

Mrs. Newcomb: Mr. McKay, I'd also like to comment on the issue of the truck and the boat to the side of the property. I've been here 21 years, and the Rife family has always used that side of the building. For the tractor trailer, the boat, and vehicles, it was always part of the family issue. So just let you know that that has been there. It's not anything that has been new. Just so I can put that on record. It's not like it showed up yesterday.

Mr. McKay: No, I appreciate that. I mean, I've only lived here since 1973. It's not as if I don't know what is going on there. One of the difficulties with this site is the applicants is correct that this isn't what he proposes isn't as industrial or as dirty or as intense, perhaps as the previous oil business. But the use that he intends to put to it with all the use of storage containers, storage of vehicles, rental of the house, return of the old gas station into an auto repair business. It is still a pretty intense use for this property, which is surrounded by residential in the neighborhood on three sides. A church and other residences on the fourth side. So, you know that I don't know how long the Rife's operated that, but it was a long time ago than it was started, whether it was the 50s or even before the war. Probably before the war looking at the age of the buildings. But our land use criteria and determinations and rules that have advanced here in New Jersey, maybe they haven't in Pennsylvania, but New Jersey they have and so you know trading a very intense use for another form of intense use. Now when the use is non-conforming under our current rules. That's a difficult ask. I'm struggling with it because as was just said, you know, it's a messy sight.

It'd be lovely to try to get it cleaned up, to improve the town, to improve it for the neighbors to clean up the plume of benzene wherever it is headed. If it's headed to any place and you know to make the place more palatable to the neighbors who live in the neighborhood. But based upon the evidence that we have right now it's hard for me to see that you're going to do that.

Mr. D'Elia: That's a catch twenty-two for me because I've listened to what you were saying. That difficulty with approving what I believe is a significantly less intense, everything's done inside, and there's nothing done outside, there's storage. But we can quibble about that. But the other choice is it stays, we don't do this, we don't clean up the property, we have to find some other location, and this property will then be residential.

Mr. Taylor: Is that your testimony?

Mr. D'Elia: It is zoned residential.

Mr. Taylor: Your testimony is that if the Board does not approve this, this property will be residential.

Mr. D'Elia: The property is zoned residential is what I meant. I'm sorry, I didn't mean to exaggerate that.

Mr. McKay: I think the argument was that if, I am going to be very blunt, the argument from your client, not you Mr. D'Elia, that if we don't approve this, it will sit and deteriorate. Essentially become a junkyard because no one else will have the money or desire to do anything with it. The last thing that's going to happen is that houses are going to be built because no residential builder of a small group of houses is not going to have the wherewithal to do the remediation needed. It's either take our proposal or deal with this environmental problem, for however long it lasts.

Mr. D'Elia: I think you allocated the responsibility to my client. Since I first got this thing, realized that it's zoned residential. Mr. McKay, you know, I've represented developers my whole life.

Mr. McKay: I know you're an absolute man of honor and I take everything that you say.

Mr. D'Elia: I appreciate that. I thought to myself, how do I explain the risk of not finding a way to make our application work, and the risk is what I described. I tried so hard to avoid what you just said, make it sound like a threat. It's not a threat. I'm just trying to lay out facts. I totally believe, again, you know, I've represented developers my whole life. For residential, I can show this to 50 residential developers and when they see the LSRP stuff, they just have better things to do. It's not going to work as residential, so you're going to wind up with some other use, because the environmental requirements are significantly less stringent. I wonder if we could take a couple minutes. Let me talk with my experts.

The Board took a short recess at 8:10pm and returned to the meeting at 8:20pm.

Mr. D'Elia: We've had a lot of feedback from the Board and from the staff. We really have to evaluate I just mentioned to Mr. Kingsbury that I thought the better practice right now would be to have that matter postponed till your December meeting or whatever you can do it. So that we have an opportunity to reevaluate and try to address the concerns and the issues that you folks have raised. So, I would ask for that at this time.

Mr. Krollfeifer: Okay, it's your prerogative and we're here to cooperate. It's just going to be disappointing. I don't know if everybody in the audience, I'm assuming a lot of people are here for this case. The applicant is requesting through their attorney, that it be continued to the December meeting. I realize it's an inconvenience for you, and it's a problem, but you will get an opportunity to raise questions after the applicant has submitted their entire case.

Mr. D'Elia: I apologize to them as well. I know that feeling. Anybody who practices law sat in a courtroom for four hours, and be told your case is postponed till next month. knows what that feels like. If I do apologize as well as the chairman. I think for the sake of getting the best result and the right result. I think I can address a lot of these issues.

Mr. Krollfeifer: I hope as well you received a lot of information from the Board to try to help you with a direction. I also would like to think that from the standpoint of the folks outside in the audience who have questions to this applicant. We are raising a lot of them and trying to get some answers for them. We'll give them another opportunity at the next meeting.

Mr. McKay: I make a motion to adjourn to the next meeting. I do not know the next meeting date.

Mrs. Tiver: I don't know if the Board would like to make a decision. I have a backlog of cases that have been put on hold and really need to get to the Board. He stated December or January. I don't know if that is possible.

Mr. D'Elia: If we make an announcement tonight that its December whatever at 6:30pm, we do not have to go through the cost and expense of that. That's the only reason that's I was asking for a specific date.

Mr. McKay: This application has been carried several times, as you have pointed out. It has resulted in a bit of a backlog of other people trying to get space on the calendar.

Mr. D'Elia: I believe I only got on one agenda and a couple days before I had to postpone it. I know there is calendar issues and I do not want to be insensitive to it.

Mr. McKay: You stated December or January. If I made the motion for January 3 at 6:30pm, would we have consent.

Mr. Krollfeifer: We have the reorganization meeting.

Mrs. Tyndale: What we have done the last couple of years is the reorganization meeting starts at 6:30pm and the regular meeting immediately follows.

Mrs. Tiver: We also have a carryover, Rosenthal, which was originally on for this meeting. We have Ark Road, the school on Fostertown Road, there's Foster Town Farms, and two small residential ones.

Mr. Krollfeifer: The January 3 meeting is also our reorganization meeting. If we are going to give a date and time that we are giving them a realistic time.

Mrs. Tiver: Yes, that is in the very beginning. I would use the January 3 meeting at 6:30pm. That is our reorganization and the regular meeting will immediately follow. That is usually 10 to 15 minutes.

Mr. McKay: So, the motion is that there's consent by the applicant to continue this application to January 3, 2024 following the reorganization meeting at 6:30pm

Second: Mrs. Kelley

Roll call: Mr. McKay, yes; Mrs. Kelley, yes; Mr. Tricocci, yes; Mrs. Baggio, yes;
Mrs. Tyndale, yes; Ms. Kosko, yes; Mr. Krollfeifer, yes

Motion carries to continue the application to January 3, 2024 at 6:30pm.

Mr. Kingsbury: I want to make sure the audience understands that they will not be getting a new notice in the mail. This is the notice. Secondly, Mr. D'Elia will you send me a letter agreeing to extend the time.

Mr. D'Elia: Sure.

Mayor Clauss and Mrs. Gilmore returned to the meeting.

7. Minutes

A. Meeting minutes of July 13, 2023

Motion to approve: Ms. Kosko

Second: Mrs. Kelley

Roll call: Ms. Kosko, yes; Mrs. Kelley, yes; Mayor Clauss, yes; Mr. McKay, yes;
Mrs. Gilmore, yes; Mr. Tricocci, yes; Mrs. Baggio, yes

Motion carries.

B. Meeting minutes of August 2, 2023

Motion to approve: Mrs. Baggio

Second: Mrs. Gilmore

Roll call: Mrs. Baggio, yes; Mrs. Gilmore, yes; Mr. McKay, yes; Mrs. Tyndale, yes;
Ms. Kosko, yes

Motion carries.

8. Resolutions

A. Resolution 2023-16: Granting use variance, bulk variances, and preliminary and final site plan approval to permit modifications and expansion of an existing non-conforming use as an adult daytime services facility on Block 11 Lots 5.02 & 5.04

Motion to approve: Mrs. Tyndale

Second: Mrs. Baggio

Roll call: Mrs. Tyndale, Mrs. Baggio, yes; Mr. McKay, yes; Mrs. Kelley, yes;
Mr. Tricocci, yes; Ms. Kosko, yes; Mr. Krollfeifer, yes

Motion carries.

B. Resolution 2023-17: Granting final major subdivision approval and individual lot site plan approval for 45 townhouses and 4 single-family lots on Block 103.01 Lots 1 & 8, and Block 113 Lot 4.05

Motion to approve: Mrs. Gilmore

Second: Mrs. Baggio

Roll call: Mrs. Gilmore, yes; Mrs. Baggio, yes; Mayor Clauss, yes; Mr. McKay, yes;
Mrs. Kelley, yes; Mr. Tricocci, yes; Mrs. Tyndale, yes; Ms. Kosko, yes;
Mr. Krollfeifer, yes

Motion carries.

C. Resolution 2023-18: Adopting findings and recommendations to Hainesport Township Committee following review of Haines Mobile Park Rehabilitation Area Designation Resolution to include additional property

Motion to approve: Ms. Kosko

Second: Mrs. Gilmore

Roll call: Ms. Kosko, yes; Mrs. Gilmore, yes; Mayor Clauss, yes; Mr. McKay, yes;
Mrs. Kelley, yes; Mr. Tricocci, yes; Mrs. Baggio, yes; Mrs. Tyndale, yes;
Mr. Krollfeifer, yes

Motion carries.

9. Correspondence

- A. Letter dated October 2, 2023 from Burlington Co Planning Board to Deacon Zito
Re: Our Lady Queen of Peace Parish Center – Release of Maintenance Guarantee
Bond #60131772 in the amount of \$15,720. Block 91 Lot 3

- B. Township of Hainesport Resolution 2023-114-10 confirming the need for the construction of a 72-unit residential multi-family housing development and approving a financial agreement.
- C. Township of Hainesport Resolution 2023-115-10 authorizing first amendment to affordable housing agreement
- D. Letter dated October 4, 2023 from Taylor Design to Mrs. Tiver
Re: Black Creek – Hainesport Warehouses Block 42 Lots 1, 1.01, 1.03, 2, & 2.01
NJ Route 38 & Mt. Holly Bypass Resolution Compliance #1
- E. Letter dated October 23, 2023 from Taylor Design to Mrs. Newcomb
Re: Garden State Bobcat- AKA Woods Machinery Landscaping Inspection,
1395 Rte. 38
- F. Letter from Langan to Mrs. Tiver
Re: NJDEP Treatment Works Approval (TWA) Hainesport Warehouses Block 42
Lots 1, 1.01, 1.03, 2, & 2.01

Motion to accept and file: Mrs. Kelley
Second: Mrs. Gilmore

Mrs. Tyndale: The resolution 2023-114-10 that we received from the Township. It is the one with the financial agreement for the Hainesport Family Apartments. A 72-unit multi-family housing project. It says it is with a PILOT. Whenever we have a pilot for the town, this one says it's provided that the payments in leu of taxes for municipal services. When there's a PILOT that's issued, is that money only for the township and none of that money goes to the schools? Is that how a PILOT works?

Ms. Kosko: This is different because this is for residential, 95% is municipal and 5% is county. This is a standard PILOT for affordable housing which is done across the board. Davenport has one as well.

Mrs. Tyndale: So, the people that live in this development that is proposed to be built, they don't pay property taxes then?

Ms. Kosko: They are paying in leu of property taxes. They are paying directly to the municipality 95% of whatever that PILOT agreement is, which is a standard calculation.

Mrs. Tyndale: So, none of that money goes to the school district.

Ms. Kosko: Correct.

Mr. MacLachlan: So, the land owner pays that.

Mrs. Tyndale: If the landlord pays that, it's the payment in leu of taxes, so they are making that payment to municipal. Then they are not paying any school tax then.

Mr. MacLachlan: That's the way it's done.

Mrs. Tyndale: Where is the money suppose to come from for the school district when they get more kids?

Ms. Kosko: Taxpayers and as well as state aid.

Mrs. Tyndale: So, when we're giving PILOTs to the warehouses, it's the same thing. There is no money that's going to the school district.

Ms. Kosko: Correct. The argument is warehouses don't produce kids, therefore there's no direct impact on the school district.

Mrs. Tyndale: Wouldn't we be getting more money for our school district if we would lower our taxes then if we didn't do a PILOT?

Mr. MacLachlan: There are no school children added with the warehouse. In this case you are right, there's children added but unfortunately, it's not something the town volunteered to do. It was a court order.

Ms. Kosko: On the flip side you can also argue that the more businesses you bring into the municipality, it adds to the pool of taxes. Therefore, it lowers your residential taxes.

Mrs. Tyndale: When we build warehouses, we are bringing businesses and we are giving them PILOT's. That is not bringing more business that we are getting more for the school district.

Mr. MacLachlan: The land is taxed at the same rate and they pay the normal tax.

Ms. Kosko: Correct. The land improvement goes up because it's no longer vacant.

Mrs. Tyndale: So, it is two separate taxes.

Mr. Taylor: This is for a 100% affordable rental community. This allows them to qualify for outside money as part of that to help fund it. As the Board knows, the town has a court mandated and constitutional obligation to provide for affordable housing. That is what we have to do. This one mechanism to do a PILOT and allow 100% affordable product to be constructed. The other way would be to zone to get the same credit of 72 units of affordable housing at a 20% set aside, the towns could rezone another property for 350 units with a 20% set aside for affordable. While this is not a great tax issue with this. The tax issue of rezoning for an inclusionary project can also have much larger tax implication than school.

Ms. Kosko: School implications, land implications, and resources.

Ms. Tyndale: I understand what you are saying. I guess my question is then why do we give warehouses PILOT?

Ms. Kosko: Mrs. Tyndale, if you would like to have a conversation outside of the correspondence that is before you, I would be more than happy to have that conversation with you.

Mrs. Tyndale: Alright, I'm done.

Roll call: Mrs. Kelley, yes; Mrs. Gilmore, yes; Mayor Clauss, yes; Mr. McKay, yes; Mr. Tricocci, yes; Mrs. Baggio, yes; Mrs. Tyndale, yes; Ms. Kosko, yes; Mr. Krollfeifer, yes

Motion carries.

10. Professional Comments

Mr. Kingsbury: In regards to Beacon of Hope there are two things. I don't know this for a fact but I have been informed that Beacon of Hope is no longer under contract to buy that property that they were interested in. What impact that will have on the litigation is yet to be determined. The attorney who is handling the defense on behalf of the township has made an application to the court to dismiss certain aspects of the complaint and that has not yet been decided by the judge. I may have more information for you at the next meeting.

Mr. Miller: I just wanted to comment on that last application. They have a picture of the existing conditions which effectively fills up the lot. They are going to go back and huddle up to see what else they can do or whatever they can represent to the Board. I am going to call Mr. Nicholson, their engineer, just to let him know that when they come back to us for site plan and particularly for me. I am going to be looking for some stormwater management and they are going to have to fit that in there somewhere. I'm sure Mr. Nicholson is aware. I want that group to understand that even if you approve everything in there, it doesn't fit.

11. Board Comments

Mrs. Kelley: I would like to wish everyone a Happy Thanksgiving.

Mayor Clauss: We have an election coming up, please exercise your right to vote. It is very important, make your voice be heard.

12. Public Comments

Mr. Krollfeifer opened public comment.

Alleah Bucs-Pointkouski: I live at 53 Lenox Drive, corner of Lenox and Bancroft. My property backs up to Quaker Court. I am curious as to when the trees are going to be planted that should have been replaced. My understanding of the code that any tree that measured more than an 8" diameter that's removed has to be replaced with one that is at least 3". I am wondering when that is going to happen.

Mr. Taylor: The Board approved that plan a couple years ago. They are still in the process of completing their punch list inspections. I don't have the information in front of me this evening. We can look into that and report back to the Board at the next meeting.

Ms. Bucs-Pointkouski: Is there a certain time frame that is supposed to be done before they are released.

Mr. Taylor: Before any bonds are released and the project is fully signed off by the township engineer and the township. All the plantings, sidewalks and all those site improvements have to be completed that were shown on the approved plans.

Ms. Bucs-Pointkouski: I'm sure there had to be an assessment done on the property before it was bulldozed on the number of trees.

Mr. Taylor: I don't recall on that project because that was an amendment of a prior approval. I will look into it.

Ms. Bucs-Pointkouski: I just recall that. You guys were on the Board back then when it was still commercial when Mr. Tran had done his proposal. If I am not mistaken there was an environmental assessment done as far as what had to be replaced.

My other question, Mrs. Tyndale. You raised an interesting point with the PILOT. It is my understand that when a development comes in a certain number of homes need to be allocated towards affordable housing. I guess they can sort of not work around that but they can basically buy into COAH to invest that money. It sits, I guess in an escrow and a trust. How does that work with what you mentioned as far as it being a PILOT? Other developers that paid this COAH money goes into the affordable housing how?

Ms. Kosko: It is any new development, whether it is residential or commercial, they have a COAH obligation. I believe it is 1½% on residential and 2½% on commercial. It goes into a trust fund and the law mandates that it has to be used for affordable housing projects for various mechanisms to move your affordable housing obligations forward. Whether it be professional fees, actual developments, contributing towards affordable housing obligations, offsetting developers costs to help them meet the threshold for when they are applying for that extra funding from state, HMFA and things like that.

Ms. Bucs-Pointkouski: I just want to make sure that I'm understanding. That COAH money, the developer who wants to come in and develop the apartments. So, they get money from there.

Ms. Kosko: Generally, the 100% affordable housings get PILOT agreements for their projects.

Ms. Bucs-Pointkouski: So is that PILOT agreement. I know you said something like it is kind of standard. Is that something that's negotiable on our part?

Ms. Kosko: There's a statutory obligation and statutory calculation that is used for the PILOT. The PILOT for Davenport is the same as this project.

Ms. Bucs-Pointkouski: The developer gets to come in. They presumably get a big chunk of it paid for by previous developers. We are going to have an influx of kids to the school with no additional funds going to the school. Can the school in turn ask the township for more money?

Mr. MacLachlan: If I'm not mistaken, they got a \$100,000 check this year from the town.

Ms. Kosko: The PILOT is a small portion of what the ad valorem tax rate would be. If the school needs tax dollars, then they tax. It's not that they don't have revenues that

help offset their expenditures. They tax whatever they need in order to meet their obligation. This is the law.

Ms. Bucs-Pointkouski: It is very interesting to me because I didn't realize in addition to the affordable housing and COAH money that they are also, I don't want to say entitled that is probably not the right word. They are also offered a PILOT. I know like with commercial in lieu of taxes, let's say they pay \$100,000 a year. None of that money can go towards school.

Ms. Kosko: It can. This governing body has worked with this school district to provide funding for capital projects. That is municipality dependent, every town is different.

Ms. Bucs-Pointkouski: Theoretically, this same committee can turn around then allocate some of those PILOT funds to help offset 72 apartments and the potential children that will be coming into the district.

Ms. Kosko: Absolutely.

Ms. Bucs-Pointkouski: Okay, thank you very much.

Mayor Clauss: We have done that twice taken PILOT money and given it to the school.

Ms. Kosko: The school will get increased aid as well. It is also student dependent, the numbers. So, the aid will go up.

Mr. Krollfeifer: Thank you for bringing that question to us and thank you Ms. Kosko for giving us the answer.

Mr. MacLachlan: The Committee really works hand and hand with the school. I think everybody knows school enrollment is down right now. I think Mr. Corn said they could absorb 150 children.

Ms. Kosko: I have all of those numbers if you ever want to give me a call.

Ms. Bucs-Pointkouski: How do I get the answer to my first question?

Mr. Taylor: I will give me my business card. Please email me your information. I will look into it and then I will get back to you.

Eileen Dixey: I live at 120 Masons Woods Lane. I am here about the affordable housing on Creek Road. Last committee meeting, Anna Evans, rejected it on the basis that she didn't think it was really fitting to put three-story apartment buildings in that space. So, we are really hoping that maybe you will consider looking at this to be a two-story apartment building. Then putting the extras in other communities. It is really the wrong place to put 72 units, three story buildings.

Mr. Krollfeifer: For everyone's benefit. Your question has to do with that proposed property on Creek Road by the railroad crossing.

Ms. Dixey: It's like putting 72 units on 4 acres of land. It is about that because it is a lot of wetlands and it looks like it's just a portion of the 10 acres. They also did an

environmental study and I think it was probably done in the heart of winter because we got a variance back 5 years ago. I hope they do an environmental study in July or August to really see what's happening and also a traffic study. I've heard stories that some things will change on that road. I think they should do a traffic study.

Mr. Krollfeifer: Is there anything pending right now?

Mrs. Tiver: No.

Mayor Clauss: I would like to make a correction. Anna Evans did originally approve the funding for the affordable housing. It was the increased funding that was requested that she turned down. She wasn't turning down the affordable housing. There was a question about an increase funding required above and beyond that she turned down.

Ms. Kosko: That resolution is in our correspondence.

Ms. Dixey: I thought she was just saying that she thought it should be two stories. I think everybody probably agrees. If you lived in that community, you would think it should be two stories. Putting a three-story apartment building on a very small road in town and there are one story homes right down the street from it. You're going to put in these giant buildings in this really small part of town.

Mr. Krollfeifer: I would suggest that you keep your eyes on the agenda for the Joint Land Use Board and when that one comes up, come on in and voice your opinion.

Steve Parra: 119 Masons Woods Lane. I know at the Township Committee meeting, we think we has last time, it was brought up that you were planning on a meeting with the county to talk about the increase in traffic that was going to come from Creek Road onto Marne Highway. How that was going to possibly be remediated. One alternative that Ms. Kosko had mentioned was going through the industrial park and going through that way onto Marne Highway. That was not an option. Have you talked to the county yet about what that would look like as far as all that traffic going out onto Marne Highway?

Ms. Kosko: No, we have not. We do plan on setting up another meeting with the county but that has not happened. It will probably be within the next month or two. I do have crash data reports from the State Police. I did have them pull that data and I do have that in my office. I have it as well for Hainesport-Mt. Laurel Road and Marne Highway. I do have some information on that intersection but in terms of having a subsequent meeting with the county, that is hopefully coming up soon.

MaryEllen Martin: 111 Weatherhill Court. My question is on the affordable housing. I know there is going to be a traffic study and you said to watch the next couple of meetings. Do we have any idea when that might be.

Ms. Kosko: The traffic study would be something that the developer would be tasked to do. That would be around the time of application which we do not have anything.

Ms. Martin: The option to put the entrance onto Marne Highway, is that still a consideration?

Ms. Kosko: No. It wasn't directly onto Marne Highway. That was never an option. It was to actually cut through the rear of the development and through the industrial park. It is not an option. We had a meeting with the owner and there is some stormwater infrastructure along that area and I believe septic as well.

Ms. Martin: I am sure I can speak for most of the residents in our development that there is still a concern with the traffic out on Creek Road. A very small road with that much traffic. I'll continue to watch the next couple of months for the meetings.

Mr. Krollfeifer closed public comment.

13. Adjournment

Mrs. Gilmore motioned to adjourn at 9pm.

Second: Mrs. Tyndale

Roll call: All in favor

Paula L. Tiver, Secretary