

**HIGHLAND PARK PLANNING BOARD
MINUTES
December 8, 2016 @ 7:30 P.M.
Council Chambers, Borough Hall
221 South Fifth Ave. Highland Park, NJ**

Call to Order

Chairperson Kim Hammond called the December 8, 2016 regular meeting of the Highland Park Planning Board to order in accordance with the rules for the Open Public Meetings Act at 7:31 pm; Ms. Hammond indicated the location of the fire exits.

Roll Call:

Present	Kim Hammond, Paul Lanaris, Steve Nolan, Allan Williams, Philip George arrived at 7:34pm, Padraic Millet, Judi Shade Monk, and Rebecca Hand
Absent	Alan Kluger, Stephany Kim, and Scott Brescher
Board Professionals	Roger Thomas, Esq., Board Attorney, Jim Constantine, Borough Planner, Bruce Koch, Borough Engineer

Ms. Hammond indicated that they were going to go out of order just for this meeting and would hear the American Properties resolution prior to the PSE&G application if there were no objections. There were no objections.

Memorialization of Resolutions

Resolution R2016-09 Resolution of Prior Condition No. 17 for American Properties at Highland Park, LLC, Application No. P2015-04

Ms. Hammond recused herself from this portion of the meeting.

Mr. Thomas said that there was a Resolution approved by the Planning Board on April 14, 2016 involving American Properties. There were a series of conditions, one being condition no. 17 indicating that the applicant shall agree to investigate the possibility of providing covered parking for the affordable housing units on site. Mr. Shimanowitz has submitted a letter as a result of discussions with the Board Attorney and the Board Attorney suggested that it would be appropriate for him and whatever representatives he felt were appropriate to appear before the Planning Board and state the reasons why they believe they have taken the necessary steps to satisfy condition no. 17. This is not a matter seeking to amend, modify or alter the condition rather their attempt to say that they have done everything to satisfy the condition. Ronald Shimanowitz, Counsel for American Properties indicated as stated back in May the Board adopted the Resolution and very late in the game the issue regarding parking for the affordable units, a request was made on whether they could investigate parking for those affordable units, and that became a condition of approval, condition no. 17. The obligation under that condition was to investigate the possibility and since the adoption of the resolution that has been done. He said that his letter to the Board through Mr. Thomas dated November 1, 2016 sets forth the various reasons why we feel that we have fulfilled the duty, in investigating

they have come up with the conclusion that it was not feasible. He said that they had started on this journey in 2009, a very long negotiation with the Borough to come to an agreement on what the zoning should be, they entered a consent order, it took a long time to get to that consent order, and the plan attached to the consent order is very detailed. He said that the consent order or settlement agreement does not require covered parking and from a legal point of view there was no legal requirement to do so, since that time they did investigate it and for the following reasons they came to the conclusion that it does not work, a. not required by the settlement agreement, b. costly; if one were to do a simple car port it does not look nice. He said that he has a representative from American Properties who can go into more detail. He said that if you go to a higher level of parking such as a garage or a three-sided structure it becomes costly and then you come into the issues of cost generation. It would also depending on the structure, lose parking spaces. He said that the project is very very tight; it does now comply with RSIS but if you were to build the structure there is the possibility of losing a certain number of parking spots, which would take away from the parking but also from the overall parking and could bring the project below the RSIS standards. One of the biggest problems that was run into was how would it be enforced, they would have to be somehow labeled and force the use of the parking spaces, that only the affordable units would be able to use them, creating more problems than solve. He said the other concern was creating an eye sore with a car port of something of that nature and a reverse stigma, there is not designated parking on the site now, and they would have to designate those particular spaces for the affordable units. He said for those reasons they respectfully believe that they have fully investigated the idea of this and it just does not work or is not feasible.

Mr. Thomas asked Mr. Shimanowitz if he had anyone present to make any further comments or are you going to respond to questions on part of the Board.

Mr. Shimanowitz indicated that he did have Mr. Kanter, project manager with American Properties present.

Mr. Thomas asked the Board if they had any questions.

Mr. Lanaris asked if the settlement agreement only encompassed the affordable aspect of the property.

Mr. Shimanowitz said that the settlement agreement is very comprehensive, encompasses the entirety of the project, particularly the concept plan attached is effectively the concept that the Board approved. He said that so much time was spent on the settlement agreement that it almost engineered the job.

Mr. Lanaris said that in reference to Mr. Shimanowitz first statement about the agreement and covering this parking, so there is no legal requirement to provide any garage parking.

Mr. Shimanowitz indicated that was correct but the architecture for the market units did show garages.

Mr. Thomas said that the original concept plan became ultimately the preliminary and final site plan did include parking for the market rate units, that concept plan that became the preliminary and final site plan did not include parking for the affordable housing element of this component. To say that there was no obligation to put specific parking for the residents and does not think that it was intended to be a miss statement.

Mr. Lanaris said that they could have eliminated all of the garages. Mr. Thomas said respectively he did not think that was true because the concept plan is what they had agreed to build and ultimately submitted that and that concept plan did include garages for the market units.

Mr. Lanaris asked if the concept included any parking for the affordable units. Mr. Shimanowitz said yes, under the RSIS surface parking has to be included and the calculation that takes into account the affordable units, as well as .5 spaces for general usage.

Mr. Lanaris asked if that formula includes the parking with the garages. Mr. Shimanowitz indicated that it does, you count all spaces.

Mr. Lanaris asked if there were any provision that the non-garage units would have more parking. Mr. Shimanowitz said that there is a ratio for the number of spaces needed for the non-garage units.

Mr. Lanaris asked if those spaces were on a first come, first serve basis? Mr. Shimanowitz indicated that they are not reserved spots, so yes.

Mr. Lanaris said so the affordable units will have a harder time because they do not have garages to find parking. Mr. Shimanowitz said that all he can say is that they do not have garages, there is surface parking on the site and everyone is entitled to use that parking.

Mr. Lanaris said that everyone with garages could also use the surface parking. Mr. Shimanowitz said yes, it is unrestricted. He said he appreciated the questions but to just keep us focused on just the condition of covered parking.

Mr. Lanaris said that he understood but was just trying to get some history and the second point was that it was costly to put garages in these units but everyone else has garages.

Mr. Shimanowitz said that it would be costly to add covered parking at this stage in the process. Mr. Lanaris indicated that he understood.

Mr. Nolan indicated that this was a follow-up to what Mr. Lanaris was saying; just so he is clear, there is no designated parking, there is designated parking for all of the market units have garages and driveways. Mr. Shimanowitz indicated that was correct.

Mr. Nolan said that he was a little troubled by the disparity between the affordable units that are somehow lesser units not having the amenities that the market units have and that troubles him.

He said that a bunch of assertion about the reasons why covered parking or carport parking does not work and asked if there was any evidence to these presented to the Board or do we just accept your assertion.

Mr. Shimanowitz indicated that Mr. Kantor has been researching this through his experts and said that they could have Mr. Kantor come forward.

Mr. Thomas said that he thought it would be a good idea to provide that information.

Greg Kantor, American Properties Realty, Inc. 517 Route One South Suite 2100. Iselin, NJ 08830, sworn and affirmed. He said that what American Properties did was look at what they are currently building in Ewing, NJ building 312 apartments and as part of that project, they are building 79 detached garages, so they have the actual cost of what that would be to build and have applied it to this project. The only difference between the projects is Ewing, NJ has 79 and here there are 6, so it is on a smaller scale. He said that they also took a look at what it would cost in supplies, install them, engineer them, and took all that information and asked Mr. Coco to look into this if we were to install a carport we would not lose any spaces and if we were to do garages, 12' wide and parking spaces are 9' wide and we would lose 2 spaces, we would have 2 bays of 3 and lose 9' equivalent to one parking space per 2 structures. He said that would put them under the RSIS, the site is extremely tight and felt they could not find two spaces. The carport from a building point is not marketable when you are trying to sell a \$400,000 product and you have a carport it is not something that goes with the aesthetics of the property so we have ruled it out. He said that the carport was around \$5,000 per bay times 6 for a total of \$30,000 and the garages are \$20,000-\$50,000 installed, \$100,000 on average times 6 is a heavy lift, it is not something they can do, they can't charge more for those units to recoup the monies. He said while Pulte's project does have garages it is not the norm. They have built 500 affordable units in the past 12 years and not one has a garage. He said that there were many cases that they could point to that have townhouses with garages and affordable units that do not have garages. He said they spent a lot of time of this and for all those reasons, he hopes he covered everything, he knows it was a serious concern.

Mr. Nolan asked if any renderings were available of the carports so they could see how it would look. Mr. Kantor gave Mr. Nolan an image of what the carports would have looked like.

Mr. Thomas said for purposes of the record, the image was marked A1.

Ms. Monk asked if the architect investigated any other options for a carport because a carport can be any number of things and would be more attractive.

Mr. Shimanowitz indicated that the architect did investigate other options but you run into sacrificing parking spaces.

Ms. Monk said she understood but the Board has a history of forgiving RSIS conformance in favor of other items.

Mr. Nolan indicated that it was mentioned that Counsel was not the professional when it came to the marketing and asked what the bases was for saying they won't be marketable if the carport was added to the site.

Mr. Kantor said that he is not an expert in terms of having a license but he has been doing this for 15 years through experience has helped market and sell those units,

Mr. Nolan asked what the total cost of the project was. Mr. Kanter said approximately 35 million dollars. Mr. Nolan asked how \$30,000 is not a burden, 1%.

Mr. Kanter said yes, it is not being looked at that way; it is based on the six units. He said that this was a dirty site and the process has begun to clean-up the site, so when you say it is 1% the number to get this approved was \$500,000 and they are at \$1.6 million, the costs keep going up, the cost to remediate keeps going up, the vapor barrier system is one of the best, better than what Pulte has right now, so we have spent a lot of money more than the 1% you are trying to catch me on, so yes \$30,000 is a lot when you look at everything.

Mr. Nolan indicated that he was not trying to catch him on anything, his point is that amount to do this is relatively small in comparison to the entire project and Pulte managed to somehow do it on the site, with groundwater contamination and they put the garages in the affordable units. He said he is not sure he sees the difference but maybe there is one.

Mr. Shimanowitz indicated that there was a major difference, we have been at this for a very long time, Pulte came in very late in the game, got through the system, but that was not our experience, not faulting anyone this is our business but has cost a tremendous cost added because of that process. He said when he asked how long it took to negotiate the settlement agreement they either think he is a terrible attorney or something was going on, it took four years to negotiate a settlement and through that you are redoing the plans, the architectural, working to clean up the site so every dollar counts.

Mr. Nolan said you're not a bad lawyer, he said we talked earlier that the affordable units would be parking on the streets and asked if there could be designated spots for those units on the streets.

Mr. Kanter said that they have never designated spots before, it would be hard to enforce and a nightmare

Mr. Millet said that as he recalled we had units that had sort of a basement parking where they would drive under the unit, units that had garages separate from the units and asked if there were any detached garages. Mr. Shimanowitz said that there were no detached garages.

Mr. Thomas asked Mr. Kanter, Mr. Shimanowitz has a small version of the plan and maybe Mr. Kanter you could end up pointing out to the Board where the affordable units are and then give an indication as to where the surface parking is in relation to those units.

Mr. Kanter said on average these units are two bedroom units so each unit gets two spaces, he circled on the plan the affordable units and the parking that is closest to those six units. The other surface parking spaces are spread out throughout the site. He said that he wanted to point out that most affordable units are approximately 1,000 sq. ft. and these units are 1,300 sq. ft. for storage and covered porches to keep with the aesthetics of the property.

Mr. Thomas said in regard to the comment that it would be a "nightmare" to do enforced parking or designated parking, if you ended up having x number of spaces adjacent to the units and designate them as reserved spaces clearly marked and indicated on the homeowner's documents or in the information that is given out to all purchasers and he understands that doesn't mean everyone will follow it but it is certainly a start.

Mr. Nolan said that half the apartment developments in this town have made designated parking arrangements and does not see any big police rush to enforce things; people work it out, he thinks that a designated spot arrangement is a very reasonable thing to do and frankly the whole purpose of this lawsuit was to provide supposedly to provide affordable housing for people who can't afford it and thinks that we should be providing an amenity that is comparable to the ones that other folks are given. If you cannot put in the garage then okay, do not put in garages but give affordable unit residents someone a spot to park their car.

Mr. Thomas asked if there were any further questions from the Board.

Mr. Shimanowitz said that this was going into another territory, the condition said to investigate covered parking and that is what we have done, and thinks designating spaces that are uncovered is a completely different direction.

Mr. Thomas said this the way evolutionary processes go. Mr. Shimanowitz agreed.

Mr. Thomas said that idea was to provide something that was reasonable and without getting into the economics and having to come back with cost analysis, \$30,000 is substantially less than 1% but that being said he does understand there are a number of other problems, it is an unusual site, a somewhat unusual situation because you ended up having fairly substantial costs with regard to the litigation and settlement agreement, etc., he thinks the Board is mindful of that. The idea of having reserved spaces you cannot argue that it is cost generative because it is not.

Mr. Shimanowitz said that they are not arguing that, we are arguing it is not something we favor and concern is parking is at a premium on the site and thinks it will affect other reasons.

Mr. Thomas said that the whole idea is that you are saying that parking is at a premium that does not bode well for your argument the whole point is that your saying that there is enough spaces available on site for all the units including the low and moderate and the fact of the matter is if there are spaces for everyone and the market units have their own spaces, I don't know that the Board, he heard two people talk about it, but maybe the idea of having designated spaces for the affordable units is not an unreasonable request because as you know, and you have already said that when there is a tight site the spaces tend to get used up and the affordable units ought to

have some preference given the fact that they don't have designated parking by way of garages. He said that he does not know if the Board finds it acceptable that the cost that you were talking about is cost generative. He said he will advise the Board that you do not have the right in an affordable housing matter to generate costs because of the affordable housing units. That does not seem to be where the Board seems to be going it seems to be going in a different direction that also does not seem unreasonable unless any other members of the Board have any other comments.

Mr. George said that he would like to echo what Mr. Nolan has said, he does not think that the designated parking is inappropriate he thinks that given the tightness of the site and that the RSIS standards were just barely met, everyone else in the market rate units having adjacent parking I don't think that it goes against any consideration to say that the affordable units should have adjacent designated parking as Mr. Nolan said these things work themselves out and they have everywhere else. He can see that the carports might not be practical and the way they look, he just does not think that they work in general but the designated parking adjacent to the units is very cost effective, as in no cost, if they are not designated they turn into the pool of finding parking on the site which everyone else is going to do which means that the affordable housing parking spaces are going to be spread all over the site because they are not designated like everyone else is and does not think that is fair or appropriate and that goes against his grain.

Mr. Thomas said to Mr. Shimanowitz that he did not know if he was in a position even though Mr. Kantor is present to make a commitment tonight but you have heard three members of the Board and would urge other members to express their opinions, and maybe Mr. Shimanowitz would want to take this back and get back to the Board secretary or himself and indicate the response.

Mr. Shimanowitz said that he would and he really does not have authority. If he goes back and the ultimate decision and they say sure they will reserve the spaces as the Board wishes, he asked if they could be done with it at that, can the Board make the decision and he just write a letter to Mr. Thomas indicating per the Board's request we agree condition no. 17 is hereby satisfied, as opposed to having to come back and you're taking a vote.

Mr. Millet said that in his opinion, because of the nature of the condition they have met the condition they would like to see something so that somebody can come up and at least have a reasonable expectation to park in front of where they are going to live because he has lived in apartment buildings where there was not reserved parking and we somehow survived but it seems a bit unfair that everybody but them have 1 or 2 options to park. As far as you have met the obligation to investigate this and he would be in favor of signing off on the condition with the objective to getting approval for the reserved parking.

Mr. Nolan said if the developer is willing to say we will do the designated parking for the affordable units he is also fine with saying fine tonight, but if the answer is no I do not think there has been a good faith investigation and he would not be okay with it.

Ms. Monk said that she would be fine with saying okay tonight as long as the location of those reserved spaces are specified as being immediately adjacent to the affordable units.

Mr. Shimanowitz said just to be clear we are talking about the six affordable units and reserving six spaces. Mr. Thomas said that was correct.

Mr. George asked if it would be appropriate to entertain motion that condition no. 17 would be satisfied by confirmation to the Board secretary that the adjacent units as discussed one per unit will be designated for the affordable units.

Mr. Koch said that he was in favor of this but suggested that applicant submit it to him they will look at, they will send the Board a memo with an attachment and at the next meeting you will all have something in front of you to memorialize a resolution and it will not change the schedule for the applicant they have completed resolution compliance and they are still working on site remediation. He said this way everybody gets to glance at something and unless you were going to do a verbal resolution tonight there would be a memorialization at the next meeting anyway.

Mr. George said that he would then make motion that condition no. 17 would be deemed satisfied upon submission of a drawing or a confirmation that the affordable units will have one adjacent space per unit, immediately adjacent and that it is confirmed by CME Engineering with a letter to the Board secretary that it is satisfied.

Mr. Millet asked if the spaces would be deeded, otherwise the association could just pave over them the next day.

Ms. Monk said that deeding over a specific portion of the common elements is probably much more.

Mr. Thomas said he understands the point but is a little uncomfortable going there because while it sounds like a simple solution he thinks it will be very complex.

Mr. Thomas said that he is sure that there could be some language, short of a deed restriction, that can be developed between Mr. Shimanowitz and himself to try and ensure that at some future date that the homeowners association doesn't say forget we are not doing that anymore.

Mr. Millet said that is all he is looking for is some confidence that the association won't say that is a pain and get rid of it.

Mr. Thomas said that he thinks what he is hearing and so we clear if the sketch or drawing that American Properties submits to Mr. Koch and then he indicates where the units are going to be and where the spaces are going to be that that would not be the applicant to come back but rather a verification that the sketch will be attached to the Resolution and that will take care of it and it will be memorialized at the next meeting.

It was MOVED by GEORGE and seconded by MILLET the sketch or drawing that American Properties submits to Mr. Koch and then he indicates where the units are going to be and where the spaces are going to be that that would not require the applicant to come back but rather a verification that the sketch will be attached to the Resolution and that will take care of it and it will be memorialized at the next meeting, be approved.

ROLL CALL: Ayes – George, Hand, Lanaris, Millet, Monk, Nolan, Williams
Nays – None

There being seven (7) ayes and no nays, the motion passes.

Mr. Thomas thanked everyone for appearing and their cooperation.

Hearing of new cases

PSE&G/Weston Solutions, Inc.
Donaldson Street
Block 49, Lots 42-55

P2016-07
Preliminary & Final Site Plan

Ms. Hammond returned to the meeting.

Paul Drake Professional Planner for PSE&G sworn and affirmed indicated that PSE&G was seeking preliminary and final site plan approval for the construction of a solar array project to be built on Borough owned land on Donaldson Street, Block 49, Lots 42-55. Mr. Drake gave the Board a few handouts to members of the Boards. He said that there were additional photographs of the site conditions that correspond with the key map.

Mr. Thomas said that exhibit would be marked A1 dated December 8, 2016 labeled as site photographs and exhibits.

Mr. Drake said he was happy to be here in Highland Park, he knows Highland Park is a very green community; you are one of 45 municipalities that are silver sustainable jersey certified. He took them through the property and how PSE&G got to this point. He explained how PSE&G really used solar energy. He said that before they reviewed the site, they reviewed the landuse law, the master plan, reviewed site conditions, they went through an intensive review of the site, they walked the site with a few members of the Environmental Commission, they went in the summer and the fall so they have a good idea of what conditions exist on the property. When they first started this it started with a direction given by the new Jersey Board of Public Utilities, and they were granted a order to install 45 megawatts of solar on landfills and contaminated ground sites, as well as 3 megawatts of solar on what is called pilot projects. Currently four landfills are under construction or have been completed in the last three years in New Jersey. This site is part of the pilot program where we have 3 megawatts of solar to build. They have done a couple other pilot programs one at a hospital where they are doing a solar to provide critical medical facility refrigeration, they are doing one in West Caldwell at a sewage treatment plant and that is providing battery storage for sewage treatment plant in case of a power failure, they completed a project in Hopewell Township at a school in the parking lot that provides the

school with an emergency facility called a forming station at the high school but this project is unique in that Highland Park is one of many older municipalities so your electric grid is a little older and is certainly dated but it is one of the issues we come up with when we deal with solar because what does it do to the grid, when you add too much solar to the grid. This project is not only a pilot project which will look very carefully how solar affects the grid but it is very important to do it on these types of systems where it is smaller so they can do a little more measurement of solar is going to affect it. Also as part of this project is a battery storage system so the battery storage will actually help to augment or supplement or smooth out the solar on your grid in Highland Park. Solar works well when the sun is out and works best when the sun is at high noon and shortly thereafter so we generate a lot of electricity by solar panels in the afternoon but not many people use energy at that time of the day, when people come home from work at 5pm, they turn on the TV, they turn on the computer and all the electronics we have all become accustomed to and there is a big hit to the overall grid and so we have to sort of realize that those peaks and valleys from the grid get effected and when you are on a 4kv system the potential for augmentation are having a battery storage system on your grid, it is important to understand solar can add to that resiliency and ability for the grids to be augmented. That is part of the solar project but also the fact that this property is a landfill it is clear in the legislation that the solar can be placed on disturbed sites, the solar act that was passed that essentially says put solar where it makes sense don't clear farms and forests and build it on disturbed sites and conditions where you can make best use of land that is less marketable. This landfill in Highland Park has been a landfill from the 50's and 60's but ultimately it has been closed for some time but it is a landfill. Solar on landfills is a permitted use in all municipalities so we are here today at the Planning Board to really go through this project as they are very excited about.

Mr. Drake said that he would like to speak about the property itself. He said Highland Park was a great town very walkable community and imagine walking down Donaldson Street and see this property, its municipal property, it is owned by the town and it is used right now probably by the DPW, sidewalks get broken up, asphalt gets broken up, tree limbs fall they all come here it seems, piles of rubble and debris are put here because maybe there is nowhere else to put it. It is also an area where there is a higher density apartment complex right across the street and the folks that live there now have to walk out their front door and they look at this disturbed site and they would like to change that condition to improve the condition along Donaldson Street, to bring that site back to a use that makes sense, adds value to the community. They looked at the area inside on how could they build a array, beautiful forest, beautiful parks, beautiful trails that go through the remainder of the site, walk the trail and walk along the Raritan River unbelievable views of the bridge and some of the trail members maintain this beautiful park and we have no intention or desire or intent to disturb that park. They would like to work up along the top of the site which is called the Upper Meadow, the Upper Meadow is essentially a disturbed area right now. They proposed in that Upper Meadow area a solar array, and they saw in your first submittal, they met with Mr. Williams and members of the Environmental Commission, and Shade Tree Commission and they walked and there are clearly areas that town felt very comfortable with saying it would be okay for solar here but there were other areas where there was a grove of black lotus trees, black lotus as we know is very early pioneer species of tree that comes into an area and helps bring back life to the soil that was originally disturbed, so when they were reminded of that, they asked can we do a map and move or adjust the array to avoid

that particular area and that is what was done. In the handout is the readjustment of the array, what we were trying to do is not lose capacity of the solar so they adjusted, by avoiding the black lotus area and made up for it in the back area. He said that asked themselves what was it really like along Donaldson Avenue across the street from a nice very large garden apartment complex and right now it is a disturbed condition, what they would like to do is build a solar array in that area but they also recognize that along Donaldson Avenue about 600' is a stretch of property, as they looked at the design originally it was a little more narrow, they have now reduced the setback and added a 10' planting strip in front of a decorative fence along the front of Donaldson Street with a 10' planting strip along front that they want to do a planting bed and would now have enough room to do a double row trees in that area. They went to the Borough's web-site and pulled the Shade Tree Commission's recommendations for street trees and identified those trees that not only add color, add value which they will essentially fill in throughout Donaldson Avenue. There are in a sense from this project two requirements for bulk variances for the properties, when you read through the land use law the bulk variances as you know is a C variance and what they are looking to do is build within the front yard setback along Donaldson Avenue, the front yard setback is 20' the array is actually beyond that but the fence is within that 20'. The array would be built on gravel base, all the array will be built ballast and racking system and will be on the surface, with the filter fabric and 6" of crushed stone and on top of that is a racking system and that racking system will stand approximately 2.5' off the ground. The racking system is essentially is very low profile, tie the solar system into that racking system, when you are standing along Donaldson Avenue looking in you essentially will not see or lower profile you will see the trees and fence. They have built other solar facilities that were 8.5' high and they are not building, they will be building a very low profile solar. He said that site is narrow and constrained by the depth of the property. In the order to maintain the profile in this area and allow the solar to work well they went to the Solis rack system, lower profile, more tightly together but because they are lower to the ground the shading from each panel does not cause any effect of the one behind it so you can really work out a nice array. The variances that they are looking for is a setback from Donaldson Avenue and also there is a paper street that runs along the back of the property and that paper street also has a setback requirement, the entire project is on municipal property. In terms of a variance they could argue there is a hardship but the other variance they could look at is a C2 variance which essentially allows them to say does this project advance purposes of the land use law, absolutely, renewable energy is one primary motivations for planning, also coordinated planning throughout the municipality is an purpose of the land use law. Purpose A is to encourage municipal action, purpose J to grow energy resources to prevent degradation of the environment from the improper use of land, purpose N to promote the renewable energy resources. Most importantly under a C2 variance requirement you must show that the benefits substantially outweigh the detriments. E benefits to this project substantially outweigh the detriments, absolutely it does, the projects itself the benefits to obtain when you advance solar energy in a town like Highland Park who has clearly set the standard across the State for renewable energy and one of nine municipalities that has entered a solar competition, so when you are here and take a site that effectively is use as a town dump not legally a dump but used as a dump. You take this away what are you going to do with the refuge next but right now it is not the highest and best use for this site. We believe that this site is a landfill, regulated by NJDEP and they will be going to NJDEP and asking for relief and approval for that but when you look at taking this site and put it back to a more realistic use

as a solar facility we are going to also provide the screening, clean up the site, and working with the municipality when you look at this project as a pilot project stand point they are going to be building a battery system that looks at a 4kv you will have a battery that will help smooth out some of that impact when you get home and turn on the TV and computer and everyone does it all at the same time, they will be able to charge the batteries during the day and discharge those batteries right at the right time. One of the criticisms that people take about on renewable energy in general is the impact of the grid. The best way to know the impact of the grids is to look at these types of circumstances, by putting a solar facility and a battery storage we are going to learn a lot more then we knew and will be able to use that information across the country and say look here is how these types of systems can augment and we can advance in renewable energy and there should never be a concern that we putting too much renewable energy because we don't know what the impact on the grid is going to be, so as we move forward we are going to learn these things with these types of projects and thinks that is very important to really understand that in its full context. Highland Park as green as you are going to be even greener and a part of a major pilot study and learn how to take this information across the country that renewable energy is great and the impacts on the grid were unfounded or use better ways to treat it because we are learning about it.

In terms of extreme weather conditions, imagine a big spider web all these grids are tied together and ballasted to the ground with weights and the overall mass weight of all of them all together anchors them together and they are all tied together so uplifting from wind is not a concern, the panels themselves are tied to the ballast so they don't fly away and designed for hurricane force winds.

Mr. Drake said that one of the things they have always done is working very closely with the fire officials, a solar facility the concern is there going to be a fire and can we get access, as they built all of their facilities we reach out to the fire companies and invite them out before they energize the system there is a walk through, a full tour of the site, we explain every element on how it works, how it is interconnected, how all of the electricity is going to work through. He said that the system will be monitored and controlled remotely, closed circuit cameras will be used and they will know if there is an issue because all of the systems are tied together through the internet and a lot of the crews have modules in their pockets and their cell phones and they know. They can review an issue down to the string level, so the sophistication of the panels and technology allows them to be responsive.

Mr. Drake said that they addressed all of the concerns from the Environmental commission and Shade Tree Commission, the largest one that was raised was are we going to comply with Tree Ordinance and the answer is absolutely they have every intention to comply with Highland Park Municipal Tree Ordinance and never had any intention to avoid that. Part of complying with the Ordinance is actually avoiding trees in the first place, which we are doing. Ultimately what we are looking at now is as weigh this out further in the field do a very distinct survey of all the corner markers and then go back in the field with the Shade Tree Commission and Environmental Commission and clearly identify what actual trees do come down. He said that there is a minimum of 150 trees being planted already but as far as how many trees will come

down, originally it was thought about 50-60 trees but would like to go back out into the field and set the corners we won't really know.

Mr. Thomas said it was mentioned array racking system was going to be 2.5' is including the panel itself. Mr. Drake indicated that was correct.

Mr. Thomas asked Mr. Drake to describe the racking battery system and indicate where is it, how high, etc.

Mr. Drake said the invertors are essentially what brings electricity from the sun converts it to ac and then use it, it will export energy directly to the grid the entire system is grid tied so it will be tied to the grid. He said that the battery system will be self-contained and showed everyone on the plan the location of the battery system. The battery box will be approximately 8-10' high.

Mr. Thomas said that the batteries themselves will not be exposed to the elements. Mr. Drake said no they are contained in the battery box. Mr. Thomas asked what that box looked like. Mr. Drake said it is a large "shipping" container, they are brand new. They are generally a square box made of metal, manufactured for this purpose then they get outfitted with the technology inside, there is a door and an air conditioner, you can walk inside and the batteries are all stored there and all the technology, computers and modules are all self-contained. The invertors are not attached but they are in another unit right next to the batteries. The noise from solar will meet the Ordinance they are not noisy at all. There is noise from the invertors but they are not audible from approximately 20-30' away.

Mr. Koch said that the air conditioning units will be the primary noise creator.

Mr. Lanaris said that site is fenced, so is it secured so there is no concern with children getting into the site. Mr. Drake said yes it will be fenced, the intention is to add the decorative fence along Donaldson Avenue and add a black chain link fence around the remaining three parameters, PSE&G security will walk the parameter and PSE&G has very strong recommendations for that and it will not be accessible to the public.

Ms. Hammond said that there were notes about not wanting there to be a barb component to the fence, so are you testifying that the fence is just a black chain link.

Mr. Drake said that the fence on Donaldson is not barbwire but it is contoured so it makes it more difficult to climb over, that fence will be 7'. The rest of the parameter will be 7' and they would like to have 1' of barbwire along the remaining parameter.

Ms. Hammond said that he explained everything very well, and asked if it was his testimony that they could not provide a deeper setback because allowing this parameter street and then getting about of solar units that are needed to make this a viable project or there is some other component.

Mr. Drake said that the site is narrow, as you start pushing back farther and farther what we start doing is pushing back against the rear of the property which has mature forest and as you can appreciate with solar energy it does not work well in the shade.

Ms. Hammond said so your testimony is that you need that number of panels is needed for this project. Mr. Drake said that any project that we design there has to be a certain economic scale, larger facilities we have built 13 megawatt facility down in Burlington County and that was limited on the capacity of the circuit, that was a very large project and this project is a relatively small project this is 620 kilowatts and Burlington County project was 13 megawatts which is 20x the size of this project so as we start reducing panels it starts to reduce the overall viability of the project. He said that it's not that we don't build small projects but how can we build the best project and he thinks that this does represent their best.

Ms. Hammond asked how many acres are actually covered by the actual panels. Mr. Drake said 3-acres.

Mr. Drake said that there will be two gates to get in and out on Donaldson Avenue and one by South 7th, those are finer details that they are still working through, but there will be essentially two gates to get in and out, maintenance would like the ability to drive all around the parameter and that does help and it will be 12' wide which will allow are larger pick-up truck or larger utility truck to go around the whole parameter.

Mr. Thomas said that it was his understanding that you will bring in the fire department to explain, he said that it has been his experience with other types of facilities that there has been some type of training program. Mr. Drake said yes. Mr. Thomas asked if they would commit as a condition that there would be some type of training program to ensure that the fire department understands what needs to be done. Mr. Drake agreed and he said that is part of their goals and objectives and with PES&G safety is number one and take safety very seriously and are committed to providing that training so that they understand what the issues are here.

Mr. Thomas asked if there was any special equipment necessary to fight a fire in this type of facility. Mr. Drake said he is not an expert in fighting an electrical fire but can say that water and electricity does not mix, he knows in some of their other substations some of the transformers if there was a fire they use a foam or other mechanism other than water to control it. In some cases the equipment is so damaged to put it out would be for safety reasons but not to save the equipment.

Mr. Thomas asked Mr. Karp if there was anyone that could answer that question on whether there will be any necessary equipment needed to deal with fire in the event that something occurs.

Ms. Hammond said that it was mentioned about the scale of landscaping in front of the fence in the front of the property and how low the solar panels are and then how large the battery and inverter are there different types of landscaping.

Mr. Drake said on the plan you will see if goes all the way across the front, you will have a 10' wide planting strip double row, the boxes will be behind the shade trees.

Ms. Hammond said that the trees will be higher than the structure that they are shielding, the memos from the Borough Engineer and Planner and Environmental Commission had some open questions and wanted to make sure that they speak to the fact that there were other communications and that those conditions have actually been satisfied.

Mr. Koch said that in his report under completeness he indicated that there was no grading plan, the plans clearly indicate there is no grading plan so therefore we don't know what steep slope analysis is. He said that he does not have a copy of the letter, he missed it in his e-mails but they seem to indicate but he is unable to represent to you whether there is any variance associated with the steep slopes. He said to Mr. Drake that he, himself could not verify to the Board that he has reviewed it and determined there are no variances.

Mr. Drake said he understood and appreciates that. He said that only area they were looking to grade on the site along the center of the array where it drops a little bit, the reason why they have not provided grading plans because they still have intentions on going to the NJDEP who has jurisdiction over this property, when we present to them what we would like to do, we want to ask them if we can use this area, can we grade the surface or do we need to fill.

Mr. Koch said that when he did the bikeway adjacent to this, you do not touch the cap. Mr. Drake said they have no intentions on touching the cap.

Mr. Koch said that the Borough has a steep slope Ordinance and the NJDEP solid waste division does not govern that, the Board governs that based on whether he thinks after reviewing the plan and the ordinance if you're within the provisions of the Ordinance or if there is a variance required. That is why he stated what he stated earlier, that he is unable to represent to the Board whether there is a variance requirement or not because the plans do not provide him with the information he needs to conduct that review. Mr. Drake said he understood.

Mr. Constantine said he wanted to make sure that they had testified for the need for a planning variance to build in the bed of a map street, we raise that as an issue but was not sure he heard it being addressed.

Mr. Drake said they are on municipal property already but there are map streets here on the property itself, he said that they did notice under requirements of the MLUL for a variance for building in the bed of a map street which is really for the inverter and the switch gear. He thinks it is unique in that on this property we are leasing from the municipality, we do not own the property, it is still your land even though we are building in this bed, it's the Borough property and we are not looking to take ownership of the property, our lease agreement with the Borough is for 20 years. The property will essentially always be municipal property and if there is ever a need in the future for any use of Valentine Avenue which is highly unlikely it is still Borough property.

Ms. Hammond said that battery area does overlap Valentine. Mr. Drake said yes. He said that he reads the MLUL as if it were his property and there were a paper street on it and he wanted to use that paper street, and you say I can't use it the recourse is for the municipality to go towards condemnation to use that street, and in this case it is already municipal property, so there is no issue with the use of this in the future because it is already your land.

Mr. Constantine said that the municipality has no plans to construct a street within that right-of-way. He said that they had some pre-application meetings and thanked the applicant for responding to some concerns. He said that they were initially concerned with the view down South 7th Avenue as well as Crowells Road because most people will see the view and he knows that they have moved an invertors to the other side of the site, they are addressing landscaping and will continue to do that, Shade Tree Commission as well. He said that the fencing was changed as well; it was chain-link facing Donaldson. He said that one of his recommendations was to try and carry the steel tubular decorative fencing around the corners because now if you look down either of those street you would see the fence and no landscaping and would like some landscaping as well to come around the corners sufficiently so it does not look like it just ends and most of the publics views down those streets they are seeing just fence. Mr. Drake said that they can work on that.

Ms. Hand asked how often the maintenance vehicles accessing the site. Mr. Drake said once every two weeks, maybe once a month. He said that the site would be monitored remotely but maybe once every two weeks come by and ensure everything looks fine.

Ms. Hand asked if there was an intention on storing maintenance vehicles on the site. Mr. Drake said no.

Ms. Hand said that it was mentioned that you would be using cameras to monitor the property, and her concerns are for the privacy of the people living across the street from the site because it is an apartment complex, there are a lot of people, it's not an unused area of town. Is there a way to not have those cameras focused on the public streets. Mr. Drake said that their intention is to protect their infrastructure; the primary cameras will be at the invertors and the battery system.

Ms. Hand asked if there would be any signage advising that there are cameras. Mr. Drake said that there will be signs indicating "Danger – Keep Out".

Ms. Hand said that she appreciates the need and concern to monitor the infrastructure but does have continuing concern about the privacy of the people living across the street, does not think that there is an malicious or intention of invading their privacy but thinks that they have the right to know that there are cameras in that area of the public sidewalk.

Mr. Drake said that they can ensure that the cameras are focused on their infrastructure and not anywhere else.

Mr. Thomas said and a simple sign to indicate that the site is monitored by cameras. Mr. Drake agreed.

Ms. Hammond asked Mr. Constantine if he would be a point person then on dealing with the Shade Tree and the landscaping. Mr. Constantine said that he will be a part of that; he believes the Shade Tree Commissions wants involvement on that as well.

Mr. Drake said that their goal is to not only advance solar but also educate on solar energy, we have not built the message yet but are going to have some type of educational sign that explains what this is, and were thinking of posting it on the trailhead, because there is already interruptive signage there.

Ms. Hammond asked if the chain-link fence was going to be right outside the road, solar panels, road and then the fence. Mr. Drake showed Ms. Hammond on the plans the layout.

Ms. Hammond asked if that interrupted any of the current trails. Mr. Drake said that he is not aware of it interrupting any of the trails. He said that there was some talk about trail rerouting but will be working with the Borough on that.

Ms. Hammond said it was mentioned about how this would benefit PSE&G in research and understanding and asked what the benefit would be to the power grid in Highland Park in terms of power outages or power surges.

Mr. Drake said the power is going right back into the grid, when a homeowner puts solar on their roof they are also exporting to the grid but they work on different system, where they generate so much power if they use less then what the generate they get a credit. They are connected to the grid in the event of a power failure those solar panels shut off and these will to, for safety purposes.

Lyle Rawlings, President of Advanced Solar Products, contractor/engineer on this project, was sworn and affirmed said that that noise produced by the system is really from in invertors and the typical invertor would have a noise level at this power level about 80 decibels at 10' by the time it reaches the property line, we have not done a noise study yet, but would be under 60 decibels. He said in reference to the special equipment needed to fight a fire at the site, it would be recommended that fire fighters use methods appropriate to fight chemical and electrical fires if possible, but water has been used effectively to fight fires of this nature. It is quite possible that PSE&G would recommend fire fighters not intervene for certain fires on the site because they are unlikely to spread or cause additional damage. This particular design and specifically is designed to prevent a fire, they are usually underlay by grass and bring dry conditions that would support combustion, in this case the panels will be underlay by engineered materials specifically ¾" stone, 3" thick so there will be no compostable material whatsoever underneath and therefore should there be a fire it would be very unlikely to spread.

Mr. Thomas asked in terms of the fire is the material your saying is being used to put out an electrical fire, is that something that would be normally available within the current array of arsenal or would it be something that they would need to acquire.

Mr. Rawlings said that would be something that they would have to consultant with the Fire Department about and make a judgement as to whether those would be adequate.

Mr. Thomas indicated that would imply that you have not done that but are going to do so. Mr. Rawlings agreed.

Mr. Thomas said it was stated that it is likely the invertors, which have a decibel of 80 at 10' but indicated that you are confident that it would meet the Ordinance. Is that confidence sufficient or is it reasonable to end up having a noise test prior to final approval or some sort of certificate. Mr. Rawlings agreed.

Mr. Rawlings indicated that he had a photo on the computer of the boxes, these were done in Hopewell and the photo will show sample of the units.

The photo was passed to each member of the Board.

Ms. Hammond said now that we have seen the inverter box, and asked how far from the front fence these boxes are going to be.

Mr. Drake said that the boxes will be behind the fence and the planting strip in front of the fence.

Ms. Monk asked if they came in colors other than white, maybe green.

Mr. Rawlings said that they can be any color you want.

Ms. Hammond said that it would be nice if the boxes were not so prominent.

Ms. Monk said that even if they were black like the fence.

Ms. Hammond asked that this be treated as sensitively as everything is.

Ms. Monk said that she thinks that it is important to note also right now in this layout the invertors removed as far as possible from the street so that provides acoustic buffering and line of site, so typically if you can see something you can hear it so if it is blocked by an object that will help to lessen the acoustic impact.

Mr. Williams said around the parameter and along Donaldson Street there would be barbwire.

Mr. Drake said that the barbwire is recommended by security but in this case we do not need barbwire we have a 7' fence, we will have the front and side with an overhang and then a black chain-link fence around the parameter and we are working with Mr. Constantine on some level around the parameter of extending this fence so from the visual side of Donaldson you still see a continued fence.

Ms. Hammond asked if sidewalks were ever discussed in terms of across the street and this doesn't connect any residential it's all just the park.

Mr. Koch said that there is curb along the one side and the other there is no sidewalk connecting to it, other than the bike path which you can get on the sidewalk going up 7th or along toward Crowells.

Mr. Constantine said that not having a sidewalk is a further discouragement.

Mr. Millet said if the power is being generated during the day would the invertors ever be working in the evening, would there be any noise in the evening.

Mr. Rawlings said no, they will shut down as soon as the sun goes down.

Ms. Hammond opened the meeting to the public.

Steven Barnes, 19 North Adelaide Avenue, said that PSE&G has worked very closely with the Environmental Commission and STAC and with the volunteers of Highland Park Meadows trail to survey site and ensure that what we are getting in terms of environmental benefit of solar array is not offset by lose of the environmental benefits of the natural area. We will continue to work very closely with PSE&G to help implement this project so that we get the most bang for the buck both through solar power and through conservation efforts.

There being no further comments, public comment was closed.

Mr. Thomas said the Mr. Koch had indicated in his report there is an issue with regard to a possible variance but does not have the information concerning grading that is 1A and B on his completeness section. He asked the Board if they wanted that information in advance of any decision or are you in a position to recommend that you would review it.

Mr. Koch said that if the Board was in favor of taking a vote tonight, he would recommend that it be done and if there is a problem then the applicant will come back, if there is not a problem then he just reviews it and determine that there isn't anything as part of resolution compliance and it falls by the wayside.

Mr. Thomas said that would be an acceptable resolution because if there is a variance I don't think that your notice is inadequate but there has not been any testimony, so if there is none the Board can act tonight and just memorialize in January or alternatively you will have to come back with presumably Mr. Drake to deal with it. Mr. Karp agreed.

Mr. Williams said at this point the plan that we have is out of date it does not match the solar array as it is now. Ms. Hammond said that they gave us new plans towns.

Mr. Thomas said that would be a condition of the Resolution.

Mr. Williams said that one of the commitments Mr. Drake made in the field was that there are some steep slopes which are not part of where the solar array is but some of the trees that would be taken down would be used to stabilize some steep slopes that are part of the lower meadows and asked if that could be one of the conditions of approval. Mr. Thomas said he will include that as well.

Mr. Williams said one of the conditions should be that they will fulfill the requirements of the tree ordinance, not every tree needs to be met only those that are being taken down, and STAC and the Environmental Commission will work with PSE&G.

Mr. Drake said that with respect to the trees being planted along the front on Donaldson will we get credit for those trees being planted towards the tree mitigation requirement.

Ms. Koch said applicants have had the opportunity if they can't do it on their property to do it elsewhere in the Borough and the trees are in the public right of way but could be used towards it.

Mr. Thomas said that if there was a motion to approve it would be approval of the preliminary and final major site plan together with the two variances that have outlined with the possible planning variance and that it would include compliance with the reports of Mr. Koch and Mr. Constantine subject to the letter of November 30, 2016 from the applicant, would also require compliance with the tree ordinance, training provided by applicant for the Fire Department to ensure that they are adequately trained in the event of a fire, that it would be agreed that the decorative fence and landscaping would go to the edge of the property and around the corners for a distance to be determined, an additional sign to notice of camera on site and the camera would be directed towards the facility, prior to the issuance the appropriate permit subject to a noise test to ensure compliance that the boxes that contain the invertors and batteries will be subject to an appropriate color to be determined by the Borough Planner and that there will as Mr. Williams indicated an updated of the submitted maps to comply with the maps contained in A1 and Mr. Williams and himself will get the language with regard to the use of the trees and thereof, Environmental Commission to be a part of the trimming of the trees in relation to the project so that the trees that are remaining.

It was MOVED by NOLAN and seconded by MILLET to approve the application as stated by Mr. Thomas.

ROLL CALL: Ayes – George, Hand, Lanaris, Millet, Monk, Nolan, Williams, Hammond
Nays – None

There being eight (8) ayes and no nays, the motion passes.

Approval of minutes of previous meetings
October 13, 2016

Ms. Hammond said that there were some minor typos.

It was MOVED by GEORGE and seconded by MILLET that the October 13, 2016 minutes with the correction, be approved, and with a voice vote from all present and one abstention, the minutes were approved.

Correspondence and reports.

Ms. Hammond said that she would like to congratulate Ms. Hand on the birth of her second child, a son Eli.

Ms. Hammond said that Jennifer provided a potential meeting schedule for 2017 and for the most part the Board will be meeting the second Thursday of every month except for April it was moved a week later to avoid Passover so that will be April 20th and also in October it overlapped with a Jewish holiday and that was moved to October 19th.

Mr. Williams indicated that the Borough has been re-certified as Silver, we had 482 points. Ms. Hammond said on behalf of the entire Planning Board thanked Ms. Monk for all her hard work.

There being no further business, there was a motion by MILLET and seconded NOLAN and a voice vote from all present the meeting was adjourned at 9:44 pm.

Respectfully submitted,


Jennifer Santiago
Board Clerk