

**HIGHLAND PARK PLANNING BOARD
HIGHLAND PARK BOROUGH HALL
221 South Fifth Ave.
Highland Park, NJ**

**July 11, 2019
7:30 PM**

Call to Order

The July 11, 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, Paul Lanaris, Padraic Millet, Stephen Nolan, Jeffrey Perlman, Coretta King Pinelli, Susan Welkovits left the meeting at 9:34 PM
Absent	Allan Williams
Agency Professionals	Bruce Koch, Engineer, Chris Cosenza, Planner and Roger Thomas, Esq.

Mr. Thomas indicated that there was a piece of correspondence that was received from a Ms. Emily Tenenbaum, PhD and advised Jennifer to contact Ms. Tenenbaum to advise her that the law that correspondence is not to be considered by the Board. There is a case that makes it very clear that if you consider things that are not apart of the record and a piece of correspondence without the author being present for cross examination is considered hearsay and as a result it subject the Boards discussion/ process to reversal. He said that the Board members would not consider the correspondence.

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	Major Subdivision
Block 75, Lot 15.02/15.03	

Bob Smith, Esq., Piscataway, NJ representing Solop Partnership LLC sworn and affirmed Said that his applicant is seeking preliminary and final major subdivision approval and bulk variances. With regard to the application, waivers are being requested and the subdivision itself is taking two existing lots and subdividing them into three lots, this is to allow for the construction of two new single-family homes on two newly created lots and the existing home remains on lot C, which will also contain a conservation easement. With regard to the bulk variances are all de minimis – side yard setback ten feet is required, nine is provided on Lot C and this is an existing condition. There is a side yard setback on two, which is twenty feet, and they have proposed the existing 19.3 feet again a pre-existing condition. There is a third side yard which ten feet is required and there exists nine feet. He said that this was a permitted use. He called upon his witnesses.

James Polos, 48 Skyview Terrace, property owner and owner of Solop Partnership LLC, sworn and affirmed said he has lived in Highland Park for many years and at his current location for more then 20 years and try's very hard to maintain their property and by default take of the

property that surrounds us and along the River and will continue to care for that to ensure it stays in that natural state. At this, there is no plan to develop the lots, maybe some time in the future.

Mr. Kluger asked for clarification on caretaker of the property, did you recently become the owner of that property. Mr. Polos indicated that they acquired the property about 2 years ago being the neighbor to the property they saw at times debris, things that would float up from the River, suffered through two major hurricane and it was their goal to go in and make sure things were cleaned up, they have taken out bags of trash, helped animals that have been hurt and just because they are next door to the property they felt obligated to our part to keep the property clean, and now will be able to do that in a different capacity.

Mr. Nolan said that the property is roughly a u-shape with the current residence where Mr. Polos resides being on the east side and then the proposed subdivision being on the left side and there is the "U" and asked if that was the proposed location of the preservation. Mr. Polos said that was correct and they feel it should be left in its natural state, it is home to all types of animals and would like it to be maintained in that respect and protected in everyway that they can.

Mr. Nolan asked if the protection of that area was apart of the proposal, is there some sort of easement that would protect in perpetuity. Mr. Polos answered yes.

Ms. Hammond asked if there were anyone from the public who had questions for Mr. Polos.

Derek Hartwick, 109 Donaldson Street said he has lived in Highland Park for nearly 24 years. The proposal is seeking permission to build on this property and he doesn't see how the empty space relates, it seems as if we are trying to keep this nice open space and he is trying to understand the connection between the property and seeking to build a house and how that is related. Mr. Polos said that the objective is to keep a majority of the property in an open state and preserved fashion. We will be seeking to build two homes on the upper portion and the most sensitive areas of the property and a significant portion of it will be preserved and maintained.

Mr. Nolan asked for clarification, there is no application at present to build a home it is just to subdivide the property at this time. Mr. Smith said that this application was simply to put the lot lines on the property.

Michael Rosenberg, 32 Skyview Terrace asked about Lot C, and the proposal is to subdivide into three lots, Lot C is the proposed large lot, and asked what the logic for incorporating lot C into your property where your house is. Mr. Polos said that the logic is so that it could be maintained and protect it and preserve it and that could not be done until we owned it.

Mr. Kluger asked Mr. Rosenberg if he was still a member of the Environmental Commission. Mr. Rosenberg said that he was the chairperson of the Environmental Commission and tonight he is speaking on behalf of himself, the Environmental Commission still has not had a chance to review many of these materials presented tonight. Mr. Kluger said that there was a report from the Environmental Commission. Mr. Rosenberg said there was but has not been reviewed by the entire Environmental Commission. Mr. Kluger said that one of the recommendations in the "preliminary" report from Environmental Commission was not to merge the lots together, Lot C, and Mr. Polos has provided his reasons for why he is merging the two and what the Environmental Commissions reason for not wanting the two lots merged. Mr. Rosenberg said that he is still not sure why they want them to be merged; they already own the property so they can go clean it up anytime they want.

Jeffrey Aaron, 240 South Adelaide Avenue, said that when the houses were built there was a provision made at that time for a conservation easement or something of that nature but his impression is that was never defined, clarified, completed in any way but should be in the minutes from those meetings. He said that if something of this nature is going to be done now, we should try to finalize the process. He asked if there was a prior conservation easement established for the property including definition. Mr. Smith said that the title company did not identify any easements on the property when Mr. Polos bought the property 2 years ago.

Mr. Koch said that there are utility easements on the property for the Middlesex County Utility Authority to say that there are no easements and just wanted it to be clear that the conversation was specifically about a conservation easement.

Derek Hartwick, 109 Donaldson Street, said that the preliminary subdivision plan details suggests that you are seeking a waiver upon utility design reports, environmental impact statements, and traffic impact analysis. Ms. Hammond asked that he hold off on that question for the Engineer. Mr. Hartwick agreed.

Gail Aaron, 240 South Adelaide Avenue said that she respected Mr. Polo's concern to take care of the property but none of us are here in perpetuity and said if there were no conservation easement on the property which certainly there should be, it is a natural wild area, with animals and close to the River and you would care for it to the best of your ability but what about in perpetuity if there is no conservation easement. She said that she was under the impression that there was a conservation easement already and her concern is about the future beyond everyone here. Ms. Hammond said that the applicant's Engineer would speak to that and at that time there would be another opportunity to ask Mr. Polos and the Engineer questions.

Mr. Smith, Esq., said that on behalf of the applicant the point of this process to get that conservation easement in place so that the land will be protected in perpetuity, that is actually a big part of the application and there is a conservation easement shown on the plans.

Christopher Szalay, Menlo Engineering Associates, 261 Cleveland Avenue, Highland Park NJ sworn and affirmed. He received his Engineering degree in 2008 and has been a licensed Engineer in the State of New Jersey since 2013, and has testified before multiple boards. He said they are seeking waivers are a required to provide specific architectural plans for the two homes, an environmental impact statement, a letter of interpretation, and a steep slope analysis. We are seeking a waiver for architectural plans because there are no designs currently for the proposed single family homes, the boxes shown on the site plan are simply for planning purposes they are not for construction. The applicant has no issues with submitting actual architectural design plans when construction is intended, subject to the Borough's review to ensure that it was in conformity with the local ordinances, and zoning including the steep slope analysis. The waiver for the Environmental Impact statement as stated by Mr. Polos the overall property is rather large, its approximately 5.4 acres and we are proposing is to disturb approximately 20,000 square of this overall green space to construct two single family homes with a minimal addition of impervious coverage. The overall impact to the environmentally sensitive area is overall maintained and conserved with the proposed application. The first exhibit A1 is an aerial rendering depicting the existing conditions of the site with the subject property highlighted and shows the surrounding areas. The second exhibit A2 is a zoomed in color rendering of the submitted subdivision over top of an aerial depicting the existing conditions of the surrounding site. The two lots that we are talking about lot 15.02 is an irregular lot and lot 15.06, which is

where the existing single family home is, that fronts on Skyview Terrace. He said the site is approximately 5.4 acres and 20,000 square foot (less than ½ an acre) disturbance for the subdivision versus the amount of green space being maintained the majority of the overall property is being maintained there is a very small percentage that is actually proposed to be disturbed in the future. The entire property along the Raritan River is to be maintained the back of the existing single-family home is to be maintained, the two back portions of the proposed subdivided lots are to be maintained, and the only area is along Skyview Terrace where there are two small single homes with two driveways. The 4.9 acres is the green space or environmentally sensitive area will not be disturbed at all and that is the reason for the request for a waiver for the Environmental Impact Study (EIS). He said the reason for the request for waiver for the Letter of Interpretation (LOI) was that this development abutting the Raritan River, this river is specifically a regulated body of water with a buffer and a flood hazard area. Typically when working along side a regulated body of water the flood hazard area is often the most restrictive environmentally regulated buffer and on top of that, buffer line is a 50' Borough buffer that is required. We are not affecting the flood hazard area, flood hazard buffer and being where the proposed single-family homes are, they will be elevated approximately 15' above where the flood elevation is and it is very unlikely that there would be wetlands on this property. As a Licensed Professional Engineer, he sees no LOI anywhere near the two proposed lots. With regard to the steep slopes, when looking at the topography or grade along Skyview Terrace the grade is rather gradual when near Skyview Terrace where the proposed development is, it is not until you get down to the Raritan River where the slopes become steeper and regulated by the Borough Ordinance. By examining, the subdivided lots where single-family homes would be he does not see that there would be an impact to any sort of steep slopes on site. When there is application for building permits for any of these lots, plot plans are required and the Borough will be reviewing the site plans and determining what the impact would be on the existing topography on the site. There is no proposed house at this point, no dimensions, and no way to really evaluate the steep slopes but it is known at which point there is an actual house being proposed and at that point the Borough will do something to look at and decide whether there are any issues with the steep slopes. He said that homes could be built on these properties without violating the steep slope ordinance of the Borough. The reason in attaching the open space lot to Mr. Polos home if you create it as a separate you violate the Municipal Landuse Law with respect to land locking this piece of property and create a variance for the lot, and if you attached it to the two new lots instead you would have property owners other than the Polos family owning it. Mr. Polos has indicated that he wants to be protective of the open space and the only way to guarantee that is to own the property.

Mr. Thomas said that the term completeness is a legally defined term, the Board makes a determination with the information that it reviews and what is available to the members of the public is sufficient in order to evaluate the application meaning a public hearing can continue. That does not give any status to the applicant other than the fact that the public hearing will continue, it does not approve the application, it is only a preliminary step, does not stop the ongoing application, it does not stop any public input or questions that the public may have during the course of this hearing. This is a very preliminary procedural step that is required by the Municipal Landuse Law in order to proceed with the application hearing process.

Mr. Nolan asked if the conservation easement that is being discussed would be for the entire new lot C because the plan shows conservation easement 4.69 acres, which is the entire Lot C. Mr. Smith said that you would not put a conservation easement on the Polos home, it is outlined on the plan and they plan to donate this conservation easement to the town. Mr. Polos indicated they were seeking a subdivision of the two lot and they will not be apart of the easement, his home and current lot will also not be apart of the easement and rest is apart of the conservation

easement, preserved and never developed, all the property that already exists behind the property owners including the property behind his lot will be apart of the conservation easement.

Mr. Perlman said the two other lots, the other lot subject to this application you are going be to two lots with proposed homes, your merging your existing lot with remainder of the other lots, two lots into three lots. Mr. Polos said that was correct. Mr. Smith said that way you get a conservation easement is through an easement document that would indicate the terms and conditions of the conservation issue for that portion of the property only. Rear of the property lines and south of that would be the conservation easement.

Ms. Hammond said that there is no Skyview access to that property but the upper portion adjoins Donaldson Park, if someone were in the park they could wonder into this area. Mr. Polos said they spoke about creating some kind of path to allow some type of access, they presented to the committee that they were interested in creating some access, they don't want people just wondering about that was not the intent but it was the Borough's interest and has been for many years to have some continuous access from Donaldson Park to the other property that is owned by the Borough or the County, (Old Reds Mariana) and their intent is to work out a path easement to allow people to have access. He said that one of the beauties of this property is the fact that it is natural. To create an interconnection between Donaldson Park and the open space of the old Reds Mariana but also contemplating trying to preserve as much natural peaceful beauty that exists there now.

Ms. Hammond said that a conservation easement locks this area as open space that cannot be developed. Mr. Smith said that was correct.

Mr. Thomas addressed Mr. Polos when you contemplate as he understands it, is the pedestrian access to this is through Donaldson Park and therefore what your Attorney has indicated is that that the access he is talking about through Skyview Terrace is not intended to be public and the public access will in fact be through Donaldson Park. Mr. Polos said that was correct.

Mr. Millet asked why are these items such as the Environmental Impact Statement are being asked for, is it because the entire property includes wetlands, and steep slopes. Mr. Polos said the waivers were requested as a result of this is a property and its entirety, the entire 5.4 acres was purchased and we are going to preserve nearly 5 acres of it and but virtue of it being in the Ordinance we are requesting waivers even though there is no intention to disturb any of that land. Mr. Millet said the waivers are being requested so that a variance does not need to be produced because according to the proposed plan you will not be impacting, and if fact conserving those areas in question.

Ms. Hammond said there has been testimony on why those two lots would outside of things that would trigger steep slopes or environmental impact study and asked the Board Engineer in his professional opinion does he agree. Mr. Koch said that he would defer to his report, and the Planner handles three of the matters. He said that he addressed the testimony concerning the NJDEP Letter of Interpretation and the professional testimony on record is that everything being developed is outside those buffers and he has no choice to but to accept that and has no doubts that he is giving you an honest answer.

Mr. Cosenza said the architectural plans as found during testimony that the two footprints on the plans are conceptual in nature and they have no intention of building at this time. HE said that on a previous application, 6 Elbert Court we had asked the applicant if he would agree to a

condition to submit a minor site plan before the Board with notice, and he understands that the applicant does not want to do that and suggested providing plans for compliance to the building department for review if the residential design standards for the Master Plan are not in place that the Planners office is given the opportunity to for a courtesy review the plans for layout and aesthetics and design review. Regarding the Environmental Impact Statement, the purpose of that requirement by Ordinance is to provide essential information to the Board for an environmental consequences or proposed activity can be evaluated and controlled and in this case there is no activity on a majority of the project and this is the context of an application involving one or more acres of land. The trigger for the EIS requirement is because it happens to be over one acre in size and in this case the activity is far less than one acre it is involving two lots that would be developed on about a half acre and given the utility easements and the flood hazard line the footprints of the house are quite small in comparison to the other homes on Skyview so the actual impact maybe less than a quarter of an acre. He said that he generally agree in his professional opinion that this project limits are beyond the limits of any potential environmental sensitive areas as indicated by the applicant's Engineer's letter Scott Turner. He said that it was already discussed that there will be a conservation easement as a condition of approval that will be filed which will be the entire lot minus the actual building lot that exists as Lot 15.02. He said that on the plans it states that the conservation easement is 4.69 acres, proposed lot C is 4.86 acres, and he doesn't like that Mr. Polos' lot is the difference of .17 acres so he is concerned with the numbers on the plans and asked that he revised as a condition of approval. In regards to the steep slopes analysis the applicant does not wish to provide a steep slopes analysis and the variances would not be affecting them at this time because they are not building anything so it is not impacting anything, assuming they are not grading anything in the meantime and asked that to be clarified. He said that he heard during testimony was that when building permits are filed for each individual lot they will do steep slopes analysis and have agreed to that just through a separate application.

Ms. Hammond asked what that process looked like because a lot of that would be taken care of through the site plan process, if this is including that site plan review and some of these issues are going to be taken care of when they apply for building permits what does that process look like. Mr. Cosenza said that he is asking for the opportunity to do a design review as a courtesy for the architectural plans and layout, footprint and plot plan for each of the individual lots, regarding the steep slopes, they are submitting plans and will produce a steep slopes analysis and if they need a variance for that, that will trigger a variance to the Zoning Board.

Mr. Hammond asked about items such as trees and sidewalks, which are typical things the Board deals with in a site plan review, and how are those assurances worked through. Mr. Koch said that in his report, he speaks about the sidewalks and that is matter the Board will hear when we go through the report, the applicant will provide testimony and decide whether to ask for a design waiver or how they would like to proceed and the Board will have the opportunity to make to that decision. He said either they install sidewalks or get a waiver from the Board and that could be done tonight.

Mr. Perlman said if the application is approved and at a later date, a permit is filed with the Building Department for the two homes, normally the Building Department would review them and it would not come back to the Planning Board and it would not trigger the Planner review and the Planner is asking for a courtesy review. Mr. Cosenza said that was correct that is what he is asking for.

Mr. Smith said that they had no problem with the courtesy review.

Mr. Kluger said that on the application for 6 Elbert Court we did require a site plan and the applicant agreed. He said he is not saying that is the Board precedent but is there a reason why from a professional prospective why it was required then and not now. Mr. Cosenza said that he was concerned with that as well but in his professional opinion each application stands on its own and as long as the Planner gets the opportunity to review the site plans and they are willing to do some improvements to the footprints as to comply with future or in place residential design that would achieve the same purpose. It is possible they will need variances for steep slopes, this application it is not clear but they are going to do that analysis and if they trigger that variance, they are back at a Board. He said for consistency it may be worth as a part of the landuse plan to deal with that issue because he sees this may be a common issue with subdivisions moving forward.

Mr. Thomas asked Mr. Smith what the intent and purpose and who will be the beneficiary of the conservation easement you are referring to. Mr. Smith said that it worth further discussion, truth of the matter if you do not have to dedicate it to an entity you can just put the conservation easement on the land and the entity is then the LLC. Mr. Thomas said there is some information in the application that suggested that it was going to a governmental entity and that is why it needs to be clarified; and that is not the intent and purpose of what your client is saying and that it will remain in the applicants name SOLOP Partnership LLC. He said that it could be worded so that the easement can only be changed based on further Board approval.

Mr. Smith indicated that the easement would be written is that the easement is to run with the land in perpetuity unless or until either the Borough agreed it to change it in some way or the Planning Board however you want to word it so there is protection for everyone. Mr. Thomas said that would be something he would review in regard to the language.

Ms. Welkovits said on the plan the trail reads 5' wide and asked if that was a strict 5'. Mr. Smith that is the proposal in the plan and as they envision it, it is going to be a walking trail, we do not want asphalt or paving a natural trail. Ms. Welkovits indicated that there would be bicycles on it as well and indicated that this was apart of the East coast greenway and most of the east coast greenway is the towpath. She said that the Borough is envisioning some type of natural materials to compliment the surroundings and she is only interested in knowing if 5' is wide enough for NJDEP. Mr. Smith said that the Borough Engineer needs to engage with the NJDEP.

Mr. Smith said that they would need to get into the details of the conservation easement construction as well as the trail between the Board Attorney and ourselves because you want it to be safe and you do not want to create security problems and when you talk about bikes if it is not asphalt or board on board you might be creating safety issues for bicycles. He said that the envision was a passive walking trail so that the people down at Donaldson Park can have access to the other green space, once you put a mode of transportation other then walking you starting to talk about structures.

It was MOVED by KLUGER and seconded by NOLAN to grant the following four (4) waivers: the architectural plans, Environmental Impact Study (EIS), Steep Slopes and the Letter of Interpretation (LOI) and deem the application complete, be approved.

ROLL CALL: Ayes – Brescher, Hand, Kluger, Lanaris, Millet, Nolan, Perlman, Pinelli,
Welkovits, Hammond
Nays – None

There being ten ayes and no nays, the motioned passed.

Mr. Szalay said the applicant is proposing a subdivision, subdividing two existing lots into three new lots in order to construct two single-family dwellings on the two new lots along Skyview Terrace. The applicant is seeks to subdivide 19,686 square feet from Lot 15.02 to create two new conforming lots at the end beyond the dead-end of Skyview Terrace. Lot 1A which is further west and closer to the Raritan River will contain 11,590 square feet and Lot B which is adjacent to Lot A on the east will contain 8,497 square feet, both conforming lots. The remaining area of Lot 15.02 would be consolidated with Lot 15.06, which is where the existing single-family dwelling exists today to create proposed Lot C, which contains a total of 211,628 square feet. The applicant is proposing to extend Skyview Terrace approximately 175 feet to provide access to these two new single-family lots. Lot A and Lot B are constrained by existing utilities along the back southern ends of the lot as well as by the flood plain and the 50' buffer off the flood plain, this limits the developable area of these two lots and that is why the proposed single family homes are slightly undersized in comparison to the surrounding lots. The existing easements throughout the properties will remain expect for the drainage easement that allows the existing drainage within Skyview Terrace to discharge along the Raritan River. The existing easement is segued so it does not run parallel with the existing pipe so we are proposing to realign that existing easement, extinguish the existing easement, and propose a new 20' wide easement along the common lot line between proposed lots A and B in order to contain that existing drainage structure. The 175' roadway extension is proposed to be an asphalt roadway, 16' wide from edge of pavement to edge of pavement, along with each single family home there will be a 20' wide driveway apron to access the two new proposed single-family homes. The existing 4' wide sidewalk along the south side of Skyview Terrace would be extended up to the limit of the western most proposed driveway. They are also proposing a 5' wide access easement to the Borough of Highland to benefit the public and provide a pathway through proposed Lot C that accesses Donaldson Park and the Raritan River. The applicant is proposing three new street trees in accordance with the Ordinance that are to be planted 12-14 feet in height, there is no new lighting proposed the existing lighting within the neighborhood will be significant and any new lighting on the proposed homes will be submitted at the time of the architectural design. Since the total disturbance of this project is, less than one acre and we are proposing less then a ¼-quarter acre of non-impervious this application does not trigger stormwater management regulations so therefore with the proposed grading of the site they are proposing to sheet flow any storm water run off overland which will maintain the existing drainage pattern that exists there today. For the two proposed single-family homes there is going to be new water, sewer, and gas, electric services to each of these properties, the existing utilities within Skyview Terrace are capable of servicing the two new lots. The only extension that is being proposed is approximately 150 linear foot water extension, which will dead end to a proposed hydrant at the end of Skyview Terrace.

Mr. Szalay said the side yard setbacks for the left and right side of existing Lot 15.06 where the existing single family dwelling sits it is 10' is required on both sides, on the left side 9.4' exists and the right side 9.9' exists both are pre-existing non conformities which are not being intensified or taken away. A 20' setback for both sides is required and when you add them both it comes out to 19.3' so that pre-existing, non-conformity exists as well. Since these are pre-existing, non-conforming conditions and have not presented an issue, he sees no harm in maintaining that.

Mr. Szalay said that there is a planner variance for the 16' wide for the Skyview Terrace extension, in trying to minimize the impervious coverage that is being proposed. This is an environmental area that everyone would like to maintain the green space as much as possible, a 16' wide car way is capable of handling the traffic to these two single-family homes, there will

be no other vehicular traffic down this roadway and by not extending it any further we are limiting the amount of impervious coverage proposed for this area. At the end of the 16' wide dead end, we are providing a turn around space.

Mr. Smith said that he is in receipt of a memo from Bruce Koch to the Highland Park Planning Board dated July 3, 2019. Waivers which has been addressed, RSIS exceptions, and the only one they are aware of is the 16' wide vs. 20' reasons for the 16' have been stated, asked for the Board's guidance whatever you want you are going to get. Mr. Koch said his only reason for speaking on this is safety, if there is a fire there fire truck gets there first, then an ambulance or vice versa they will have a hard time getting out. He recommended 18' at a minimum.

Mr. Smith said with regards to relocate existing stormwater easement that benefits the Borough of Highland Park if the application is approved the extinguishing of the existing easement and creation of the new easement should be presented to the Mayor and Council for consent. Applicant agreed.

Mr. Smith said that the Board Engineer recommended fire hydrant be installed at the end of the proposed water main extension, a valve should be installed at the end of the existing water main and the applicant agreed.

Mr. Smith said that the Board Engineer recommended connection for electric, cable, telephone services should be provided underground, an underground utility easement may need to be provided for same, if so metes and bounds description should be provided, applicant should review the need for a streetlight along the railway extension. He indicated with regard to the first half of that on underground services I believe that could be done without the easement but if it were needed; they would be happy to request it. Mr. Koch said that they did not do a review of the major subdivision map because things might change during the course and that is just the technicalities, they will revise it based on what the Board asked for and they will give that a closer look. If there are easements needed that will be incorporated, and all the various things the Board and a review will be done and make comments.

Ms. Hammond asked if the review for the need of the streetlight at that time as well. Mr. Koch said they would have to review that, he was not aware of where the existing lights are located and testimony was that they were not providing additional street lights. He said that it is a standard spacing review, and it meets the requirement good if not they will need one. Applicant agreed.

Mr. Smith said that the applicant agreed to comply with all of the items in the Engineer's memo but like to further discuss item 6 installation of curbs and sidewalks.

Mr. Smith said that the Board Engineer has suggested the installation of curbs and sidewalks along the entire property frontage or request the appropriate waiver from the Board. He said that they are seeking a partial waiver. Mr. Szalay said they are providing sidewalks along the frontage of the property and ends at the proposed driveway furthest to the west and are not providing curb along the proposed extension with the limited width having an edge of pavement is more beneficial to vehicular traffic if they need to maneuver and provides a little extra space. He said also allows for runoff for stormwater because without having curb it allows the stormwater runoff to run off over land rather than needing to be collected by inlets and conveyed within the drainage system. Runoff going off over the pavement it can then sheet flow down the slope. He said instead of having curb and sidewalk along the entire frontage we stopped the

sidewalk just before the end of the frontage and we did not provide curb. Mr. Koch suggested a suppressed curb or rolltop curb, which would allow cars to wheel of it but still gave a little separation from the road to the sidewalk. Mr. Szalay said it is maintaining what the existing sidewalk pattern is down the rest of the street. Mr. Koch said that there is curb along the frontage up to the blank driveway, which is fine, the rest of it should be waived because technically the Ordinance would require a curb and sidewalk along the entire property frontage and it does not make sense to go past the homes to a dead-end. Mr. Koch said two actions would be one granting the waiver to not require the curbing further down and then your decision whether to waive the curb.

Mr. Nolan said that he understands the sidewalk ending where the last house is, and asked if there would be continue to be access at the end of the street to the River front area. Mr. Szalay said there will be a guide rail at the end of that street as a dead end but pedestrians can still walk down to the end of that street and access that trail.

Mr. Cosenza said generally, as apart of the design standards seem to have the driveway narrowed and with this application he is not concerned with that, but more interested in having that sidewalk extend off the driveway, apron should be concrete as well and then the sidewalk extend to the service walk to the front door.

Mr. Koch said that was some discussion about the access easement, this is something that should be addressed in a developer's agreement with the governing body. Mr. Thomas said that he agreed that governing body should have input in light of what he has been hearing, information that has not been made available to the Planning Board, that being said on behalf of the Planning Board he should be reviewing the easement to ensure that in fact the things that were talked about are included. The other issues that are still up in the air as to the width of the pathway certainly is subject further discuss between the governing body and the applicant.

Mr. Smith said in the Planner's review item 6.2 there seem to be discrepancies in the engineering plans – the zoning table provides lot area for Lots A&B, which do not match the lot area depicted on the plans. Applicant agreed to make those consistent.

Mr. Smith said item 6.3 future submissions suggested that the Planner do a courtesy review of the driveway, sidewalk/walkway location; parking location and RSIS compliance; grading, landscaping plans, foundation planting, front yard shade and flowering trees; street trees; tree removal; tree replacement. Applicant agreed to this as a condition. The applicant agreed to Item 6.4 in the Planners memo, proposed landscaping providing an additional street tree and final location and species selection subject to the review and approval of the Planner with input from Shade Tree.

Mr. Smith said in reference to the roadway design as previously discussed, testimony from Mr. Koch with a recommendation of 18' and the applicant agrees. Mr. Smith said his applicant agrees to do 20'.

Mr. Smith that is was recommend by the Planner that there be a discussion regarding the apparent trail that functions as an extension of Skyview Terrace and if installing a timber guiderail at the terminus of the would impact the access. The discussion was had and it was to put up the guide rail, and have any access way for people to continue down and they agree to that.

Ms. Hand said in reference to the conservation easement, just wanted to be clear on what public expectations on what will happen to this property by the owner, are they going to leave it as is and let nature takes its course barring this path to the property that is great, but she did not want people going into town hall saying those people put in that easement and they don't clean it up, and don't maintain it and if they don't have an affirmative obligation she would like to know.

Mr. Thomas asked Mr. Smith if he could talk about that as part of the language. Mr. Smith agreed.

Mr. Perlman asked about the access easement, the location is influenced by the distance to the back of the owner's property line where they are actually living, is it known if this can be constructed at a flat surface, has it been referenced against the grade and slopes. Mr. Smith said that it is his understanding that this is a natural trail. Ms. Welkovits said that the whole point of this is to provide a connection for the east coast greenway, which is a multimodal trail, not solely for hiking. She said that a bike trail needs to be more than five feet wide; it needs to be ten feet. She said that there are resources available to help us decide on what would be an appropriate surface and location is the number one requirement for greenway.

Mr. Perlman if there is a steep slope and the trail would need to be moved and what if we approve this application is there an opportunity to slope the location such that it is not around a steep slope. Mr. Smith said that suppose we have to move it because of some natural obstruction, you could say that the access path will be generally as presented but we find after consultation with the Borough Engineer. The applicant agreed.

Mr. Smith said that there was a little problem with the bikeway idea; it is counter intuitive to the purpose of the conservation easement; if we start having this as bikeway city it is not going to do very well. In discussions, we have tried to have with the Borough about this access the discussion was always about a natural pathway, not in favor of structures, or concrete or anything other than a clear path that people can walk from Donaldson Park to the Raritan River.

Ms. Hammond open the floor to the public.

Michael Rosenberg, 32 Skyview Terrace, sworn and affirmed asked if this project was consistent with the Borough's Master Plan. Mr. Cosenza said that it is consistent the preservation of open space and natural resources. Mr. Rosenberg said that he brought the Planning Board minutes of September 9, 1993 which is when the original project when the original five houses were built was approved and asked if that could be entered into as evidence so that members of the Planning Board can review it. Mr. Thomas said that it is apart of the Planning Board records but if he would like to offer it to the Planning Board clerk so she can having it and mark it P1 for Public.

Mr. Rosenberg said proposed subdivided Lot A which is the one closest to the river there are some flooding issues there, over the years during really bad storms, also the fire hydrant mentioned so right now at the end of Skyview Terrace his house is the last one and the fire hydrant is in front of his home, the Borough frequently when they flush the lines they flush that hydrant because it is the end of the line, and if these houses are built is there going to be an additional fire hydrant placed at the end of the line. Mr. Koch said that there would another hydrant in addition to the current one.

Terry Rosenberg, 32 Skyview Terrace, said that they are the house that is closest to these new proposed lots are to be, and she would like to know which side yard has the point less than 10'. Ms. Hammond said that the new lots are all conforming. She said that it was also spoke about drainage easements, there is a drain right next to the fire hydrant and asked if that was going to stay there or is that being moved as part of the drainage easement. Mr. Koch said that he does not believe that is being moved at all, the drainage easement will be between the two new proposed homes. She said that the width of the street was also spoke about, and she has some serious concerns because there is a major slope there that you may not know about and she knows about, she is talking about snow removal equipment, other safety issues such as fire and other cars and parking issues. If this is not the same width as the current street and it needs to be the width of 32' as it is currently. She understands the idea of impervious coverage and trying to maintain more of an environmental presence but she lives at the end of that street and she sees every time there is a storm, every time there is snow what problems the snow removal equipment people have they bring the regular garbage trucks that plow the street, they get stuck there every winter either because of the hill, either because of the width, either because of the slope and those things need to be seriously taken into consideration but she does understand the impact in trying to maintain some of the flora there, your making a mistake to make this not as wide as the current street. People come down that street all the time, they try to go into the old reds marina and if you restrict the width and the parking your going to have more people once you put a street there and if it is a partial street its going to become very uneven, and she feels it is going to be safety issue and a parking issue.

Derek P Hartwick, 109 Donaldson Street, sworn and affirmed said that the Engineer spoke about the flood plan and having looked at some of the flood plane maps it seems to be right on the very edge of the new divided property and asked if there were no concern that given a major storm that the property and the houses are going to get flooded. He walked down that street and down to the river and I routinely sees right at the edge after storms that it is very flooded and wet and especially if the street is going 175' further down his guess it is going to go right into the water when the river comes up. It is actually going to act as a way for fertilizers to make its way right into the river and as a person who lives in the area and concerned about the river, he has strong concerns that there is no environmental impact being done with regards to what the two houses will have an impact on the river and how that might cause more pollution to go into the river. He asked that the Borough insist on an environmental impact be done prior to approval be given to build houses on this property. With regards to the path that would go through there, I see some hesitancy on the part of the applicant to allow this greenway which the question was earlier was where is this greenway going to go and the proposal is for it to go through New Brunswick because it goes onto 27 right now and heads up to Edison but the hope is that its going to go along the river and be more of way for people not go on the river but it will be a greenway and as a resident and someone who pays taxes he encouraged the Board to insist that whatever path goes through that conservation area that it be created and maintained in such a way to allow people to walk as well as bike, it is not that much bigger. The argument that they want to maintain the flora it can be make a little bigger like the tow path and put some stone down and that will not eat away at the flora it is creating a nicer way for people to actual make their way along the river and 10' wide would make the most sense.

Jeffery Aaron, 240 South Adelaide Avenue, sworn and affirmed, said he had a couple of concerns. When he came this evening he was concerned with the request for a waiver for environmental and he know understands the reason for it for the conservation easement. He said that he sees no reason why anybody would want to waive an objective analysis in placing homes in this kind of area, he really likes that should be appropriate and should not be waived. He recalled in previous situations there was a specific requirement for a turn around at the end of

any thing that was a dead end. Is the turn around that is provided does that meet the requirements that are standard for the code because at a glance it looked awfully small. He knows that it is a problem for the garbage trucks; there are concerns that were expressed for the fire trucks etc. and he hopes that is being considered. The other consideration is that the traffic pattern off South Adelaide is normally to turn directly onto Skyview and the reverse without a consideration that there are only a couple of houses down there and when someone comes up from there it is a surprise to people and this is why he had requested a stop sign at the end of South Adelaide which is there but is often ignored and there is not one coming back. He understands that there is a request for a waiver of a traffic survey and does not understand why, this is something that is going to really change perception especially for people who have been going down for a long time. He would like to see objective analyses of these things rather than just tossing them out arbitrarily.

Kazumi Pestka, 2 Elbert Court, sworn and affirmed said she had a question about the letter received from Menlo Engineering dated June 25, 2019 it says Board may or may not be aware that the applicant intends on donating a portion of property for an access easement which will benefit the Borough of Highland Park, but what she has heard from this hearing she doesn't like the applicant is planning to donate, so she would like to have that clarified. Mr. Smith said that was true and the donation part is the donation of the access easement is going to the Borough, cannot go to the property. He said that they are not going to subdivide on a pathway.

Derek P Hartwick, 109 Donaldson Street, said if the Borough is given permission to create a path, is there any concern that should that happen the town will be liable and that at some point the town in whatever decision is made well you will just choice to not maintain that path and the residents will not get to use it. Who is responsible for that property, so if created and being presented as we are giving you this, give us that, so as town residents who pay taxes that would be a very nice thing but if it is not going to be maintained and the Borough is not willing to accept responsibility, liability or the person who owns the property what good is it. He thinks people need to make the decision that this is used, created as trail, commit to it and make it something that is functional not just a little path or a little trail that someone may or may not use. Ms. Hammond said that they could certainly recommend that we want there to be in that agreement some commitment to how it is going to be maintained. Mr. Thomas indicated that what he is hearing is that the trail or path is to be maintained by the Borough and will be stated in the easement. Mr. Nolan said that this is an access easement for the public and the easement is to the benefit of the Borough their responsible for maintaining and ensuring that it is safe. He said that they would want Council to say, yeah we want this and we will take care of it. He said that it is a great public access idea, it is consistent with the Plan but he just thinks on the receiving end Mayor and Council should say yeah we are good with this.

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

Mr. Millet asked who maintains sections of the greenway now. Mr. Thomas said he would believe that would be whomever owns Donaldson Park, which is the County and therefore it would be the County who maintains that. Mr. Millet said that there are two different things going on, the object of the path is while a beneficial use and a good amenity there is so many variables that we cannot enforce upon the property owner or the Borough or the Council that should be left off the other then the fact the applicant is willing to work with the entities but since there is no specific plan for a greenway path or specific scope of work it is kind of hard to nail down a planning board agreement on something that does not exist. The ability to approve or deny this application should be based on what exists and the only thing that exists are the subdivisions and the conservation easement. Mr. Thomas said it would have to be subject to the acceptance by

some governmental body, the County or the Borough. He indicated that Donaldson Park is a County park maybe they are the better entity to take on that responsibility, it just seems a little silly that the County will come in and clean up right up to the path and then a Borough employee has to come in and clean up the path. He said that he agreed with Mr. Millet and he agreed with Mr. Smith that there should be some flexibility as to the location where that path, if it comes into existence, should be. He said that there is going to be a lot of those things that are going to be up in the air until there is some more definite planning.

Mr. Smith indicated that they were willing to work with any governmental entity to work this out but should not be a pre-condition.

Mr. Cosenza said in reference to the access easement are we able to make a recommendation to the Borough Council some flexibilities but no as a requirement. Mr. Thomas said that those recommendations should not necessarily be in the resolution cause sound very much like that becomes a condition of his approval. He said that the flexibility can be in the resolution and that general intent and purpose that the planning board has expressed would be in a separate letter that he would be happy to prepare. Mr. Cosenza said that whether the path is 5' or 10' people are going to ride their bikes and that should be taken into consideration. Mr. Nolan agreed.

Mr. Cosenza indicated that the final design on the roadway extension be subject to the Planner and Engineer's review in consultation with Fire Department and Public Works for snow removal and if that is an issue he would recommend perhaps the extension be after the K turn and pushed back 10-15' so the snow plows can place there. He said 20' could work it would just need no on-street parking. Regarding the issues with flooding one recommend as a condition of approval that the applicant consider doing test pits.

Mr. Smith said that the flowing concern that was brought up by the neighbor has to with flooding from the River, when it comes to that the flood elevation is delineated by FEMA that the flood elevation is at 13 ½' above sea level. He said that finished floor is at 30' so when it comes to possible flooding of the house or even the roadway we are not getting anywhere near that elevation of 13 ½' where flooding is going to take place. He said the end of the roadway is at elevation 25' the lower of lower of the two basements is at 20', when the foundation and the house is designed he is sure there is going to be a Geotech involved that is going to do the necessary soil testing confirm so that construction can be made safely.

Mr. Perlman said in regards to the path, in terms of procedural, he is hearing that we not make a part of the condition of approval because maybe the County or the Town would not accept responsibility for making it an easement, and he feels that the trail is an important piece. Ms. Hammond said that the easement is a part of the approval.

Mr. Thomas said if there is going to be conservation easement it is not is not going to be simply removed, the access easement is only there is some governmental entity accepts, and that is also the part of the flexibility that has to be worked into.

Mr. Smith said they want to see this as a natural landscape but the practical problems with the access easement are coming before you is, you may not have a government entity that is willing to take responsibility for it, and whatever is going to build on it, they are paying for that to, they are considered with the bicycles and how that is going to work out. He said that they are happy to work with the Borough and the County to negotiate an access easement, and make our best efforts to do that but not to frustrate the approval.

Mr. Millet said that the 20' wide roadway, there is no obligation on the property owner to build it wider to meet standards, the reason for the possible waiver because if they make it smaller they have less coverage but other than the review of the various entities of Fire Safety, and Sanitation is there any requirement to make it larger than 20' for this type of set-up. Mr. Koch said if there were on street parking it would be 28', but there will be no on-street parking.

Ms. Hammond said if they are meeting the roadway width, is the curb just a preference. Mr. Koch said that they are asking for a waiver not to install. Mr. Nolan asked if not having the curb present Stormwater Management issues. Mr. Koch said it could cause erosion but he was not out there during the rain to look at it. Ms. Hand asked if the applicant had an objection in including the curb.

Mr. Smith said when they apply for the soil erosion permits in that sense it will be reviewed to ensure there is not an erosion issue as far as they are considered and if we obtain that permit then he does not see an issue with stormwater running off over land, it is a heavily vegetative area, the vegetation will generally will prevent erosion. He said that the currently at the end of that road does not have a curb at the dead end, so essentially they will be maintaining the existing conditions. Mr. Smith asked if it could be a condition subject to the Borough Engineer's review of the situation.

Mr. Thomas said that if there are no further comments, any approval should be subject to all of the comments in the Borough Engineer's report as well as the modification of number six in said report. The roadway extension shall be 20 feet in accordance with the RSIS standards and the design shall be subject to the review of the Department of Public Works, Fire Department, Police Department and EMS and the Borough Engineer for purposes of flood control and snow removal which may include the necessity for a hammerhead turnaround and transitional tapering. No on-street parking shall be permitted on the extension of Skyview Terrace; The issue of curb shall be reviewed by the Township Engineer with the Applicant; The Applicant shall be required to submit a conservation easement for the review and approval by the Board Attorney, the Borough Engineer and Planner. The conservation easement shall include the requirement that there be installation of a pathway that will connect the property to the east and the west. The nature, location and width of the path shall be determined in conjunction with negotiations between the Applicant and the governmental entity assuming responsibility for maintenance of the path. The Board recommends but does not condition this approval that the path include an accommodation for bike traffic. The Applicant shall provide copies of the documents within 90 days of the memorialization of this action. The Applicant agrees to provide a courtesy review by the Borough Planner of the plans submitted to the Building Department to include review of driveway and sidewalk/walkway location, parking location and RSIS analysis, grading and landscaping plans including proposed foundation plantings, front yard shade and flowering trees, street trees, tree removal and tree replacement; the installation of three (3) street trees as designated by the Shade Tree Advisory Commission; All discrepancies in the engineering plans shall be corrected in accordance with the recommendations of the Borough Engineer; The Applicant shall, as part of this approval, present the creation of a new stormwater easement to the Mayor and Council for their consent, at which time they will be authorized to extinguish the existing stormwater easement; A fire hydrant shall be installed at the end of the proposed water main extension and a valve should be installed at the end of the existing water main; All electric, cable and telephone services shall be underground. The need for a further streetlight shall be reviewed with the Borough Engineer; applicant shall contact the Borough Tax Assessor to obtain appropriate lot numbers; applicant shall submit deeds for the new lots to be reviewed by the Borough Engineer and the Board Attorney; as part of the road extension, the Applicant

should seek input from the Borough Fire Department and Police Department and EMS regarding adequate emergency vehicle maneuvering abilities; approval is subject to outside agency review including but not limited to Middlesex County Planning Board and Freehold Soil Conservation District approval or waivers thereof.

It was MOVED by NOLAN and seconded by PERLMAN approval of the major subdivision with variances and conditions as stated by the Board Attorney be approved.

ROLL CALL: Ayes - Brescher, Hand, Kluger, Lanaris, Millet, Nolan, Perlman, Pinelli,
Hammond
Nays – None

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

Approval of minutes of previous meetings.

April 11, 2019 Regular Meeting

It was MOVED MILLET and seconded by HAND that the minutes of April 11, 2019 be approved.

ROLL CALL: Ayes – Brescher, Hand, Kluger, Lanaris, Millet, Nolan, Hammond
Nays – None
Abstain – Perlman, Pinelli

There being seven (7) ayes, no nays and two (2) abstentions, the April 11, 2019 minutes were approved.

Memorialization of resolutions.

Resolution P2019-04

In the Matter of Consistency Review of an
Ordinance Creating a Multi-Family Residential Overlay
Zone

It was MOVED PERLMAN and seconded by NOLAN that Resolution R2019-04 be approved.

ROLL CALL: Ayes – Brescher, Hand, Kluger, Lanaris, Millet, Nolan, Perlman, Hammond
Nays – None
Abstain - Pinelli

There being eight (8) ayes, no nays, and one (1) abstention, Resolution P2019-04 was approved.

Correspondence and reports.

Zoning/Building Officer report - Scott

Rehabilitation Screening Committee report - Kim/Judi

Mt. Laurel status update - Roger/Jim

Fair Share Housing Obligation report - Jim/chair of FSHO committee

Master Plan Prep report

Action on any other business and work session.

Bike/Pedestrian Plan Presentation - did not take place

Ms. Hammond indicated to the Board that the Board Clerk distributed a link to the presentation and urged everyone to take a look at it. We have until the end of 2019 to redo the Master Plan and this is a part of that plan.

Mr. Nolan said that it was a fantastic plan.

Mr. Kluger asked if the Board was going to have to decide which parts we parts we want to go into the plan, it is very comprehensive and they don't have traffic studies, no parking studies and what will work and won't work and what the towns priorities are so he does not know as a Board can make those decisions. Ms. Hammond said that it is set as a goal.

Mr. Thomas said that you could make reference to the fact that rather than putting the entire thing into the Master Plan re-examination you could have a section where you summarize what it is that you like about this plan and then incorporate simply that summary.

Public comment on any item not on the agenda.

Ms. Hammond opened the floor to the public.

Ann Sheryl White, 56 North 6th Avenue asked who the people were that left. Ms. Hammond said that there were a couple people from the NJDOT and firm WSP that is an engineering firm who have worked on the bike/ped plan. Ms. White indicated that she was unable to attend the previous presentation and did watch the YouTube video and it was her understanding that there would be a presentation tonight and that was the reason she was in attendance and a chance for public questions. If you have serious concerns about the plan and you want those concerns to be taken into account what is the right avenue. Ms. Hammond said starting in September there is going to be several open meetings, and engage the public.

No one further appearing Ms. Hammond closed the public discussion.

Adjournment

There was a motion to adjourn from MILLET with a second from PERLMAN and at 10:44 PM, the meeting was adjourned.

Respectfully submitted,

Jennifer Santiago, Board Clerk