

**MINUTES THE MEETING OF THE PLANNING BOARD
OF THE BOROUGH OF MOUNTAIN LAKES**

June 22, 2021

Chair Martin Kane read the Open Public Remote Meeting Notice published in the Citizen on June 2, 2021 and Daily Record on May 26, 2021: Adequate notice of this meeting was posted with the Borough Clerk on June 10, 2021 and on the Front Door on June 10, 2021 and made available to all those requesting individual notice and paying the required fee.

Start: 7: 32 PM

ROLL CALL:

Members Present: Kane, Holliday, Coppola, Shepherd, Stern, Berei, Menard, Russo, Lane, Horan and Leininger

Also, Present: Attorney, Glenn Kienz, Engineer, Bill Ryden, Environmental Engineer, Peter Black, Traffic Engineer, Joseph Fishinger, Planner, David Novak

REVIEW OF MINUTES: Mitchell Stern made a motion to approve the minutes of the May 20, 2021, Board meeting and Nick Coppola provided the second. The minutes were approved by all eligible members present.

Audrey Lane made a motion to approve the minutes of the June 10, 2021, Board meeting and Bethany Russo provided the second. The minutes were approved by all eligible members present.

RESOLUTIONS: none

PUBLIC COMMENT: Ellen Foppes, of 29 Rainbow Trail, told the Planning Board the FHA would not grant a loan to a homeowner located near a gas station.

PUBLIC HEARING:

Highview Commercial, LLC	Appl. # 20-273
372 Route 46E	Blk. 2, Lots 2, 5. 5.01
Major Site Plan & Minor Subdivision	Zone B
Setbacks: Front (2), Rear & Side, Pervious Buffer (2), Front Landscape Area (2), Parking Stalls,	
Signs: Area (2), Number, Height (2), Proximity to the Lot Line & Illumination, Accessory Structure Height, Improved Lot Coverage	

The Planning Board had heard testimony from the applicant, the opposition, and comments from the public. It was now time to discuss the merits of the application. Chairman Kane suggested the Board go through the final reports from their professionals before beginning deliberations.

Marty Kane started with item #21, related to stormwater facilities, of Mr. Ryden's 6/7/21 report and item #1 of Peter Black's 6/9/21 report covering the FlexStorm Inlet Filters and Hydro International First Defense Capacity Water Quality Inlet Units. Mr. Black said the MTD (Managed Treatment Devices) offered will minimally help improve the water quality. The runoff would not be increased and would provide some benefit. The filters added to the proposed drains would need to be changed out and maintained. A maintenance report must be provided to the town. Mr. Kane added rain gardens should be a condition of the approval. He asked Mr. Black why the perk tests on the site might not work. He answered if there was not enough water run off the water would sit there and not infiltrate creating a pond. Could the hotel roof runoff be directed into a basin? Mr. Black did not think a pipe should catch the roof run off from the hotel. In the future it could fail and cause some other substance from the gas station into the system. Mr. Ryden said the final design should determine if the roof water could be safely infiltrated into the system. Nick Coppola asked if Mr. Black or Bill Ryden thought the Centrifugal Separator would work. Peter Black thought the system would be somewhat effective as a first line of defense for everyday oils and fuel leaks. It was not helpful in a true fuel spill. Bill Ryden thought they should develop a specific spill plan for this site to be approved by himself and Mr. Black. Mr. Ryden thought the planned stormwater measures would make the site better. Peter Black agreed this was a good plan and he did not see a degradation of the site. Tom Menard said he request information on the 2-, 10- and 100-year storm calculations. We want to improve things on the site not keep them the same. John Veteri answered there was a response to this issue in their letter dated April 5th. Mr. Black said additional underground detention would be needed to meet the new stormwater regulations. This was not required or proposed. Mr. Menard wanted this to be a condition of approval. David Shepard asked if the property had to meet the new stormwater regulations what percentage reduction would they need. Peter Black answered you would have to do a detailed analysis, which can be done three different ways, to determine that. Mr. Kane asked if the site does not have a stormwater problem now what would the improvement be. Peter Black explained the quantity is not increasing. The MTD devices enhance quality of the runoff not the quantity. The applicant is providing some quality and quantity enhancements. Maintenance is important and the plan is important. The stormwater coordinator (DPW Director) would monitor this. Bill Ryden said the new rules require the following: a 2-year storm must result in a 50% reduction, a 10-year storm a 25% reduction and a 100-year storm a 20% reduction. There was a reduction of 8% proposed. Kelly Holliday asked if they thought they could reduce the volume of water if they captured the roof run off from the hotel. Peter said yes. Jeff Berei asked for suggestions to enhance the water quality. Mr. Black said what they were proposing was the latest technology available. He continued we cannot control the pollution happening on the highway. The applicant would not want a spill to occur. It is in their best interest to do everything they can to prevent that. They would handle any kind of clean up that might occur.

The Board moved on to the report from Burgis Associates dated June 9, 2021. Glenn Kienz said this application requires a conditional use approval, a minor subdivision approval and a site plan approval with 16 variances. Steve Lydon said the applicant meets all the condition of the conditional use requirements as listed in the Borough Ordinance. The site design took its lead from the Ordinances other than the signage. The Board needs to decide if the applicant has met

all the statutory requirements. Our review letter pointed out some of the things that might fall through the cracks. Mr. Kane asked about solar panels. Steve Lydon said there was testimony about solar panels. He reminded the Board the Wawa roof would not work due to its orientation. John Horan said he thought the Board should talk about the numerous variances and the positive and negative criteria. Mr. Lydon responded you need to look at the overall development when looking at the criteria, then you can look at the individual variances. Kelly Holliday said the Board should look at the design options. Tom Menard thought they should go with a stucco and stone exterior to be in keeping with Mountain Lakes. Jeff Berei thought the buildings should be unified with materials being similar on both buildings. Bill Ryden agreed and thought the Board should confirm they found the gabled canopy roof acceptable and that they found one sign used for both building adequate. Tom Menard said he thought these changes were acceptable and the rest of the Board agreed.

Martin Kane asked Joseph Fishinger if the proposed change in use of the site would make the traffic worse. Mr. Fishinger did not think it would be worse. In his opinion, with the modification made to the site they meet the state requirements. They did an analysis that was conservative. His only suggestion was they be required to pave of the entire width of Fox Hill Road where they disturbed it. Mrs. Holliday asked the current condition of the road. It was in tough shape.

Bethany Russo said even with the road improvements the use would still impact those using the road daily. Mitchell Stern added during construction the road will take a beating and should be repaved. The Board agreed this should be a condition of approval. John Horan was concerned about the pressure placed on Fox Hill Road from this use. The applicant had tried to improve the situation, but he did not think Fox Hill was ever meant to be more than a driveway.

Mr. Kane started the deliberations. He was concerned with the overuse of the site in particular the number of pumps. He suggested a condition of any approval should reduce the pumps to 6 and stations to 12. Kelly Holliday agreed, she did not think the reasons given for 16 stations acceptable. Bethany Russo also thought 16 stations were too many. The reduction in the number of pumps should reduce the size of the canopy and the lights. Jeff Berei added this was a gateway to the communities of Rainbow Lakes and Lake Arrowhead and that needed to be considered. David Shepard stopped at several Wawa's during a road trip and found none of them had more than 6 pumps. Nick Coppola took a trip to Florida and checked out fuel stations along the way. He agreed it should be only 6 pumps. John Horan went to a Wawa's weekly, and that station did not have 16 stations.

Bethany Russo stated she found the new highway signage proposed, one sign for both sites, acceptable. Jeff Berei thought the hotel signage appropriate however the Wawa still had 5 times more signs than allowed. He would like that number to be reduced. Bethany Russo wanted laundry done off-site as was done at the other hotel the Board previously approved. Mr. Ryden confirmed the usage proposed was evaluated based on the water the town has available, including the usage at Sunrise. Nick Coppola felt it was our responsibility to protect this resource. He cited the moratorium imposed on the Borough when they exceeded their capacity. The laundry needed on site should be outsourced. Meghan Leininger suggested the hotel roof runoff, which is gray water, be used for laundry. Mrs. Russo thought we needed to be consistent and not allow it this time. John Horan said we should accept the water availability Bill Ryden gave us in the DEP document. But he was concerned that the water usage projected may not be

accurate. David Shepherd said when the project was presented to Council the now applicant said the water for the pool would come from another site. He would like to see that expanded by doing the laundry off site. Jeff Berei said the optics may not be good when we send the laundry out of town. Kelly Holliday agreed with Mr. Berei. She asked if we could set a limit on the water usage? Mitchell Stern said it would be difficult. Glenn Kienz added they could put in low flow plumbing fixtures, and we could encourage water conservation systems be used. Mrs. Leininger said we should not send the laundry out of town and should recapture water on site. Bill Ryden stated any system recapturing rainwater would be beyond approvals from the Borough, it would be subject to health codes, impractical and cost prohibitive. It would put the Hotel in their own water business. Tom Menard suggested we use stormwater for irrigation. The Board was split on the issue of laundry off-site. It was decided there should be a resolution condition stating a "water usage agreement" be put in the Developer's Agreement to reduce the use of water on the site. Such agreement should be reviewed by the Borough Engineer. The recommendation in the resolution would be for a reduction in water usage related to irrigation, laundry, and the pool. B. Ryden reminded the Board the usage calculations for the hotel were based on a worst-case scenario. They assume there are 4 people in a room 24/7.

Martin Kane asked Glenn Kienz to review the variances requested by the applicant. Mr. Kienz read off the 16 variances listed in the May 5th letter from Dynamic Engineering and explained in their memo dated May 6th. Bill Ryden thought a variance should be added for the proposed setbacks for the charging stations.

John Horan thought the application presentation was done very well, the testimony was good, and none of the variances individually were much. He found a total of 16 variances to be excessive. Tom Menard agreed with what J. Horan said. His big concern was water quality and stormwater management. Meghan Leininger was glad to see the accommodations made to the Board requests. She thought there needed to be a better generator plan. She mentioned the NJDEP site remediation program and listed those sites in the area that were on the list. She said the Board needed to consider this in their deliberations. David Shepherd's concern has always been stormwater issues. The applicant had addressed some of that but could have done more. Tom Menard asked if the Board could recommend a quantifiable number (percentage) that they could reach for stormwater management. Mr. Kienz responded the Board has thoroughly vetted the application. Much of what he was looking for was handled by the DEP. The Board had the input of their professionals. He was not sure any additional testimony would help. These are permitted conditional uses, so you must approve this application, but you do not have to approve the variances. Mr. Kane said the applicant has been very cooperative. We have gone from 16 to 12 fueling stations. We are requesting a water usage agreement be put in the Developer Agreement. We must look at this holistically. They are using the latest technology for water quality. We have looked at this for months and he did not think additional testimony would help. Kelly Holliday made a motion to approve the application including reducing the number of pumps to 6 with 12 fueling stations and those conditions listed in our professional review letters. A second was provided by Mitchell Stern. The Board voted 8 to 1 to approve the application with Board members Kane, Holliday, Coppola, Stern, Berei, Menard, Russo and Lane voting in favor and Horan voting against.

Other Matters –
Committee Reports – none

The Boards next meeting will be held on Thursday July 22nd at 7:30PM.
Martin Kane made a motion to close the meeting at 10:25PM.

Respectfully submitted,

Cynthia Shaw, Secretary