

HIGHLAND PARK PLANNING BOARD
Highland Park Borough Hall-Council Chambers
221 So. 5th Ave.
Highland Park, NJ 08904
MEETING DATE – JUNE 13, 2019 @ 7:30 P.M.

Call to Order

The June 13, 2019 regular meeting of the Highland Park Planning Board was called to order in accordance with the rules for the Open Public Meetings Act by Chairperson Kim Hammond at 7:36 pm; Ms. Hammond indicated the location of the fire exits.

Roll Call:

Present	Kim Hammond, Scott Brescher, Rebecca Hand, Alan Kluger, Padraic Millet, Judi Shade Monk, Stephen Nolan, Jeffrey Perlman, Allan Williams
Absent	Paul Lanaris
Agency Professionals	Bruce Koch, Engineer, Chris Cosenza, Planner and Roger Thomas, Esq., Council Liaison Susan Welkovits arrived at 7:41 PM

Motions for adjournment of any scheduled cases and any other motions. - None

Unfinished or adjourned hearings. – None

Hearing on new cases.

Solop Partnership LLC	P2018-02
Skyview Terrace	Minor Subdivision
Block 75, Lot 15.02/15.03	

Roger Thomas, Board Attorney indicated that this application will be carried and carried without further notice until the next regular meeting of this Board which is July 11, 2019 @ 7:30 pm no further notice will be provided. If anyone present is interested in the application, nothing would be discussed on that matter tonight and it will be listed for the 11th of July.

Correspondence and reports.

Zoning/Building Officer report – Scott - None
Rehabilitation Screening Committee report - Kim/Judi - None
Mt. Laurel status update - Roger/Jim - None
Fair Share Housing Obligation report - Jim/chair of FSHO committee – None

Master Plan Prep report – Mr. Nolan said that they were in the beginning part of master plan renewal, every 10 years the master plan has to be re-examined. The Committee met with the Planner in April and with some assistance they has gotten some great data done and there will be another meeting next Wednesday to discuss the next phase in the plan in terms of some public meetings to talk about what the master plan should look like and get public input.

Approval of minutes of previous meetings.

March 14, 2019 Regular Meeting

It was MOVED by MILLET and seconded by PERLMAN that the March 14, 2019 minutes be approved.

ROLL CALL: Ayes- Brescher, Hand, Kluger, Millet, Monk, Nolan, Perlman, Williams,

Hammond
Nays – None

There being nine (9) ayes and no nays, the March 14, 2019 minutes were approved.

Memorialization of resolutions. - None

Action on any other business and work session.

Consistency Review Ordinance Authorizing an Amendment to the Zoning Ordinance for property commonly known as Buck Woods.

Ms. Hammond said that they have received a request from the Council for the Board to review the overlay Ordinance for the Buck Woods site.

Mr. Thomas, Esq. said that the Board's responsibility in this matter is a consistency review, meaning under the landuse law section 26 your obligation is to make a determination and report to the Borough Council that in your opinion after the presentation, the Ordinance is consistent with the Master Plan.

Mr. Thomas indicated that there has been on-going litigation involving the Borough, one is litigation involving Affordable Housing, otherwise known as the Mount Laurel litigation and that has been ongoing for at least the last 4-5 years. The Borough has participated in the litigation process, filed a declaratory action seeking to get approval from the courts with regards to their plan and concurrently with that action, there was a separate action filed by JSM, that entity that has had a series of litigation against the Borough and one involves the property known as Buck Woods, there is apparently pending litigations that have now joined with the Affordable Housing litigations that is currently being handled in New Brunswick. There is also now a Plan Master and that is part of the process that is used as a part of the Affordable Housing litigation, whereby the Court appoints a planning master, the planning master reviews the plan as well as presentations by the Fair Share Housing Center. Pending litigation filed by JSM while they are not per say apart of the Affordable Housing litigation, the same Judge is handling this litigation and is currently being overseen by the Planning Master, Michael Bolin, and Planner in the State of New Jersey. There have been a series of meetings that were directed by the Court. The Judge has indicated that he wants this case to move and that some of the issues need to be worked out particularly the Buck Woods site. As a results of those meetings, and input from the Planning Master and you will now here what is the result of those discussion and the presentation by the Borough with regard to the Buck Woods property. Initially there was a request by the owner of the property, JSM, for a substantially larger number of units for development from what the Borough has now provided to the Planning Master as well as to the Judge. In order for this to be accomplished there is a need for an ordinance to take place, the Ordinance includes a number of standards like any other Zoning Ordinance, requires introduction of the Ordinance and that has been done at the Council meeting on Tuesday and is now being referred to the Planning Board and the Planning Board has the responsibility under the Municipal Landuse Law and review the Ordinance for consistency with the Master Plan. It is a limited review and exclusively in regards to that aspect of the Ordinance. He mentioned that there would be a presentation by the Board Planner and there has been a great deal of discussion, negotiations and this is the Ordinance before the Planning Master and ultimately will go before the Judge.

Jim Constantine, Board Planner said that there were a number of neighbors present and hoped that there would have been more because people are very concerned with what is going to happen on this site. He said that it is a challenging position and they did try to come up with something that they think can try to address a number of constraints as well as the orders involved. Just to make it clear we have to accommodate 75 units on the site including the Affordable Housing. He indicated that they would not be going over some of the things have not changed that the Board had previously seen including buffering, screening, landscaping, and replacement tree provisions. We do want to go back through why the Ordinance is calling for the building where it is, and there has been new feedback that has been coming in from members of the public and there is an environmental sensitive planning approach that has its basis in the Borough's Master Plan and this is a consistency review for where the building is where it is.

Mr. Constantine indicated that the Borough Master Plan recognizes that Highland Park has land on both the top (corner of 6th and Mansfield) as well as at the bottom of the ravine and the goal is to connect these upper and lower public lands by natural habitat with public access. The Master Plan is looking to try to provide some connectivity of these open spaces, these areas that are zoned adjacent to major open space holdings or County parks should have creative site design with an opportunity to connect these open spaces. There is a real green space connectivity principal in the Master Plan that is repeated in several places that we certainly recognize and try to figure out how to work into the concept here. Preservation of steep slopes is especially to help preserve the Borough's topography, retain its scenic view and protect wildlife habitat. The slopes look different now that much of the site has been cleared. There is new information tonight and he asked the members of the public to try to get through all of the reasons rational. There are provisions of the Ordinance that not everybody who lives in the neighborhood likes some elements of it, it is a challenging situation. Some of the benefits in the Ordinance before the planning board are it provides for relocation and replacement of aging infrastructure, the ability for that continuous greenway and trail that the Master Plan is calling for, combines two buildings into one and we will go through what that means in terms of massing, and the relationship from the back of South 5th and South 7th rear yards because there was always going to be buildings there what is happening now is that those buildings are actually going to reduce in height by a few feet and move in from the property lines further then they were on the prior Ordinance. We have the ability to limit or eliminate some of vehicular movement by placing all of the parking under the building, provides for clear location of mechanical equipment on the roof out of sight and lastly there is a whole series of additional design and massing controls that were not in the prior Ordinance that give the Borough greater control over what could happen here.

Jim Constantine and Chris Cosenza, Planners presented the Board with the attached. Ms. Hammond thanked the Planners for a thorough and thoughtful presentation on the changes. She asked if anyone on the Board has any questions or comments.

Ms. Welkovits asked if the parking now also under the courtyard? Ms. Constantine said yes, originally they had looked at a single building but it still had surface parking but formula stays the same. Mr. Cosenza said that based on RSIS standards there are probably a couple more spaces but same limitation on the number of surface parking spaces, which is now limited to just the entry of the site, many for visitors, drop-off and pick-up.

Ms. Hand asked about the terrace slopes closer to the South 7th side and having small children I know children would love to run across those slopes and fall right over and drop 20 feet, and asked if there was any discussion on how to stop that or prevent that or make it safer. Mr. Cosenza said that they could work with the developer to put a fence in, any drop off over 4 feet a fence is required.

Mr. Perlman asked about the corner of Mansfield and South 6th, there is a trailhead shown coming out of the corner and asked if there was an expectation that the Developer would actually make those improvements on Borough property. Mr. Cosenza indicated there was a provision in the Ordinance that states that the trail is permitted to encroach into the open space and the encroachment into the Borough owned properties.

Mr. Perlman asked if there were going to be any recreation amenities and if they do that he would request that they consider moving the trailhead a little closer to the corner so maybe there could be a tot lot there instead of within the courtyard pull it out move it to the corner so that neighbors can use as well. Mr. Cosenza said that could be reviewed even before we get to site plan.

Ms. Hammond said it was mentioned that the setbacks on the South 5th side were 50' and 30' on the South 7th side and that you could increase the South 7th side to 40' and recommends increasing the South 7th side to 40'.

Ms. Monk said that it was also mentioned about providing life safety access along that 40' corridor and asked how that would be rectified with the terracing. Mr. Constantine said with the 40' corridor you could not effectively move through there and noted that the building would be sprinklered.

Mr. Perlman asked how residents would access the site by vehicle, if you live there and walked, where the pedestrian access is. Mr. Constantine said that if they were walking they would walk over the textured paved motor port, because it is designed to be pedestrian and vehicle shared space, similar to the entry of a hotel. He said that they could try to run sidewalk along the outside edge but that would be something that could be looked out in site plan review.

Ms. Hammond said the illustrations made it look like a centered entry type of apartment building with one main entrance. Mr. Constantine said that was correct but he knows that the developer has some interest in potentially multi story units within the building and they think there might be some real value and there is nothing in the Ordinance precluding them from having a stoop, or terrace but would be subject to site plan.

Mr. Kluger said going back to the 50' versus 30' and asked if there was a reason why there was not equal distance between the two sides. Mr. Constantine indicated you wanted a more flexible easement and if pin that a little to tight against the rear of the South 5th homes property lines you will end up with more retaining walls to accommodate the infrastructure along with fire truck access.

Mr. Kluger said from a fire safety prospective, has the fire department provided comments. Mr. Constantine said that they actually had and that was apart of the accommodations.

Mr. Thomas said that one of the first things that the developer is going to have to do is to deal with the infrastructure issue and they cannot start building until they relocate the pipe and as a part of that relocation, they are going to be going along the South 5th side. He said that there would be some infrastructure work there, which will require equipment and will go down to the end of the property and there is at least an opportunity that the developer could start the process of thinking about some plantings since they already have the equipment there at the lower end of the property.

Mr. Kluger said at the Council meeting the Borough Attorney in relation to the size of the units, and it was not legal to have in the Ordinance specific types of units, for example one bedrooms, two bedrooms, etc. Mr. Thomas said that was correct other than what is mandated under COAH standards.

Ms. Hammond open the floor up to the public.

Maureen Wolniak, 416 South 7th Avenue, said when it comes to the single family home on South 5th and South 7th and the permissible building height, and asked if that was set at elevation in the zoning ordinance or is that set from feet at ground level. Ms. Hammond said it was referenced at sea level because that is a more constant for this development, but in the Ordinance, it is on whatever grade is.

Ms. Wolniak said when feedback was provided that this building was very high, we were talking about the total height not necessarily elevation, they appreciate that it came down but we actually meant for the whole thing to come down in height. Mr. Thomas said that is why Ordinances tend to be a combination of choices and compromises.

Mr. Kluger said that in looking at the picture, he asked how much higher would the maximum height of the proposed building be to the top of the current houses on 5th Avenue and 7th Avenue. Mr. Cosenza said that in reference to the ranch homes on South 7th it would be about 15'-18' tall from grade, and the permissible height is another 15'-20' higher than that and at that point it is higher than this proposed building would be regulated by Ordinance. In relation to the actual building height, the new building might be 15' taller than a ranch home, noting that not all the homes in that area are ranch style homes. He said that corner line is almost the same but the roof will be a different pitch and a little taller.

Mr. Millet said that if someone was to buy a lot behind your house they could put a home at approximately that height at 35' tall and not have to go through zoning, and that may be your neighbor's choice and it would be permitted.

Ms. Wolniak said that she was also concerned about the garbage. Ms. Hammond said that it was specified that it had to be contained within a brick structure and with total enclosure.

Khahlidra Hadhazy, 512 South 2nd Avenue, said that something was different in this presentation that was in the previous presentation. There is more parking because now the parking extends through the courtyard where we did not see that before. Does that mean there are more parking spots? Ms. Hammond indicating that it is the same number of parking whether surface parking or underneath parking and that is established by a ratio of a certain number of spots per number of units in the building.

Khahlidra Hadhazy said that this questions was asked by the other and was wondering if there was more clarity, with respect to visitor parking because the parking structure is underground and the parking structure will be secured so you don't have people who are not residents just pulling in there parking where will the resident's guests park. Mr. Constantine said that visitor's would have access to the parking underneath.

Marsha Goldberg, 451 South 5th Avenue, asked about the sewer line that is now going to be moved closer to South 5th, her home is at the edge of lot where all the trees were removed and nothing has been done that she can see. She is concerned because of the destabilization of the slopes and now she sees that there is going to be a sewer installed, and what if anything will be done to protect the private properties that are going to be effected by this construction. Mr. Thomas said that as part of any plan the Board is going to review the plan, and that includes an Engineering review to ensure the best the Engineer's can determine that the project is safe and not a problem. It will then go through a series of inspections during the course of construction as part of the processes. He said that individuals have the right to go to court if you feel that some of your rights have been violated. There are methods that are a part of the process to try assure the best that the Borough can that in fact the development is developed in a safe and appropriate manner.

Ms. Goldberg said that the first phase was not done with any consideration of what happened to her property. She would like some reassurances, such as a retaining wall. Mr. Thomas said that was a legitimate question and that is a site plan question, the issue about whether your property was taken into account, and as you are aware, this was a determination ultimately by a Judge it was not made by this Borough in terms of when those trees were going to be taken down. The Borough fought that for a considerable number of years and ultimately there was an order by the Judge. Ms. Goldberg asked if the Planning Board could give her any assurances at this stage that this would be taken into consideration. Mr. Millet said that when construction begins it has to follow code and safe practices, mostly the safety of the workers and the safety of the surrounding buildings. There are codes in place that require if you are disturbing this sort of thing that certain things have to be done and it is in the best interest of any contractor or general contractor to maintain a safe site because if something does happen they are liable. The mostly costly thing a contractor has to deal with is insurance and safety, and safety is number one in most construction site. Mr. Koch said that the entire site would be subject to a grading plan and as a part of that, they would have to stabilize that, the Ordinance has various requirements. He said that he could not spoke to how they would do this, they may have enough area to grade, they may do a retaining wall but he is well aware of that corner and the situation at hand and would be paying attention to that.

Jim Lapidus, 420 South 7th Avenue, thanked the Board for considering the buffer zone. He asked if there was some sort of provision for making any development into a community, making it apart of the community, making it a seamless transition from one community to another. He said the first proposal he was not happy with but understood the concept, and this is pretty much a gated community but no named, one large building and the only way to get to it is through an underground garage and he heard some talk about there being other entrance ways for people on the outside wall of it but it does not seem like it is part of the community; it seems like an isolated building in the middle of this area. He said that he has been thinking a lot about this site, and have heard from a lot of different people about what could be built there, some people say you can build on steep slopes, others say you can't and he doesn't know who to believe. He was wondering what the Planning Board thinks because what they have always thought it would be was a street running through, all the way through connecting South 6th to the other part of town and to South 7th as well. A street running from South 6th all the way down connecting it to Valentine Street and up to Donaldson. With smaller low profile buildings and not four stories that would be more in line with building a community which is apart of the surrounding community.

Mr. Nolan said that he has heard the suggestion of extending Valentine across and connecting 5th and 7th, and that section of the Meadows is subject to an easement that was granted to the US Fish and Wildlife Commission. He said that a grant was received about 15 years ago to make that a park and we had to give the easement to not develop that section and he does not believe that area is developable.

Mr. Lapidus said that he also wanted to comment on the open space issue as well. He heard a lot of people on the Planning Board talking about trailheads, hiking, bike riding and wanted to give a little dose of reality here that on side of this is going to be four story building and the other side is a ravine and as far as he can tell it runs right to this the lowest point in that ravine and there is no proposal for any sort of development in the Borough land commonly called the Meadows. He said that he hopes we are keeping a clear head that this is not a nature trail, this is not really, open space, and it is 200' long, the width of four houses. We had some issues with the size of the building they were hoping that the entire lot could be used to make the building smaller, low profile and a higher quality to bring up property values and make it a more attractive living area.

Mr. Kluger asked if it was possible to build over the entire property and it was mentioned that the building could not be moved down and believed that the same rationale would apply to having any building down at the southern end. Mr. Constantine said that there would be more site disturbance if develop over more of the property and would alter more of that natural terrain and the setting of the site. Mr. Millet mentioned that the 75 units was a court decision that cannot be changed. Mr. Constantine said that the greenway trail is an active trail. Mr. Kluger said in terms of consistency with the Master Plan, the Master Plan does discuss greenway, and open space. He said that he was on the Board with the original Buck Woods application and at that time, saving open space was a priority and that is in the Master Plan as well. Also having a walkway and a bikeway down the southern most end was important to a lot of people and maybe that has changed now, and other people are coming now and saying no we would rather have a automobile crossway into that section of town but that certainly was not what we have heard

over the years and you do see a lot of people walking from the park and up through the walkway there and that would certainly change things by having the ability to drive through across to South 7th or South 8th. If there are members of the public that feel, it is important to have that ability to cross over down at that point as opposed to a block or two further north then I need to hear more of that. In the past, we heard there was more of a request for open space, a walkable area, down at the southern most end. Mr. Constantine said in the prior Ordinance concept there were two buildings each with a main entrance and both had access to parking under the building plus street parking with a pedestrian connection across the site. He said many people look to get to what he would call “safe haven” and that is what he sees the trailhead at the corner of South 6th and Mansfield being for a broader community to the north, that is that ability to get to that point and as a parent the ability to hit continuous trail in greenspace.

Ms. Welkovits said Tuesday, June 18, 2019 at 6:30 PM in Borough Hall they will be discussing the bicycle pedestrian plan and the intersection at 6th and Raritan Avenue will be discussed a shared bikeway on Mansfield is a proposal and this type of trail ties right into that. She said to the people who talk about a cross street if there is an interest in some kind of street on Borough property we can continue that discussion and can be outside of what is happening here.

Mr. Williams said that Mr. Nolan was correct, and also the discussion of a continuation of that trail down to the southside bikeway, that has been a plan for back when Steve Nolan was mayor.

Hannah Shostack, 146 North 6th Avenue said that since we are discussing consistency with the Master Plan what she was curious about is the parking issue and putting parking underground relates to the circulation plan element of the Master Plan and has the research already been done to know that the flood plain, a lot of residents encounter flooding in our basements and homes and is it clear that the parking lot can be sunk given the current environmental conditions and is the developer going to bear the expense of doing what has to be done in order to build a parking garage underground. She asked if that had already been determined because to her that would bear on the consistency of the Master Plan if it really matters, whether the parking is at grade or below. Ms. Hammond said that would be apart of a site plan review. Mr. Thomas said that the Ordinance provides that the parking will be underground and the developer will be required to provide for that. He said if they run into problems, they would have to work out those problems because that is what the Ordinance requires. Ms. Shostack said that does not make any sense to her. Mr. Thomas indicated that we are not at a site plan level so he cannot tell you what the seasonal high water table is but the Ordinance is very clear that this particular project includes the building with the parking underground now making some assumptions but he assumes there has been some preliminary information that has been done by the developer to indicate that the parking can be done underground just as proposed. Ms. Shostack said she does not feel like she is getting an answer to her question, so simply if you could not put the parking underneath and had to do it above grade would that still be consistent with the Master Plan. Mr. Thomas said that the more appropriate question would be is it consistent with the Ordinance and no it is not, and the applicant would be in a position to not be able to build the building as you just described in your latter scenario and they would have to somehow reconfigure or seek a variance.

Mr. Nolan said that it is worth remembering that immediately to the right of the building is going be a brand new storm sewer and so any sort of drainage from the parking structure can go right into the drainage, and to him there is available drainage and grade to accomplish this. Ms.

Shostack said presumably a sewer should serve us in our community but many of us get flooding regardless of the sewers.

Ms. Kluger addressed Mr. Constantine and indicated as a Professional Planner you would not draft an Ordinance that would not work, and is sure that all of the engineering and calculations and all the work necessary but in your professional opinion it is possible to have the parking underground. Mr. Constantine said yes we believe it is, the property owner believes it is, and if they cannot, they cannot build under the Ordinance. Mr. Thomas said that this is the law of this particular site.

Ms. Hand said that maybe what is trying to said is that the Master Plan does not explicitly exclude above ground parking situations but as the Ordinance has been drafted it no longer provides for above ground parking like the first version of the Ordinance had. Mr. Thomas indicated that the Master Plan is a grand vision; the Ordinance is what says can or cannot be done, so the Ordinance becomes the specific whereas the goals and objectives are the grand plan. He said what the Planner has indicated as part of his presentation is that with regard to this particular issue it does meet a goal and objective of the Master Plan, so therefore the question that the young lady has raised is what happens if in fact they find there is a problem putting the parking underground, either the project does not get developed under this Ordinance or they can seek a variance and in his opinion that once you end up having a Ordinance and three days later you seek a variance and that is a very difficult case.

Robert Holzapfel, 431 South 7th Avenue, said he liked the idea of providing more access to the park and he suggested as a condition of approval that we could have the developer help pay to actually connect it to the park through the Borough property. He would like see as little roadway as possible, more open space, dedicated recreation and he is happy with the way this plan has worked out. He said that he has been fighting this for a long time and he has always known we were going to lose this fight, just a question of how we were going to lose it. He thinks that this is a pretty good outcome. He thanked the professionals for all their hard work, and the board members for their service. He said it would help property values and have uncertainty removed from this, and having the site remediated. The guy owns the property and he has property rights and he liked the idea of as much open space as possible, he likes the idea of connecting this to the park so people can actually use this as way to the park, and if there was any way as a condition of approval that Jack Morris has to help us comply with our Master Plan by providing more access to the park by providing a walkway, that would be wonderful.

Melanie McDermott, South 3rd Avenue, said that many of us in this room never wanted this development at all and she thinks the worst possible outcome would be to develop the entire property and have a good street to single family homes, that is the most environmentally damaging and not a sensible approach approaches in the flood plain. She said that she knows you need to hear from different members of the public so she wanted to say that connectivity, the open space, that these are the values that we fought for in Buck Woods and she thinks that the current plan does a pretty darn good job of trying to get us some of that and maybe some improvements. She said there are pluses and minuses there and she thinks that people who live in apartments can be just as good of neighbors as people who live in single-family homes. She asked how much could go in a zoning ordinance, and she already sees a lot more in this than ever thought possible. With respect to the trees, she is unclear on how much can be asked for in terms of the tree ordinance, either they can pay into the tree fund or they can plant trees of certain size.

She does not know who determines what is paid out versus what is planted and she thinks the mechanism for enforcing the management of the open space going into the future are very weak. She said the more that can be built into the zoning ordinance the better because she also has a lot of doubts about the future of open space. There are different visions, one is where it is a well manicured property where certain species are selected and planted and then you have more control but you less function and regeneration of the forest is a process but needs to be a managed process and it has a very different kind of management that tree ordinances are not in fact well designed to do. How much can we build into this Ordinance that specifies more about where the trees go, who is responsible for maintaining them if at all, and the other question is this whole issue of environmental contamination and we are moving forward with the zoning ordinance and development plan and it's like this is just going to be hunky dory and all of this toxics that are buried there that have to be remediated and all of that is just going to be handled somehow. What provisions do we have if the LSRP says you have to cap the entire site because of all the contaminates there goes our open space. How much can we use this to plan for the management of open space and what protections do we have to hedge against the developer coming back and saying environmental contamination trumps everything else. Mr. Thomas said in regards to the first question there is a provision in the Ordinance that talks about tree replacement, not just landscaping but tree replacement and goes above and beyond what your normal Ordinance might provide. He believes what the Planner's have worked with the Developer and pushed and prodded the developer to ensure that your not going to end up getting little twigs that are planted that will take 20 years to grow rather they are going to be more substantial trees. Ms. Hammond said that the Shade Tree Commission is involved with tree selection. Mr. Constantine indicated that the Ordinance states the following: "The landscaping plan shall be designed with a goal of returning those portions of the tract not improved with the building, retaining walls and the texture-paved motorcourt to a wooded, park-like landscape. In general, proposed trees shall be planted in natural patterns and groupings on the southern portion of the site, on sloping terrain along site boundaries, and adjacent to the multi-use trail and the maintenance of those would be determined at site plan review. He said that if the open space was not dedicated to the Borough of Highland Park and or Middlesex County the developer shall grant a public access easement to permit the public to access and utilize the required multi-use trail such that the public is able to traverse the tract from the South Sixth Avenue public right-of-way to the southern tract boundary. He said that it also indicated within the Ordinance that If the project is developed as rental units, the landlord shall retain ownership and be responsible for the maintenance of the open space for the benefit of the residents of the development. If the project is developed as condominium units, the developer shall create a homeowners' association for the ownership and maintenance of the open space for the benefit of the owners and residents of the development. Such association shall not be dissolved and shall not dispose of any open space, etc. Ms. McDermott said that she understands that the developer and the property owners would rather have their own homeowner's association control the space but for point of view as a STAC member and the rest of Highland Park. Mr. Constantine said the Ordinance indicated that all landscaping shall be native species and shall be approved by the Shade Tree Advisory Committee (STAC). Ms. McDermott said that if the total number of trees is going to be determined by the site and then the balance that are not planted will be paid into the fund and she commends that because the previous version had to high of a tree density and it is better to not specify, let the site dictate it. Mr. Thomas indicated regarding the contamination, there have been discussions where the LSRP was present, there has been no indication that this site in anyway is going to be capped, there is going to be removal and even assuming under the worst of all situations, and the LSRP says it has to be capped that does not negate the fact that the balance

of the site for 200' that is now designated is not going to be a concrete pad, it will be planted in the manner that is required by the Ordinance. He does not envision this happening he believes the site will be remediated in a manner of removal but even under the one half of one half of one percent where somebody says it is going to capped there is still a requirement to plant that area.

Abby Stern-Cardinale, Harper Street, said that she was not really familiar with this process, and clearly these plans take a lot of hard work and are extremely intricate and asked if there was any precedence for proposing multiple possibilities in zoning overlays instead of asking resident opinions about that the front end, instead of playing what seems to her as an outsider as whack a mole with some of the concerns, and you said you have done that but still spending so much time developing these plans before getting this feedback from everyone. Is that something that can happen and maybe as future development occurs in Highland Park, is that something the Board would be involved in? Ms. Hammond said that they were not driving this ship, this is attached to something else but yes typically through Redevelopment or through Planning Board process there is a lot more controls going on and more public input but this situation is very different. Mr. Thomas said that this is a process that has gone on and the town has been dealing with for a number of years and simply noted that this was not the first presentation with regard to this site, there have been many presentations and there has been input from the public some of which has been very instrumental in making this site a better site and has been incorporated into the Ordinance and that is true not for the last couple of months but over the last couple of years. There have been any number of meetings in the past, there has been input from the public, ever single request from the public has been met but some over the course of the years have been met and the Borough has tried incorporate not only good planning as well as the concerns that have been raised by the public over the years. Ms. Stern-Cardinale suggested is not in opposition to that more that she has been involved for a few years and watched this progress and there is going to be more development, and more issues like this and if there a couple potential options because what she has seen is more representing and presentations, so you present options and you get frustration and complaints, and instead of presenting something so intricate present a general outline of a couple of options more in the beginning of the process. Mr. Thomas noted as a general comment, this town has gotten itself involved in what is called a redevelopment process, the redevelopment process is designed and the Borough Planner's have been involved in particular sites independent of the this site whereby what was just suggested at least from his understanding has occurred whereby in the early stages there have been developers who want to do this and before they get to move forward there are discussions that are had that involve staff and then broaden out to the public informally. Ms. Stern-Cardinale said that was good and she thinks that would help with some of the issues that have come up in this situation.

Elena Gerstomann, 127 North 6th Avenue said she owns property at 412 South 7th Avenue and thanked Chris and Jim and requested reducing the 50' as far as possible to make it more equal, 40 is better then 30, 45 is better for the fire engines can work. Most of believe that there are racial injustice that there is no street coming from the west to the east side in order to keep the white area on South 5th from the people of color on South 7th and the poor area which was done decades ago but it is our jobs in 2019 to right those wrongs and if we can do that by being fair on each side she thinks that would be better. In terms of being fair, she definitely prefers green over cars but prefers being just over even green so if that means building a street where we normally would not and bring the community together and right the wrong that was done decades ago and asked the Planning Board to push for that and she is glad Councilwoman Welkovits said that would be on the table without this but if there is something that can be put

into this plan to do our responsibility and right that wrong. Let's not put green over people and let's not put green over community and let's not put green over righting the wrong of the past.

Haden Hsiung, South 7th Avenue thanked the Planners a lot of thought was put into this plan and taking many of our considerations into account. Regarding the question about that all through years, one of the main public values was open space and the thing that change the equation is the court order of 75 units that changes everything. Up to this point the fight was keep the entire lot open space with no development at all but now that we have a high density 75 unit development in a four acre lot and even if we used up the entire four acres it still going to be a very dense development. So to the point about why could not they push it out so it will be a higher quality unit, it would help build up some property values and the fact that a simple apartment complex it does drive down the property value of the single family houses in the area. He said he could show them a relator.com study demonstrating that. He said that the property value on the North side is considerably higher then the property value on the South side for the same families largely due to the fact that on the North side there are far fewer apartment buildings so having said that he thinks that the Planner's may want to put some thought into using up more of the Buck Woods lots in the sense that it will allow for larger units and higher quality units that is more consistent with a single family home in this area. Open space is good but should not be done at the expense of the neighbors who have to live adjacent to this development. It does not have to be developed in the ravines but that is only a few houses.

Lois Lebbing, North 2nd Avenue, said in defense of the North side her property borders the Montgomery Apartments, 6.6 acres with 192 units which is 29 units per acres they are great, its right by the river, you don't have to be on vacation you see every nationality it is a wonderful area and they have a lot of green space, they can have yard sales there is so much green space. She asked about any archeological groups that may have come in since one of the only areas up slope from the Raritan River, we know there were Native Americans here and who would be on-site during the chemical clean up. She asked if that could be requested or suggested. She also asked who checks the soil that is coming in to ensure it is clean soil. Mr. Thomas said that it is a process that will be monitored by an LSRP an individual designated by the State to be the monitoring person, the Borough will monitor that and on a very tightly monitoring basis. Ms. Lebbing said that the Master Plan talks about leaves ratings and more for government building and asked if that was ever requested of all developers. Surface parking, there will be no visitors celebrations and she is sure if there are 75 units and 150 parking spaces, and you have to give a name if you're a visitor, your not going to have 50 cars coming for graduation or anniversaries, and you don't give a names when you put an ad in the paper or these machines and you tell people I am moving south there is no extra parking there we heard this with the AHEPA building going up 25-30 years ago that people there won't have cars and these parking lots are filled in the back. Some surface as the developer showed is not going to hurt, she thinks it will help and there will be overflow. The five parking spaces in the motorcourt become three spots if they are putting in because of the 16' needed for the wheelchair and the access isle or if they are parallel to the curb, the wheelchair may sit in the roadway and off-load into that curb area, and asked that they rethink that one. Some surface parking as the developer showed in his two building plan it looked so low in your lowered area and the retaining walls will not allow the headlights to hit in neighboring home. She said on the slide show the garage doors looked as though they were closed and asked about moving trucks, where do the appliance vehicles come in, the tradesman do they all park below, will it be high enough for 16-17 foot tractor trailer to pull underneath, so the motorcourt is going to hold the moving trucks especially if there are two at once. New York

just had on the news that trucks for some construction were idling at 4 AM is there any way that can be enforced. Mr. Thomas said that there is a State law that says you cannot idle a truck for more than 5 minutes at a time. Ms. Lebbing said that she is speaking of the neighbors in the neighborhood which you have clean up and filtering in and out. Last but not least a nice developer might clean up the property thinking that having donated all this acreage to Middlesex County with a request that the park be named after his lovely parents.

Michelle Racioppi, 105 South 2nd Avenue, Apt. 2, said she is the chair of the Historical Commission and she has not really been involved in this and came more for the Master Plan and she asked that there was an attempt at some point to purchase the land. Mr. Kluger said that in the Master Plan one of the recommendations was to look into getting State or County grants buy that property and that never happened. Ms. Racioppi asked if the Council could still do it. Ms. Welkovits indicated that the Council passed a Resolution several years ago to Bond for monies and the Borough made an offer to the owner and they refuse to sell. Ms. Racioppi said if it were to be built as proposed could it be required that the courtyard be something like in New York City privately owned public space also called POPS because that might be a nice connection. Mr. Constantine said that happens with office buildings, not residential and to his knowledge that does not happen with residential properties. Ms. Racioppi said that there was a lot of talk about parking and concerns about parking, is there a requirement for the developers to have to provide something towards public transit because if there is a concern with parking instead of providing more parking spaces provide ways for people to more easily get public transportation to them. We want people to take public transit but there is no requirement to have them contribute to public transit. Mr. Thomas said that could be a problem it certainly can be requested but he does not know from a legal viewpoint that would be something the Board could impose.

Mr. Nolan said that in other site plans that have been submitted we have talked about trading parking spots for bike storage areas and that sort of thing and he has found that developers to be very acceptable to that sort of thing.

Khahlidra Hadhazy, 512 South 2nd Avenue said that she wanted to add some context to what her neighbor was saying about apartment buildings and property values. This area of Highland Park is the Southeast side which is a little different than the Southwest side. The Southeast side starts at 6th Avenue goes to about Crowells Road, and there is a very big difference in the styles of homes that are on that side of town and the values of the homes on that side of town and she believes that what he was referring to was the number of apartment buildings that are already on that side of town and she is not sure this body is aware but there are 784 apartment units from South 6th Avenue to Crowells Road across 141 buildings. The study he is referring to is a study that was posted on Realtor.com and the information comes from the National Realtors Association that states when apartment units outnumber single-family homes the values of those homes decrease by 14% and this is in an area that already has the lowest property values in the Borough. The average property value for a home between South 6th Avenue and Crowells Road is \$280,000 where the value of an average home in the entire Borough is around \$350,000.

Pam Dorman, 423 South 5th Avenue, said she does not know how an EMT or an ambulance or a fire truck is going to be able to turn around and come back and that was one of the issues on a prior proposal from this developer. It is quite possible that this is going to take awhile to move forward, the idea of the pipe that is going to go more on the South 5th side and she doesn't really imagine that this is going to happen within year but a year of having those trees removed and

nothing that is helping our properties is a concern. She understands that there is safety while there is construction but what happens until it begins. Mr. Thomas said that he isn't sure the Board can answer that, the Borough fought the removal of trees for a very long time as you are probably aware, and despite having fought it lost that battle and the Court order those trees to be removed. The developer does not have a plan approval so therefore the idea that their going to end up doing any kind of additional work at this point is clearly unrealistic, they have to do certain remediation work that they have to before they can any kind of develop work, so you are correct it is a long process. Mr. Millet asked is the property owner responsible for their property in a sense of their steep slopes because of movement and shifts and causes damages to another property who is responsible. Mr. Millet said that he is not aware of any landuse law, or building law that requires certain steps to stabilize a property in the meantime. Mr. Thomas said that the developer is responsible for those damages; if the developer causes the damages through his actions, he is responsible.

Ms. Dorman said that it looks as if this is something that will need to be brought up again to the Borough Council because they would like the town to help protect their properties.

Marian Sackowitz, 617 South 5th Avenue, she would like to share something, she was looking through the materials from the previous application of Buck Woods from 1999 in that from the Environmental Impact Study from 1999 it has a section called Environmental Performance Controls and in that it indicates that all soil erosion and segment control practices to be installed prior to any soil disturbance and maintained until permanent protection is established. All critical areas subject to erosion will receive a temporary seeding in accommodation with a straw mulch or suitable equivalent at a rate of 2 tons per acre. She said that this was from the submission of Buck Woods in their previous application, can we get this kind of control in there for this application. Mr. Koch said that was done already, he called Freehold Soil asked if there was an active permit, that was the first they had heard, they are familiar with the developer they inspected the site, they reached out to the developer and last week the permit came through and they will monitor that.

Maureen Wolniak, 416 South 7th Avenue, said she wished that the firemen had stayed a little while longer to speak to the South 7th side and the access for vehicles to address emergencies or fires on that side of the building, that is a concern for her and she hopes that they do not have to go through her fence to get to a fire or emergency. She would like second Alaina's concern that if the buffer on the South 7th side could be 45 and the final thing was with regard to connecting the streets between the neighborhoods on both sides, she said that there was a petition in the 90's, she indicated that she could get the contact information for the person who organized it and knows the history. She said that it is not a new topic to connect the neighborhoods but is definitely desired. Thank you for all your work.

Doug Wilson, represents the developer and owner of the property, said not withstanding the some of people in the public have indicated their dislike for the project, the way it has looked out, in terms of what was originally planned for the site and what is being presented in the Court room were cut by the good work of Mr. Thomas, Mr. Schmierer and the Planners and what we ended up with is what was presented tonight which is a substantial change from what we wanted and a much lesser use of the site then what we thought we were entitled to. He said that they are prepared to go along with as part of a resolution of all the issues but there were some comments today that caused him to at least put some things on the record so that there is no misunderstanding of their position. One of things that was an essential part of the agreement was

that they would get 4 stories by lowering the building and lowering the parking deck down, the way that has been proposed by the Planners with the dormers, and the slopes in the roof what really has happened it is not 4 stories anymore they have lost about 40-60% of the usable space on the site that was not the deal that they made, second of all the question about the side yard on either side of 5th and 7th Avenues they agreed to the 30' and 50' despite the fact that the Borough Ordinance requires 20', so we are already giving substantially more side yards in order to accommodate the Planners vision and the town's master plan to provide for this walking trail. To the extent that it's modified or altered, and it was altered in a reduction in the size of the building, they will not agree to that, the Board will do what the Board will do but he is letting them know that was not part of something they had agreed to, you have the authority to do what you will do and we understand that and we do not want to be combative and would much rather have this resolved and he thought frankly that it was. It was only recently that they recognized that this 3 1/2-story issue was a problem. He said that it may be resolved, he heard Planners indicate to the Board that it only should only apply to those areas where there are residencies that look at the building and that may be a compromise that they could live with, which means on 5th Avenue where the back of the houses are looking at the property they want to have a different vision where it is not a flat wall, which is all they have a couple hundred feet down the block, we are not looking to that we want a project that is nice and if you have seen the stuff that they have developed throughout this State and we are in eight states you will see that we pride ourselves in a very beautiful nice project and you will not see flat walls anywhere. Doing the slopes and the dormers that have been proposed by Chris and Jim which are very beautiful that fact is you cut about 40-50% of the floor space on the fourth floor, which is not the deal that they made. He said that the compromise may be, he thinks that they would support but does not want to speak for them, is that on the size of the building, the west and east side the outer sides of the building is where you would do the dormers and the different reliefs and visions and inside there should be no restriction, and on the southside there are no homes, where we will be replanting trees and forest and we shouldn't be limited to that kind of façade on the southside. He said that he felt that way as well about the northside but that would be a vision for people driving down the street and would understand if the Board and Planners were strong in their position that should also be retained in the manner as proposed. He said that while he does not have the authority to agree to those things those would certainly be things that would soften the blow of trying to require us to lose essentially 50% of the fourth floor, I will tell you that was a serious component part of the agreement, the fourth floor or giving up 200' of our property to the south of the property. He knows that there was discussion among the people present, some wanted the whole site with a street down the middle, some people what as much of the site preserved as possible they compromise that they beat us up at was to give up at was to give up 200' of their property which is about 1/3 of the site for nothing. Ultimately, we agreed to give that up as a negotiation, the leverage that was an expended upon us by Mr. Thomas, Mr. Schmierer and the Planners we gave in to those requirements but in exchange for that we were to get the fourth floor on the condition that we lower the building which is what we did. He said that he does not want to be in a situation where give us something on one hand and take it away with something else so please bare that in mind that we did not agree to that and we did not agree to any change in the side yards resulting in a smaller building. Asking us to give up as much of the site as you did to do the things that they have done is a big enough ask, the fact of the matter is Jim Constantine's design was better then ours so by closing off the "U" that was proposed and the two building Mr. Constantine enabled you as a Borough to save 1/3 of the site that we originally proposed to build on and he should be credited for that. He said that he just wanted to make it clear that was not the deal we made, we have some concerns about increasing the 30' to 40', and I think Mr.

Thomas indicated that it isn't a Mount Laurel project and it isn't an Affordable Housing project and you cannot put clause into our site plan and by that you can't put conditions and proposed restrictions on us they you don't put on non-affordable housing plans, you can't make it tougher for us and more expensive for us with Mount Laurel then you have elsewhere. He suggested taking a look at what there is down the block at the senior housing and the other high rise and see what your side yard and set backs are there, if you are putting bigger side yard and set backs on us then you are that by definition that's cost generating so please be careful on what you do. He said that he does not want to be combative but we are not looking for you to change things that were already agreed upon and want to make sure you understand the things we did not agree to.

Jim Constantine said the he had a suggestion and increase the setback on the South 7th side to 40' and to reduce it on South 5th to 40' and this will accommodate a fire truck and delivery truck. Mr. Wilson said that if it does not change the building they would agree to it.

Natalie Zzwil, 251 South Adelaide Avenue, asked what the percentage was of affordable housing units of the 75 units. Mr. Thomas said that it was 15%.

There being no one further, Ms. Hammond closed the public portion.

Ms. Hammond said that the recommendation would be to split the 80' setback as evenly as possible unless there was some huge limitation based on the interior issue; someone made raised an issue about connecting the path, and on the drawing where is shows the public path and at the top it connects to the street and at the bottom is it connecting to an already existing pathway owned by the Borough. Mr. Constantine said yes. Mr. Thomas said that would be more of a municipal issue rather than a developer issue.

Ms. Hammond asked about the archeological aspect and how that could be handled. Mr. Thomas said that you have site that is a little different then most developable sites and under a normal circumstance if there were a concern with regard to historical impact he would assume that you would have someone there that would be monitoring the site of undisturbed property. As he understands it this is a site that has already been disturbed because it was a dump so therefore there is a requirement for remediation and that may very well complicate the issue that has been raised to how that historical element is monitored.

Mr. Cosenza made it clear that the 3 ½-story appearance would be limited to the east, west and north sides. He said that they are allowing 2 story units within the building and it is not stated where they have to be.

It was MOVED by NOLAN and seconded by WILLIAMS that as a result of the Boards review and public input as well as the presentation by the planner that that the Ordinance as written is consistent with the master plan with some suggestions for consideration: modify the minimum setbacks currently in the Ordinance of 30 feet on the easterly side and 50 feet on the westerly side to be split equally 40 feet each, maintaining the same 80 foot line setback; recommends that the fourth story shall be confined to an area contained under a sloping roof only on the northeast and west sides of the building. Further, that the full fourth story shall be permitted in the areas facing the interior courtyard and a portion of the south side of the building facing the open space area such that the required sloping roof on the east and west sides of the building wraps the corners of the south side of the building; To qualify as open space, a minimum horizontal

dimension shall be reduced to 40 feet where a trail connection is proposed; authorizing stoops, entrance platforms and steps that may project into any setback requirements subject to approval by the Planning Board, and, be approved.

ROLL CALL: Ayes - Brescher, Hand, Kluger, Millet, Monk, Nolan, Welkovits, Williams,
Hammond
Nays – None

There being nine (9) ayes and no nays, the motion passed.

Ms. Hammond thanked the Planners for all their work.

Public comment on any item not on the agenda.

Ms. Hammond opened the floor to the public. No one appearing Ms. Hammond closed the public discussion.

Adjournment

There was a motion to adjourn from MILLET with a second from WELKOVITS and at 10:42 PM, the meeting was adjourned.

Respectfully submitted,

Jennifer Santiago, Board Clerk

Objectives of Overlay Zoning Ordinance

- Accommodate 75 units including affordable
- Include buffer, screening, landscaping and tree replacement provisions
- Environmentally-sensitive approach utilizing a more compact development footprint

Review of an Ordinance Creating a Multi-family Residential Overlay Zone "Buck Woods" Site

Planning Board Presentation

June 13, 2019

Highland Park Master Plan Objectives



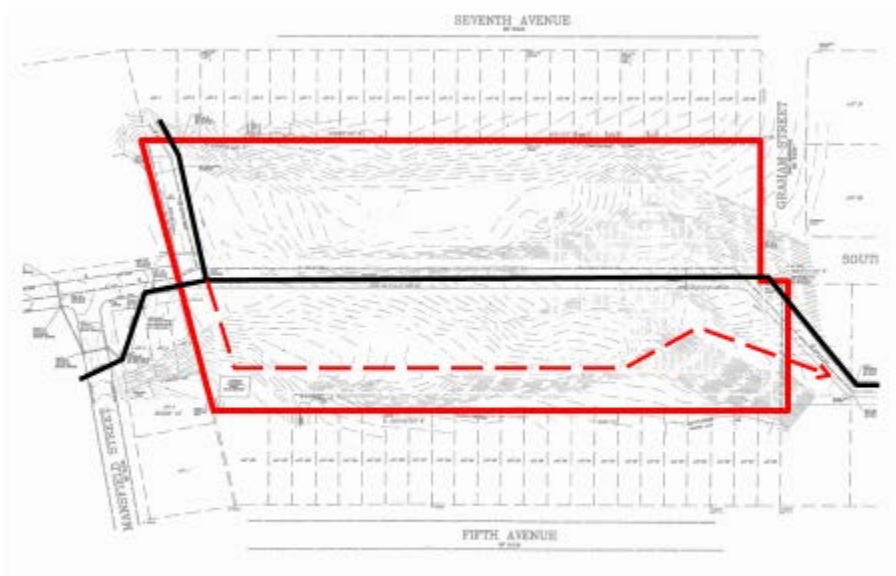
Highland Park Master Plan Objectives



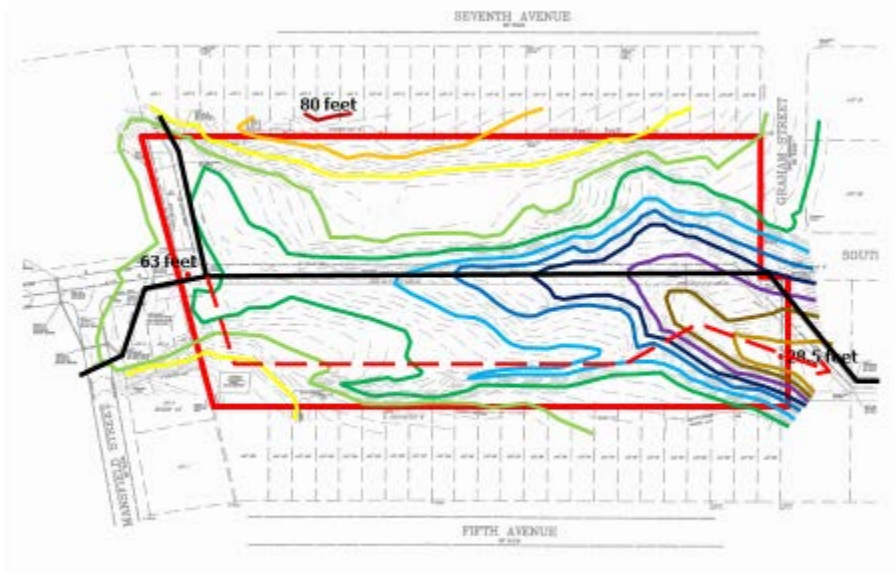
Community Benefits of New Ordinance

- Relocates & replaces aging infrastructure
- Creates continuous greenway trail across the site
- Combines two buildings into one
- Reduces height of building
- Limits vehicular movement on site (light, noise & emissions)
- Eliminates parking lots - parking is hidden under building
- Mechanical HVAC hidden on roof & not on-grade
- Gives Borough greater control over massing & design

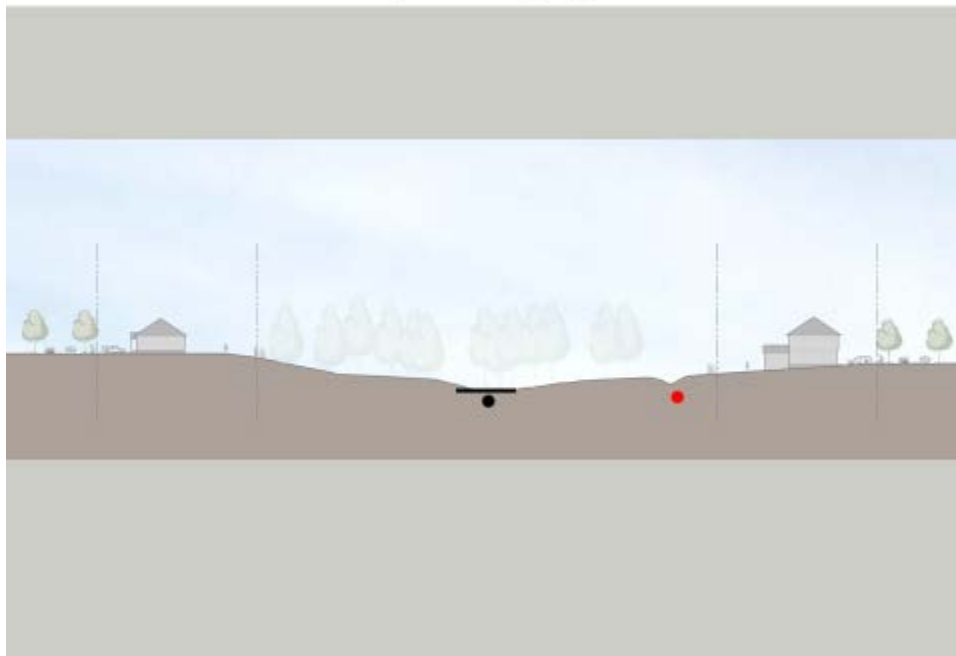
Relocates & replaces aging infrastructure



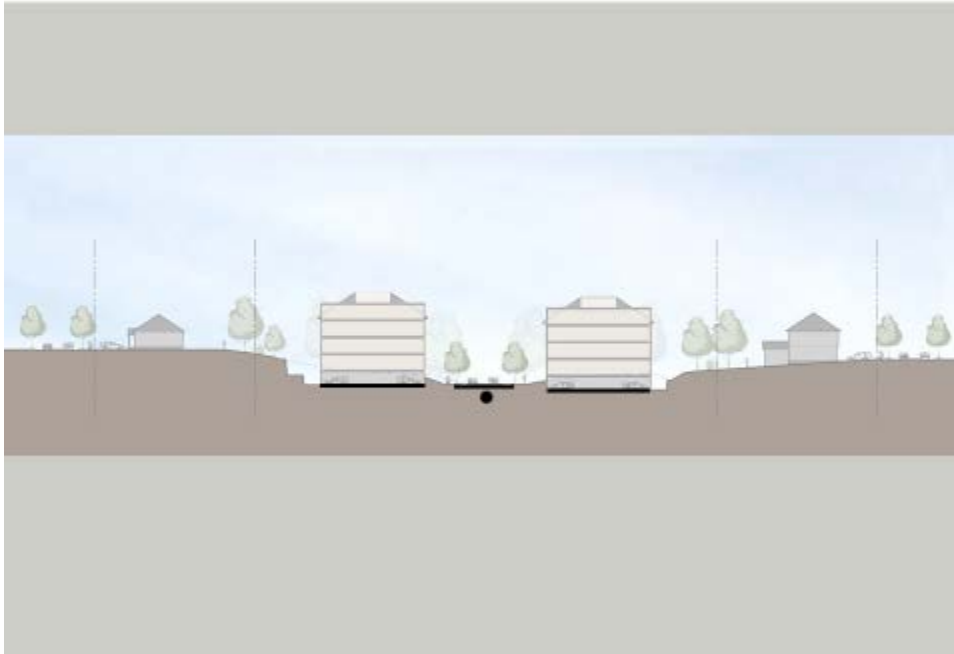
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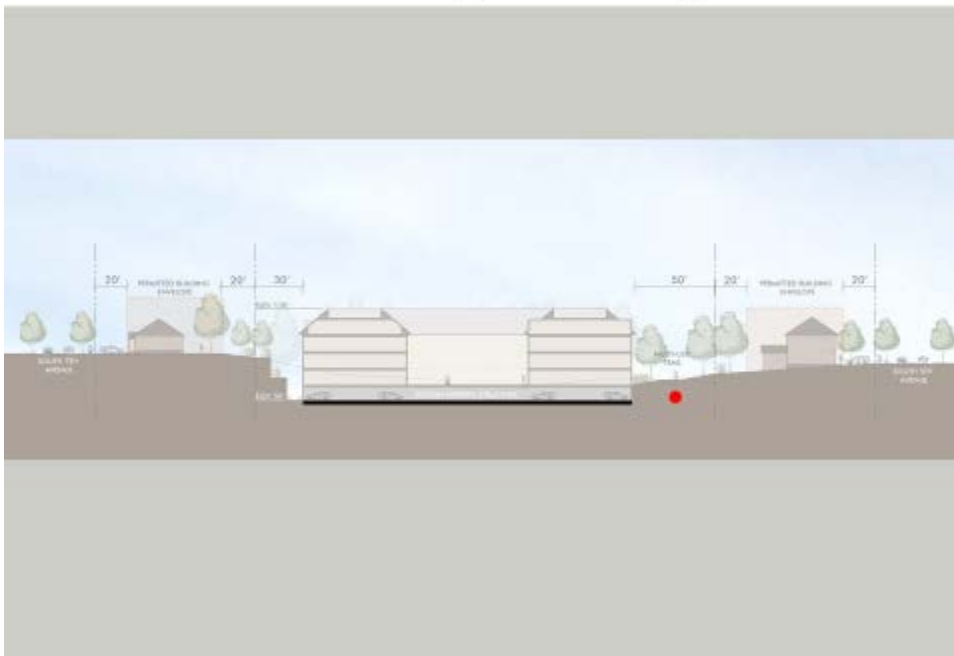
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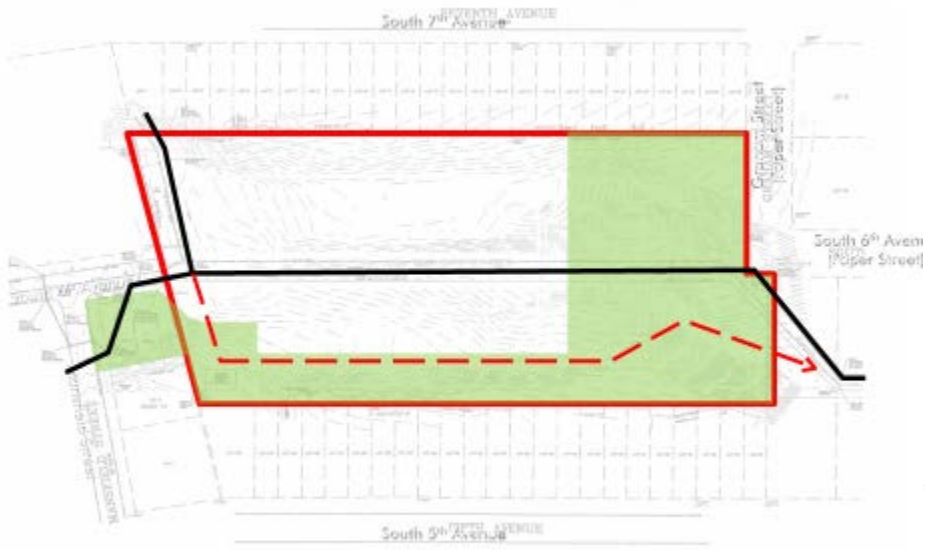
Relocates & replaces aging infrastructure



Reduces height of building



Creates continuous greenway trail across the site



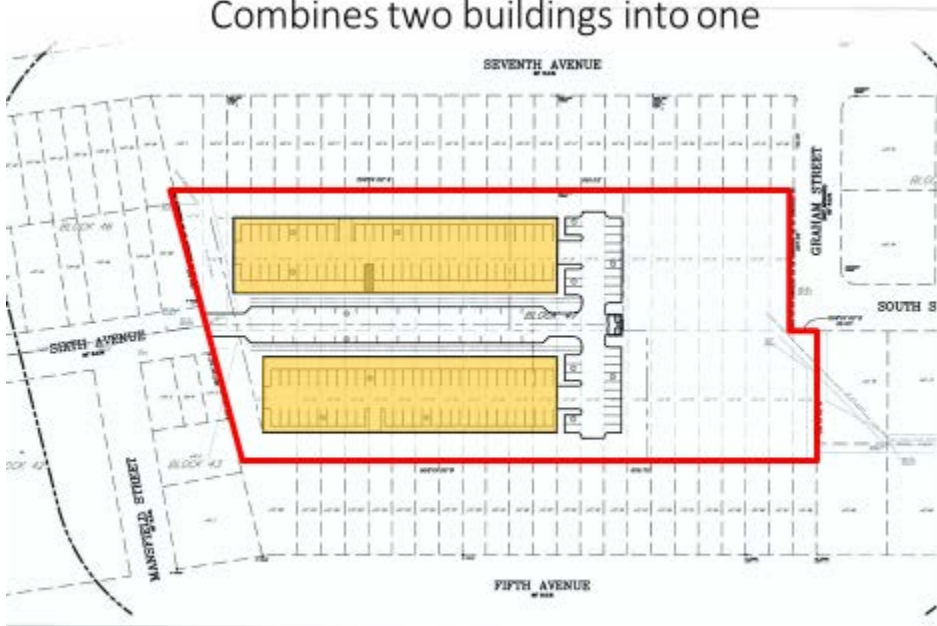
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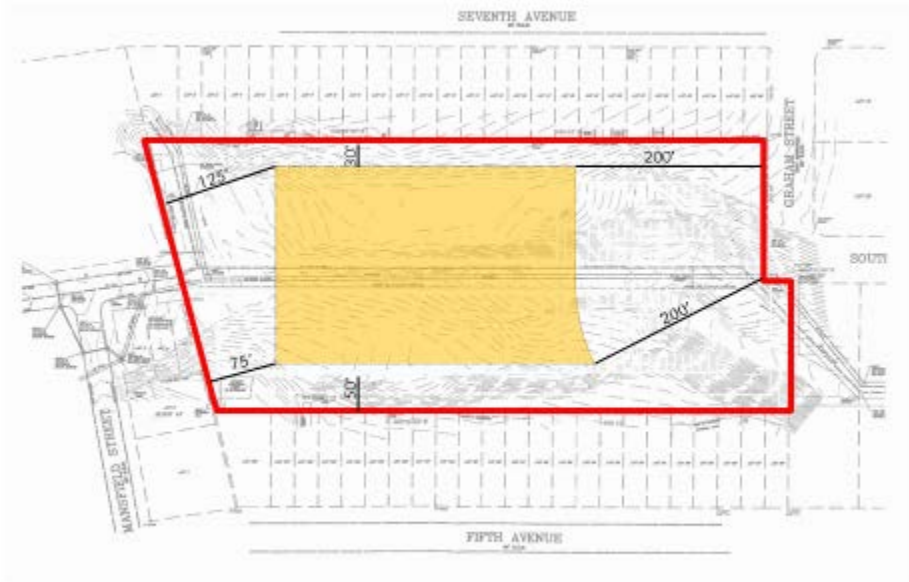
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Combines two buildings into one



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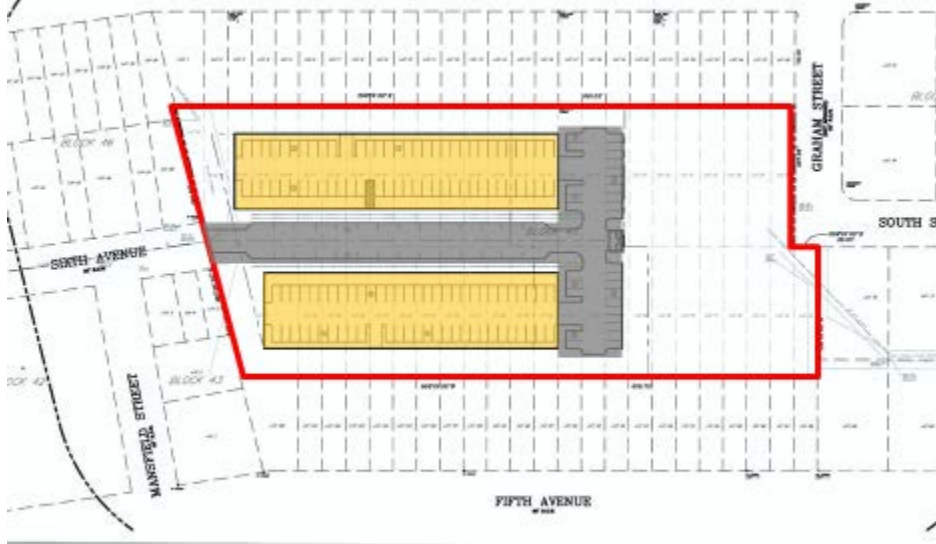
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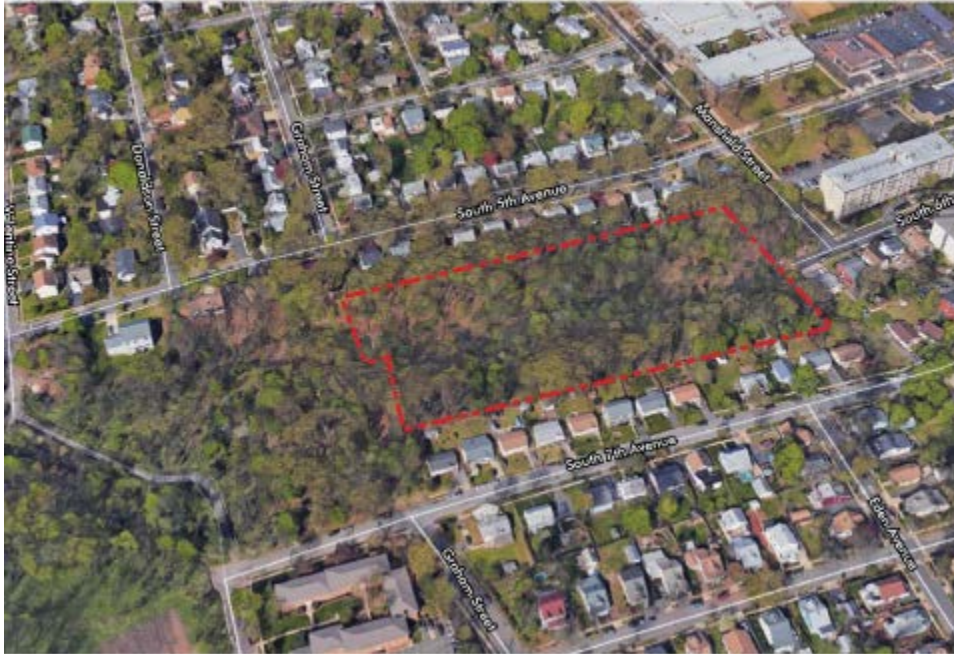
Limits vehicular movement on site (light, noise & emissions)
Eliminates parking lots - parking is hidden under building



Mechanical HVAC hidden on roof & not on-grade



Gives Borough greater control over massing & design



Precedents – Garden Suburbs & Pre-War Apartment House







Precedents – Radburn



Precedents – Radburn



Gives Borough greater control over massing & design

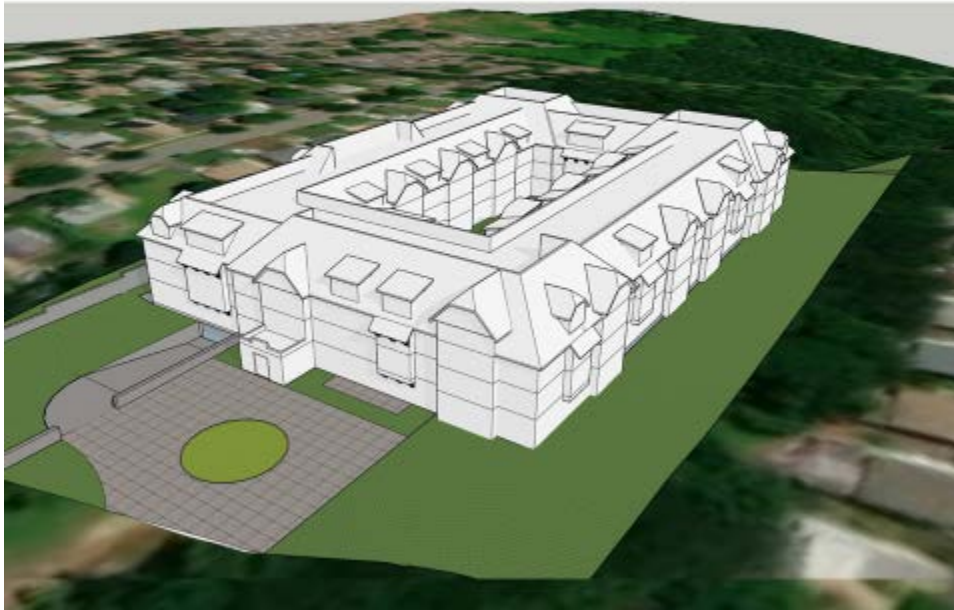








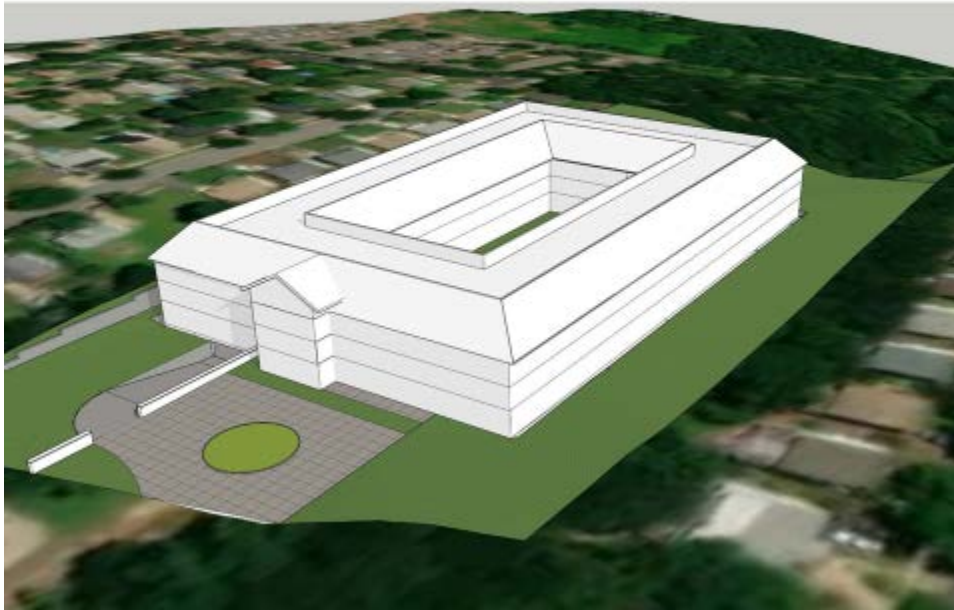
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