

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

SPECIAL MEETING: 7:31 P.M.

Roll Call **Members Present** – Mr. Illiano, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Mr. Colangelo, Dr. Cetron, Ms. Hoffmann, Mrs. Murray, Chairman Neff, Mr. Pepe, Mr. Ilarazza, Mr. McGoldrick, Mr. Dougherty
Members Absent – None

Michael Steib was present as Board Attorney. Douglas Rohmeyer was present as Board Engineer. Chairman Neff called the meeting to order and stated that the meeting is being held in compliance with the Open Public Meetings Act. Chairman Neff called for a moment of silent prayer followed by the Pledge of Allegiance.

PB18-06, Block 142, Lot 5, 17 Avenue D (Denholtz Custom Homes) – Application for Preliminary & Final Major Subdivision Approval with Variances – Mr. Steib advised this is a continuation of a previous hearing; the Board has previously taken jurisdiction on this application. Mr. Steib advised that revised plans have been submitted and some exhibits have been previously marked. Preliminary and Final Site Plans, prepared by KCE, dated March 26, 2018, last revised November 8, 2018 was marked as Exhibit A-27. A Technical Review letter from CME Associates, dated October 25, 2018 was marked as Exhibit A-28. A Technical Review letter from CME Associates, dated November 21, 2018 was marked as Exhibit A-29. A Sewer Pump Station Plan, prepared by Maser Consulting PA, dated November 16, 2018. The applicant's service packet was marked as Exhibit A-31.

Kevin Asadi, attorney for the objecting neighbors' group, Neighbors for Waterfront Preservation indicated he has some concern with not being aware of the pump station plans. His client submitted an OPRA request and he feels the plans were withheld. Mr. Asadi was advised the plans were on file 10 days prior to the meeting. Mr. Giunco provided a copy of the plans to Mr. Asadi.

At this time, the Board Secretary indicated a problem with the recording equipment and the meeting was put on hold to correct the issue.

Once back on the record, Mr. Giunco introduced himself as the Attorney for the applicant and stated that he would like to have the applicant's Engineering expert re-sworn to testify to the revisions made to the plan.

James Kennedy was sworn in and accepted as an expert engineer. He stated that based on concerns received at the last hearing, several changes have been made to the plan. The number of proposed homes has been reduced from 21 to 16; this redesign removes the need for variances for relief from the lot shape circle requirement. The roadway was redesigned from a loop road to a cul-de-sac. All lots now comply with all of the Ordinance requirements for the R-1 Zone and the average lot area is 11,942 square feet where 7,500 is required. The offset of the roadway was discussed during the last hearing and they have removed the need for an RSIS waiver by aligning the newly designed roadway with the intersection of Harborview Drive. The CME review letter made a comment relating to the spacing of the shade trees however the applicant has increased the number of shade trees to eliminate that design waiver. The plan is now in full compliance with the R-1 zone and the Residential Site Improvement Standards (RSIS). Each lot will be subject to a plot plan or a grading plan on a lot by lot basis once the footprints are designed so there will be second level of review by the Building Department and Engineer for the actual footprint on the actual lot with grading and improvements. A colored rendering of the Site Plan, dated November 27, 2018, was marked as A-32.

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

Mr. Kennedy referred to exhibit A-32 noting that sidewalk is proposed on both sides of the street, the pump station relocation to the open space lot, which is a C-shaped lot that runs along the perimeter. On the northern side of the site, there is a proposed stone revetment instead of the bulkhead that was previously proposed. The revetment would be on each of the lots and would be maintained by each of the individual lots. A colored rendering of a conceptual cross section of what the Stone Revetment would look like was marked as Exhibit A-33. Because of the coastal bluff that goes down to the wave action of the bay, they are providing slope stabilizing in the form of a stone slope. There are a few properties along the bay to the east that have this same shore protection. Generally DEP would like to see something like this instead of a hard structure so it is consistent with the zone management rules and they will obtain the necessary DEP permits. This design change solves the issues with who would maintain it because each property owner would be responsible for their portion of the revetment. Mr. Pepe asked what would be in the 20 foot wide open space area on the bayside of the revetment. Mr. Kennedy replied it would be the sand that is existing today.

In regard to landscaping, Mr. Kennedy stated that they are providing a perimeter buffer of a variety of trees. Where there is an existing wooded line, they are not proposing landscaping. Shade trees are proposed along Avenue D and the proposed Road A. They are proposing revegetation of the coastal bluff using native plantings that will also have stability action for the coastal bluff. The root system controls long term erosion. There are 102 trees currently but that will be adjusted to comply with CME's recommendations. They are proposing 256 shrubs and perennial grasses that will stabilize the slope. Mr. Colangelo asked if the Bayfront homes have access to the Bayfront portion of the open space. Mr. Kennedy stated that it is not currently proposed but the future homeowners may go to the DEP to permit access.

Mr. Kennedy stated that they are proposing 6 decorative JCP&L light fixtures. JCP&L will design the light poles.

Mr. Pepe asked if there is landscaping proposed in the open space. Mr. Kennedy replied that along the westerly portion, they are not proposing any landscaping at this time.

Mr. Hawley asked who will retain ownership of the open space lot. Mr. Kennedy replied that there will be a Homeowner's Association formed and they will retain ownership. Mr. Giunco added that the Ordinance provides that the open space can be in either public or common ownership; the applicant has elected to have it in common ownership because of the Board's expression and the public's expression that the maintenance cost would be too burdensome to the Borough. Mr. Colangelo asked if the open space will be maintained as a parking lot if they are not planning on putting anything there. Mr. Giunco replied you cannot park in open space.

Mr. Pepe indicated he is not clear about what is going there when the catamaran club is no longer parking there. Mr. Giunco stated that it would likely be sand. The ordinance doesn't specify that if it is sand, keep it sand or keep it grass so they tried to design the most sensible plan for everyone involved; they will keep the beach looking like the beach and the southerly area will have a grassy area. Mr. Pepe asked if there are maintenance requirements in the Homeowner's Association documents. Mr. Giunco replied that it is in the ordinance and the developer will provide a methodology that the HOA can accept but when they become in control of the Association, the homeowners can elect to modify their system but they cannot forgo that obligation because it is imposed by Ordinance and in the memorialization of any approval of this Board.

Mr. Kennedy explained that the Stormwater system is still a conventional gravity system. There is far less impervious surface with this plan so the peak flows through the system will be lower.

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

There is a water treatment device proposed to clean the water before it goes out to the bay. There is a gravity sanitary sewer that flows to a low point manhole with a sanitary sewer pump station, which has been relocated based of feedback from the public and the Board, the sanitary sewer flow will then be lifted with a two inch force main and tie in to the public system on Harborview Drive.

Mr. Neff asked who would be responsible for the pump station; would that be the HOA? Mr. Giunco stated that the Homeowner's Association could take ownership however under the Municipal Service Act of New Jersey, the municipality will be obligated to reimburse them. He would suggest the Municipality may want to look at that more closely to determine which is financially acceptable.

Mr. Pepe asked if the town is required to reimburse him for pumping out his septic field. Mr. Giunco stated that other citizens in the town have that same situation then you can make that application however generally septic systems are not maintained by a central agency. Mrs. Murray asked if there is a warrantee or bond for the pump station. Mr. Giunco explained that that if the HOA is going to maintain it, then it would not be a bondable item, however if the Municipality takes ownership, it would then become bondable.

Mr. Pepe asked if the open space is owned by the HOA would the public have access. Mr. Giunco replied no. He added that the original plan included public open space however the Board didn't seem to find that acceptable due to the cost of maintenance so they removed the obligation from the municipality and by adding a Homeowner's Association.

Mr. Kennedy indicated he has reviewed CME's report and they will comply with all open comments, however the suggestion for public access off of Avenue D, the applicant disagrees with. They spoke to neighbors in that area who indicated concerns with parked cars at the end of Avenue D. If the Borough wishes to add a stairway, there is a public right-of-way however the applicant is not proposing any access.

Mr. Rohmeyer referred to the street trees and stated that they are depicted close to the right-of-way line and asked that they be installed on the private property so they would not be the Borough's responsibility in the future. Mr. Kennedy agreed.

Mr. Rohmeyer stated that the plan shows the access to the pump station is proposed through the Borough property off of Center Avenue. In the event of future improvements on the Borough property and that access is closed off, what would be the alternative access point? Mr. Kennedy replied there are two alternate access points; one through an access easement between two of the lots and another off of Avenue D through the open space.

Mr. Rohmeyer asked for confirmation that the easement between the two residential properties that it will house the gravity sanitary as well as water service, gas, telecommunications, electric and a backup access to the pump station. Mr. Kennedy replied that is correct.

Mr. Neff asked if the groundwater monitoring wells will require an easement. Mr. Giunco replied that they will remain open until they are all closed out. The timing should work out that they will be removed before construction otherwise a self-terminating easement would be necessary.

Mr. Rohmeyer stated that there are a few other issues with ownership of the maintenance device for Stormwater outfall. Mr. Kennedy explained this would be similar to the Pump Station falling under the Local Government Services Act that would require reimbursement.

Mr. Pepe asked if it could be made a condition that the Municipality have that choice. Mr. Steib replied yes, it could be a condition.

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

Mr. Giunco replied that the applicant will accept whatever the Borough decides.

Mr. Rohmeyer referred to the residential structures and asked if they will meet Borough Code in regard to Base Flood Elevation. Mr. Kennedy replied yes, that will be illustrated on the plot plan however the lowest finished floor will be well above the highest flood zone that encroaches the property. Mr. Rohmeyer asked how they will comply with parking requirements for single family homes. Mr. Kennedy replied that the plan proposes two-car garages on each home with a two parking spot driveway. A five bedroom home is the standard and requires 3.0 parking spaces for each home and they have provided 4 spaces for each home. There is additional on street parking available on one side of the road for at a minimum, 12 cars.

Mr. Giunco advised that Mr. Monteforte, the architect, is not here this evening because there have been no changes to the designs of the homes. The testimony presented at the last meeting still applies. Each lot will have a custom designed home for each purchaser.

Mr. Rohmeyer asked how the open space lot will be accessed by the future homeowners. Mr. Kennedy replied that each of the bay front properties extend right up to the lot line of the open space lot. There's nothing stopping them from applying to the DEP for a walkway down to the beach. For the southern properties, they are on grade and the open space lot is on grade with their homes. The Association may choose to allow access that is available but it is really an HOA decision in the future. Mr. Rohmeyer stated that he does not expect the bay front homeowners scaling the stone revetment in the rear of their yard, so they would have to either apply for permits for a walkway or walk down to the cul-de-sac to access it that way. Mr. Giunco added that it would be under the jurisdiction of the DEP and the town's building department and each homeowner would have to make an individual application.

Mr. Pepe asked if the DEP required that the vegetation be maintained as part of the CAFRA permit. Mr. Giunco stated that he has not seen the CAFRA permit conditions but it is likely.

Mr. Rohmeyer referred to access to the open space and stated that it looks like a six or seven foot steep drop-off so it does not seem too inviting to walk down to the cul-de-sac to access the open space. He is looking for clarification as to if there will be something developed, like a ramp or staircase at the end of the road. Mr. Kennedy replied that currently one is not proposed in that location because it is in a flood zone, however the Homeowner's Association may decide to apply to DEP and the town's Building Department to do so. There is access through the Borough property and also from Avenue D on the southerly side.

Mr. Neff advised that the Board will allow the applicant to present all witnesses before opening it up to the public for the question period. There are signup sheets out in the hall for both the question portion as well as the statement/comment portion of the hearing.

John Rea was sworn in and accepted as an expert traffic engineer. Mr. Rea indicated that he has reviewed this site plan as well as the previous iteration of the plan. He found that the first plan was an acceptable plan however the RSIS offset requirement was not met. Although the traffic volumes would be relatively low, the plan put forth today is a better plan and a more acceptable plan from a traffic engineering point of view. The cul-de-sac roadway is lined up, center line to center line, with Harborview Drive, which is accordance with the RSIS requirements and is a standard engineering design. There is a 28 foot wide roadway that terminates at a cul-de-sac and parking will be allowed on one side of the street. Mr. Rea finds the plans to be in conformance with the Residential Site Improvement Standards and in conformance with proper traffic engineering principals.

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

The Board had no questions for Mr. Rea.

Susan Brasefield of Maser Consulting was sworn in and accepted as an expert sanitary system design engineer. Ms. Brasefield stated that the sanitary pump station consists of two below-grade chambers; the first one will be a pump station wet well and the second is a valve chamber. Above grade will be an emergency generator and two electric panels. The electric panels will be 5.5 and 6 feet above grade. The entire pump station property will be enclosed with a locked gate and the electric panels will be enclosed in aluminum structures that are locked. Only the pump station operator will have access to the locked gate and the locked electric panels. She had met with the Borough Water and Sewer Department for design recommendations as to the type of pump station design and the location of the sanitary sewer connection. The type of design is typical for this area and they used a high-end pump to ensure that it is reliable for many years. One of the changes made is that they have changed the PVC piping to steel, as it would be more rigid and less likely to cause noise from vibrations. They have designed the highest level of container for the generator to contain the noise impact on adjacent properties. It will be natural gas generator so there will be no on-site fuel storage.

Mr. Pepe asked how high above sea level the pump station is. Ms. Brasefield replied that it is not in a flood zone, the elevation is at 24 at the pump station, which is higher than the previous design. Mr. Fligor referred to a monitor system of the pump station and asked if there will be any type of system like that installed. Ms. Brasefield replied that they can install some sort of SAVIS System that would tie into the Borough's alarm system.

Ms. Brasefield stated that the pump station flow is only 27 gallons per minute; the force main was kept at a 2 inch diameter to minimize the time that the sewage is in the pump station and the force main so it will be evacuated quickly. It is a below grade chamber so the actual sewage is about 20 feet below grade so there is no escape of odors. There is a fan shown on the plan, which will only be used when the operator needs to open the chamber and enter in to it. The fan is used to pump fresh air into the chamber when the operator is in the chamber.

Mr. Rohmeyer confirmed with Ms. Brasefield that the pumps are submersible pumps so you will not hear them standing outside the pump station. The loudest component would be the generator which will be exercised periodically and the operator can schedule that during the day. Ms. Brasefield clarified that the one site light will only be used when operating during an emergency at night.

Andrew Janiw, of Beacon Planning, was re-sworn in and accepted as an expert planner. Mr. Janiw indicated that he reviewed the revised plan as it relates to his prior testimony. The new plan is entirely in compliance with RSIS Standards and the Borough Ordinances. The plan has been revised to subdivide the property into 16 single family lot with an open space lot that meets the 30% of lot area requirement. The individual lots meet and exceed the lot area minimum and the properties meet all of the bulk standards. Mr. Janiw read language from the current Master Plan and stated that he finds that this plan meets the goals and objectives of the Master Plan. The site is a redevelopment of an existing non-conforming use. The proposed plan is consistent with what is envisioned in the Ordinance, in terms of density, lot size, configuration and the provision of open space. It takes into consideration all of the things that come with lots of this size, such as utilities, public service, traffic generation and noise generation. The Municipal Land Use Law has several points that are delineated with letters and this plan meets several criteria set forth in the purposes of the MLUL. Mr. Janiw stated that the plan is compliant with the Zone Plan of the

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

Borough, the Master Plan and the Municipal Land Use Law. There would be no detrimental impact to the zone plan or community.

Mr. Pepe asked for clarification of what is being requested if all variances and waivers have been removed. Mr. Giunco advised they are requested Major Subdivision Approval. Mr. Janiw added there are no deviations from the Ordinance.

Mr. Rohmeyer referred to the Open Space lot and asked is it will be fenced or delineated from the Borough owned lot. Mr. Giunco replied a fence is not proposed, but if it is being recommended they can add it. Mr. Rohmeyer replied that he is not recommending one. Mr. Giunco stated that if the HOA decides to apply for a fence permit in the future, they may do so. The plan proposed does not include a fence.

Mr. Giunco indicated that his direct testimony is complete; all of his witnesses are present to answer questions. He would like to reserve the right to address the Board prior to going to a vote.

Mr. Neff advised they will take a short break and then proceed with questions from the public.

The Board reconvened at 8:51 pm.

Kevin Asadi, Attorney for the Objecting Neighbors, stated that he has an issue with the conditional use associated with the pump station. There are five conditions associated with the conditional use for the sanitary sewer pumping station and other utilities that are part of that. He hasn't heard any testimony relating to those conditions and the design itself shows that the conditions have not been complied with. He will raise his issues in case the applicant wants to address them now. Mr. Asadi reviewed the conditions relating the conditions for this use. He added that his client submitted an OPRA request on November 21, 2018 for a copy of any submissions that were submitted. These plans are dated November 16, 2018; he doesn't know if they were submitted 10 days prior to the hearing and he would like the opportunity to have the plans reviewed by a consultant to make sure that there is no evidence they can provide that would contradict the notion that this facility does not adversely affect the property rights of the zone in which it is located. There is a man's swimming pool 20 feet away from the pumping station and it is something they need to know about. Mr. Asadi added that a paved parking area is required and this proposal includes a gravel driveway. He indicated concern with the definition of driveway, which states leading from a street and in this case there is a driveway to a dirt road on municipal property with no easements from the municipality for access. Mr. Asadi feels that a conditional use variance is necessary.

Mr. Giunco stated that the applicant contends to section 150-55 of the Ordinance, which provides an exemption from the applicability of these Ordinance because is specifically states a pumping station that requires a building above ground, then those conditions apply. This project proposes a pump station below ground. The definition of building in the Ordinance refers to a combination of materials having a roof and occupancy. The testimony from Ms. Brasfield was that the chamber is below ground, the above ground improvements include a generator and electrical boxes. The basis for this application is that it is not applicable to underground utilities as the Ordinance provides that exemption, and secondly, there is no building that meets the terms of the definition in the Ordinance so it is his legal opinion that the conditions of Section 150-36 does not apply.

Mr. Asadi stated that the station is an entire plan, there is a six page plan showing the station and aspect of the station are above ground. The locked gate, the generator and other aspects above

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

ground; just because some of it is below ground doesn't render it entirely underground and the conditions should apply.

Mr. Giunco reiterated the language of section 150-55 and the definition of "building" in section 150-6.

Mr. Neff indicated that the noise concern was addressed. Mr. Giunco referred to the testimony regarding the PVC pipes changed to stainless steel to reduce noise and he added that she had testified that you would not be able to hear it from above ground.

Dr. Cetron questioned the height of the above ground improvements. Ms. Brasefield replied that the maximum is 6 feet above grade. Dr. Cetron stated that they are well below the 40 foot maximum that would push them the conditional use.

Mr. Pepe asked Mr. Asadi why he thinks the pump station is a building. Mr. Asadi replied that the ordinance is a little flawed. Mr. Pepe clarified that his question was, is it a building? Mr. Asadi replied that he would have to research the definition of a "building." The conditional use ordinance that talks about pump stations does not say above ground only, it says it applies to pumping stations. So if you look at the actual conditional use ordinance...

Dr. Cetron advised that you never get to that section; if you read section 150-55, it says unless it requires a true building or it has to be over 40 feet high before it becomes subject to the conditions of section 150-36. Mr. Asadi stated that he would like to consult his professionals.

Mr. Steib referred to the pumping station and asked if there is a building with a roof. Ms. Brasefield stated that there is no building with a roof. Mr. Steib asked how high the appurtenance structures are. Ms. Brasefield replied the highest one is 6 feet above grade.

Mr. Steib stated that looking at section 150-55 stated that the provisions of this chapter should not apply to customary essential services, including pump stations. However, where there is a required building above ground, which there is not in this case, or any other above ground appurtenance of more than 40 feet high shall require approval as a conditional use so it appears the conditional use provision does not apply. Also, the Board Engineer has indicated that even if it did apply, the standards have been complied with.

Mr. Rohmeyer advised that section 150-36 requires, besides the five conditions enumerated by Mr. Asadi, it needs to comply with the underlying zone requirements except for lot area. The above ground structures appear to be 8 feet off the property line where the setback requirement is 5 feet. Placement of the above ground structures complies. If you really dig into the definition of driveways and pavements, the ordinance directs them to the definition of cartway, which is paved or some sort of hard surface. Regardless of the exemption in section 150-55, it would comply with the section of 150-36.

Mr. Asadi stated that it would be an accessory structure without a principal structure. Dr. Cetron stated that it is an appurtenance. Mr. Asadi stated that "building" and "structure" are two different things. Mr. Asadi asserted that the Board Engineer stated that the lot standards do apply. Mr. Rohmeyer clarified that the exemption in section 150-55 applies, there is no building and there is no appurtenance over 40 feet.

Mr. Pepe stated that the ordinance requires a building or an appurtenance of over 40 feet tall, then the other provisions apply. He asked if it is a building. Mr. Asadi stated that he would like to take a recess; he is at a disadvantage because he just saw the plans tonight.

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

Mr. Giunco advised that the plans were properly filed on November 16th. Mr. Asadi stated that he put in an OPRA request on November 21st. Mr. Steib asked for a copy of the OPRA request as he has been advised that document was not requested. Mr. Asadi stated that his client put in a request for everything that was submitted.

Mr. Pepe stated that if they feel it is a building, he would like to hear why. Mr. Asadi stated that he did not walk in prepared to make that argument so he needs a few moments.

Mr. Neff stated that he will continue calling the remaining people on the August 29th sign up list.

Casey Espinoza was called but did not appear. Donna MacDonald was called but did not appear. Dolores D'Achille was called but did not appear. Vicky Plumaker was called but did not appear.

Mike Scherfen, 55 Avenue D, asked if the boardwalk shown on the previous plan has been removed. Mr. Kennedy replied that it has been removed and stone revetment is proposed. Mr. Scherfen expressed concern with rising tides affecting the beach. Mr. Giunco stated that if the property line is amended by rising tides, the deed may have to be amended by way of subdivision. Mr. Scherfen asked if there would be any restriction from future subdivisions of the individual lots. Mr. Giunco indicated that there is no restriction. Mr. Scherfen indicated that he installed another bathroom in and it doubled his sewage, so he expressed concerns with future improvements to the lots and the infrastructure not being able to handle it. Mr. Kennedy replied that the pump station has been adequately designed to handle the flow. Mr. Scherfen asked if he would be able to enter the open space on Avenue D and have a picnic. Mr. Giunco replied that if it were common open space, then it would be up to the Borough but in this instance it is common open space and will be exclusive to the Homeowner's Association. Mr. Scherfen asked if the Catamaran Club can build a staircase to the end of the cul-de-sac to get access to the beach. Mr. Giunco replied they would have to get DEP approval if the property rights permitted it. Mr. Scherfen indicated concerns with traffic in the area and the additional cars being added to the roadway. Mr. Rea testified as to the traffic counts during the peak hour, nothing that they would only be adding 16 cars during the peak hour. Mr. Scherfen asked if he can park on the roadway and walk down on to the beach. Mr. Giunco advised yes he can park on the street, they are not planning gates.

Chris Nolan was called but did not appear. Thomas Key, Fourth Avenue, was called but did not appear. Tucker Snedecker was called but did not appear. Michael Ferguson was called but did not appear.

Mark Fisher, 91 Third Avenue, stated that he didn't have any discussion regarding the affordable housing obligations. He understands there is no physical obligation but he would like to know what the financial obligation. Mr. Giunco advised that in terms of a development fee, the ordinances are not specific that it would apply. Mr. Steib advised that a financial obligation would apply however we do not know what it is at this time. Mr. Fisher questioned whether an LSRP has been put on retainer for the remediation of the site. Mr. Giunco replied it is under the jurisdiction of the DEP through the LSRP and the permits are in process. Mr. Fisher referred to the testimony from August 29th that a looped road was a safer alternative and now we have a cul-de-sac; he would like to know how the logic changed. Mr. Kennedy replied that the testimony was in direct response to a question regarding the RSIS offset. The question was whether or not they should put a cul-de-sac at the end of the loop, essentially creating a J-shape with a 1500 foot roadway with a cul-de-sac right next to Avenue D. This is a totally different design, the roadway is 650 feet long and only has 16 homes. Mr. Fisher asked how the bay will be protected from construction debris or oil sheens. Mr. Kennedy stated that this Board's approval is just one level

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

of approval. The soil erosion and sediment control is under a federal department which enables the State of New Jersey to operate a Soil Control District who will conduct routine inspections of the site to ensure that the measures taken are effective. This will also be subject to the DEP approval and inspections. Mr. Fisher asked if that would include any oil that may discharge into the bay. Mr. Kennedy stated that there is no longer any source of oil on the site, so he wouldn't expect that to happen but if it does, they will be required to notify the DEP and mitigate accordingly. The applicant will comply with all rules and regulations of the Borough, the DEP and the SCD. Mr. Fisher referred to a question raised at the last hearing whether or not the future homeowner's would be notified of the previous use and the previous contamination on the site; is it correct that they be sent to the Borough Clerk? Mr. Kennedy replied that there is a Real Estate Disclosure Act and any disclosures that are required will be made to the purchasers. He didn't say they would be referred to the clerk, but that is generally who has those records.

Tony Hannan, 1 Brandt Way, Port Monmouth, NJ, stated that he read the Master Plan and there is a lot of language about preserving the water front and he asked that the Board to reconsider the zoning and if they feel this is the best use of the property. Mr. Colangelo reminded the public this is the time to ask questions of the applicant, based on their testimony.

Michelle Moylan, 85 Bay Avenue, asked questions relating to traffic and the traffic study, which were addressed by Mr. Rea. She indicated concerns with accidents in the area and asked if accident records were reviewed. Mr. Rea stated that nothing looked out of sorts on the roadway that looks like it would present a problem, he would do an accident survey but he did not see anything of that nature while he was out there. He did not notice a speeding problem during his inspection. Ms. Moylan asked if the traffic study is an accurate picture or is there additional data that should be considered. Mr. Rea stated that it is standard grid network and he wouldn't expect anything unusual; 4 accidents in 8 years is not unusual. Ms. Moylan referred to the stone revetment and asked if it is stone boulders. Mr. Kennedy replied yes. Ms. Moylan asked if there would be any mortar to hold the stones together. Mr. Kennedy replied that typically it is a gravity revetment. In Sea Bright, that revetment is a mortar revetment with a concrete top. In this instance, they are backed by soil, it is a sloped revetment so it is not grouted but if the structural engineer at the time decides that it is necessary that is a design condition that the DEP can approve. Ms. Moylan referred to the open space requirement of 30% it states that it must be functional and usable and asked who could use that. Mr. Giunco replied the residents.

Mr. Pepe asked if they can give the town the option of whether they want public open space or common space. Mr. Giunco stated that it was an issue of significant discussion during the first hearing and the applicant went the way the Board guided them. To give it back, would be a total re-design for privacy issues. Dr. Cetron stated that it wasn't the Board pushing them that way, it was a general consensus of everyone in the room. Mr. Giunco replied that is fair.

Ms. Moylan asked how the elevation of this project will affect the neighbors in terms of run-off. Mr. Kennedy replied that they are not directing water towards Harborview, they have a drainage system in the roadway and there is a profile in the plans that shows it slopes away from the roadway and discharges in to the bay through a filter system to mitigate the impact. This is a common practice and is allowable under State Law. Ms. Moylan referred to the testimony that this project in envisioned on the site and would like to know what that testimony was based on. Mr. Janiw reiterated his review of the Master Plan and Zone Plan. The plan complies with all of the R-1 zone requirements.

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

Mr. Colangelo asked if the property as it exists is considered open space. Mr. Janiw replied it is not a vacant parcel of land, it is currently a developed, non-conforming use.

Cory Wingerter, Harbor View Drive, was called but did not appear.

Richard Busick, 113 Bay Avenue, questioned the height of the homes being under 35 feet and asked if they would be two or three-story homes. Mr. Giunco replied two and a half story. Mr. Busick asked for a timeframe for anticipated completion of the project. Mr. Giunco stated that once the approvals are all finalized they would like to start construction as soon as possible but it is hard to estimate other agency review times. Mr. Busick asked for clarification of the traffic study counts, which was given by Mr. Rea.

Don Adler was called and asked to reserve his time to speak when his name comes up on tonight's list.

Andy Clurfeld, 41 Third Avenue, asked for the dimensions of the open space area to the far left of the site. Mr. Kennedy replied that it is about 400 feet long by 100 feet wide at the water and about 45 feet wide at the southern side. Ms. Clurfeld asked if that area is going to be part of the homeowners association. Mr. Kennedy replied that it will be common space, for the Homeowner's Association. Ms. Clurfeld asked if it is correct that it cannot be used by the public at large. Mr. Kennedy replied that is correct. Ms. Clurfeld asked what can be anticipated in that open space since there is public view from the Catamaran Club. Mr. Kennedy explained that the ordinance allows for passive and active recreation; it could be left alone and left for passive recreation or... Ms. Clurfeld stated contemplation, she is a big contemplator that is how she says thin. Mr. Giunco tried to clarify what passive open space meant, however Ms. Clurfeld indicated that she would like to hear it from the engineer; would passive mean a volleyball net? Mr. Kennedy replied that would be considered "active." "Passive" would be typically, a sitting area or a bench, but he cannot foresee what the HOA will want to do. Ms. Clurfeld asked about the formation of the HOA. Mr. Giunco stated that he HOA will be formed before any homes are sold. Ms. Clurfeld asked who sets the terms of the HOA rules. Mr. Giunco replied that the Borough Ordinance has defined the use of open space so the HOA will adopt a document with all of those terms and conditions, they will then propose a draft to the Borough Attorney... Ms. Clurfeld asked if the developer gets to determine how the open space area is used. Mr. Giunco stated that the developer will submit the documents for review, similar to how they are going through this process. Ms. Clurfeld indicated she is confused.

Mr. Neff stated that the developer creates governing documents for a HOA because there are no Homeowner's and they need to have something to work with. The Association can then elect to amend those documents as time goes on.

Ms. Clurfeld asked for clarification of the location of the open space area. Mr. Kennedy referred to A-32 to point out the open space area. Ms. Clurfeld asked who would be responsible to maintain the open space. Mr. Kennedy replied that it would be the Homeowner's Association.

Mr. Neff clarified that it will be maintained by and exclusive to the Homeowner's Association.

Ms. Clurfeld stated that there was testimony regarding a staircase at the end of the cul-de-sac to access the open space and asked how they would access the open space from the end of the cul-de-sac. Mr. Kennedy replied from the rear of all of the lots; it would be up to the Homeowner's if they choose to develop a walkway down to the open space. There is also an easement that goes through the properties for maintenance access by the HOA. Ms. Clurfeld asked if the roadway will be permit only parking or can anyone park there. Mr. Kennedy reiterated that the roadway

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

will be public parking. Ms. Clurfeld asked how long they expect the pump station to last. Ms. Brasefield replied a typical life cycle would be about 20 years before maintenance is required.

Mr. Neff advised Ms. Clurfeld to ask one more question so they would have time to hear others. Ms. Clurfeld asked for the assessed dollar value of this entire parcel. Mr. Giunco stated he does not know the assessed value.

A woman spoke out asking to be added to the question list. Elaine Egidio was added to the list.

Janice Eversten, 72 Burlington, Leonardo, asked if Mr. Kennedy has received approval from the office of coastal and land use planning. Mr. Kennedy replied that once they have an approval from the municipality, they will proceed with the CAFRA permits. There have been pre-applications made but the permit application has not been made yet. Ms. Evertsen reviewed some of the rules of the Office of Coastal and Land Use Planning and stated that she doesn't feel they meet the rules. She asked how many CSO's are in Sandy Hook Bay. Ms. Brasefield replied she does not know but it doesn't relate to this project because there is no CSO proposed as part of this application. Ms. Eversten read an excerpt of the regulations from the Coastal Zone Management Rules. Mr. Kennedy indicated that those regulations are not in the purview of this Board. The applicant will go to that department and receive a permit, if they don't receive a permit, they will come back to this Board for a modification of the plan. Ms. Evertsen asked if Flood Hazard Permits been submitted. Mr. Kennedy replied that it is done concurrently with CAFRA and the Ordinance does have flood plain protection and he testified that it would be met on a lot by lot basis. She asked if the pump station will be underground. Mr. Kennedy replied that the pump station is located above the flood plain. Ms. Evertsen referred to the traffic study and stated that it seems limited. Mr. Rea stated that he usually isn't called out for this type of subdivision, so yes, it was limited.

Rosalie Moresco was called but did not appear. Mike Scherfen was called but indicated he already spoke. Mark Fisher was called but indicated he already spoke.

Marilyn Scherfen, 55 Avenue D, stated that she spoke last time and asked if the testimony from the residents at the last meeting a part of the record still. Mr. Steib replied yes. Ms. Scherfen stated that she read the transcripts which misrepresented her comments relating to the archeological study as "agricultural" so she would like to confirm whether an archeological survey will be done on the site. Mr. Kennedy replied that that would be handled by CAFRA. If something shows in the historical records, DEP can require an archeological study and they will comply with all statutory requirements as they go through that process.

Frank Shuck was called but did not appear.

Kate Wigginton, 62 Avenue D, asked if the 11:00 rule will be imposed. Mr. Steib replied that is up to the Board at that time. Ms. Wigginton asked if this goes to an appeal, would all of the transcripts from the previous hearings be a part of the record. Mr. Steib replied yes, it is all part of the record. Ms. Wigginton asked for clarification that there will be a Homeowner's Association. Mr. Giunco replied yes, there will be an HOA. Ms. Wigginton asked if the beachfront open space can be accessed only from the open space on the west side. Mr. Kennedy stated that they can access it on a lot by lot basis or they can access it through the easement for Stormwater management, or it could be accessed from the west. Ms. Wigginton asked who would maintain the bulkhead. Mr. Kennedy clarified that the revetment would be placed on the individual lots so that each homeowner will be responsible for their own section of the revetment. Mr. Kennedy clarified that there is no bulkhead associated, but it would be the HOA to maintain the open space. Ms. Wigginton asked if the roadway is wide enough for two-way traffic and parking on one-side.

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

Mr. Kennedy explained the RSIS standards for cart way width. Ms. Wigginton asked Mr. Rea when he observed the traffic from that area. Mr. Rea replied that he has been out to the site on three occasions; once was to meet the 3:50 ferry about a month ago, this evening he was there to observe the ferries coming in before the meeting and the third was during a bright sunny weekday so he could observe the area. Ms. Wigginton asked if he observed the hundreds of people that use the Henry Hudson Trail. Mr. Rea stated that he saw some people out there but did not see hundreds. Ms. Wigginton asked who will be the sewer pump station operator. Ms. Brasefield stated that it has not yet been determined; if it owned by the Association, they would have to hire a licensed operator but if it becomes owned by the Borough, the Borough's sewer department would operate it. Ms. Wigginton asked if there will be cellars on the property. Mr. Kennedy replied some will and some will not and it is likely that with the new plan, more of them will have cellars. Ms. Wigginton asked if the landscaping would be installed prior to all of the lots being sold. Mr. Kennedy explained that each lot would be developed as they sell. Ms. Wigginton clarified that she is asking about the shade trees and the other vegetation. Mr. Kennedy stated that the shade trees on those lots would not be installed until the homes are built and stabilized. Ms. Wigginton asked how CAFRA and DEP would know about any archeological options. Mr. Kennedy stated that they have historic studies of areas where there would be a likelihood of Native American settlement. Mr. Giunco stated that the site has undergone extensive remediation, it was operated as an industrial site for many years so it is highly unlikely that there is any realistic expectation of finding any artifacts on a site like this. Ms. Wigginton stated that she has been here since the 1950 and the site was paved over so no one knows what is underneath; what she does know is that when ducks would sit in the puddles they would die so she would hope the Homeowner's are made aware.

Emily Smith was called but did not appear. James Krauss was called but indicated he would like to pass.

Carol Nolte, 105 Bay Avenue, referred to the northern part of the open space area and asked if it goes the water line. Mr. Giunco advised that question has been asked and answered. Mr. Kennedy advised that the metes and bounds go to the mean high water line and that is where the property line limit would be. Ms. Nolte referred to the westerly area of open space and asked what will retain the developed area to prevent it from slumping into the open space area. Mr. Kennedy replied that it is not a slump block area, however there is a 4 in 1 slope that will be vegetatively stabilized. Ms. Nolte questioned the filter system for the Stormwater management system. Mr. Kennedy explained how the filter system will work. The filter will be maintained periodically to prevent blockage. Ms. Nolte asked if this is a system they currently maintain. Mr. Kennedy explained that he is not sure, but most of the water goes in to the bay without filtration, this is... Ms. Nolte stated that the Borough is not used to maintaining that, then this is a cost they must consider. Mr. Colangelo reminded the public to please let the witnesses answer the questions. Mr. Kennedy explained that similar to the pump station, the filter elements will have to be replaced and there will be maintenance involved. The Borough can either do it or the HOA can do it. He feels that as things move forward with the Clean Municipalities Act, more towns will be filtering the Stormwater systems but just because this applicant is on the vanguard that should not be held against them. This is required by the Ordinance and State regulations and it makes a lot of a sense for the health of our waters. Ms. Nolte asked if the cost of maintenance was part the proposal since this Borough has never maintained this type of system. Dr. Cetron explained the Municipal Services Act and stated that the cost of maintaining is outside the scope of this Board; it is to be worked out between the HOA and the Borough. Ms. Nolte replied that the Borough will pay more

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

because it is something new. Mr. Colangelo advised this is a period for questions, not statements or comments.

Mr. Fligor advised there are three stormceptors in Atlantic Highlands; one owned and maintained by the Borough and the other two are maintained by the gas company and the Burger King. Ms. Nolte stated that has nothing to do with what they are discussing. She asked for the decibel levels for the pump station. Ms. Brasefield stated that she did testify there would be no noise on a daily basis. You will not hear the pumps standing above the pump station. If the operator has to open the chamber they will have to turn on a fan, which will not be much louder than a typical house fan however she does not know the decibel level. The generator will make some noise however they have provided the most stringent sound enclosure so no one living around it will be bothered by it. Ms. Nolte asked questions relating to the details of sound enclosure for the generator, which were answered by Ms. Brasefield.

Mr. Neff asked if the generator is much bigger than a home generator. Ms. Brasefield replied that it is slightly bigger than a home's generator but not as big as one that would operate a fire house or something. Ms. Nolte advised that when she got a generator she had to ask permission of her neighbors. Mr. Pepe stated that anyone can get a generator; they are not here to approve a generator. Ms. Nolte advised they are approving the quality of life for the people who will live in those houses. Mr. Colangelo advised this is the time for questions of the applicant. Ms. Nolte advised the Board to stop making comments. She then asked a question relating to the cost of maintenance and asked that it be placed in the proposal. Ms. Brasefield replied she will do so if the Board requires her to do so.

Laurie Zydel, 39 E. Lincoln Avenue, referred to the open space between the stone revetment and the water line and asked if the public can pull up on a boat to access the beach area. Mr. Kennedy advised that below the mean high water line would be State owned lands and he believes the State would allow that. Ms. Zydel asked if they could pull up to the sand. Mr. Kennedy replied if it is below the mean high water. Ms. Zydel asked if the Planning Board can require the applicant to provide a side elevation of the entire project since they are raising the elevation of the property by bringing in 6 feet of fill. Mr. Kennedy replied that the original plan with the loop road called for a retaining wall but this plan proposes a sloped configuration which does not require as much fill. Ms. Zydel asked how much fill is required to raise it out of the flood zone. Mr. Kennedy replied that they are not raising the site out of the flood zone; there is a portion of the site that is still in the flood zone however the cul-de-sac is about two feet higher than the flood zone. From the cul-de-sac it slopes down towards the open space lot. Ms. Zydel asked if the Planning board required an elevation to show the run off to the surrounding areas, would the applicant do so? Ms. Zydel added that the applicant is bringing it quite a bit of fill. Mr. Kennedy advised that there is an area that is pretty high so they are actually levelling off portions of the site. Ms. Zydel asked if they are bringing in any fill. Mr. Kennedy explained that importing fill means bringing it from an off site location. Ms. Zydel asked they will be regrading. Mr. Kennedy explained that they will be doing some regrading and they may need to bring in some supplementary fill and topsoil because there is not a lot of topsoil out there. Ms. Zydel asked for a specific amount of fill. Mr. Kennedy replied that they cannot be specific until they find out the type and suitability of the soils that are out there but he knows that bulk grading is about even. The bulk grading includes excavation of basements, the work for the road base and the sewer. Ms. Zydel asked if this was submitted to the Borough. Mr. Kennedy replied that it is a part of the grading plan. Ms. Zydel asked if the grading plan will show where the water will run off to. Mr. Kennedy replied that there is a Stormwater Management Report and grading plans and it has been reviewed by the Board professionals. Ms.

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
NOVEMBER 27, 2018**

Zydel asked if Mr. Kennedy feels that a side elevation of the project is necessary even though people will be looking up at homes. Mr. Kennedy stated that sheet 5 of 12 has a grading plan. Mr. Giunco asked that one question be asked at a time.

Mr. Pepe clarified that the concern is that the surrounding properties will be looking up at this property. Ms. Zydel confirmed that is her concern. Mr. Kennedy replied that if they are lower... Ms. Zydel asked if they are lower. Mr. Kennedy replied yes, there are some parts of this property that are higher than the catamaran club so yes, if you look through the open space and through the trees, yes you will be able to see the curb. Ms. Zydel asked how much higher the cul-de-sac is than the catamaran club. Mr. Kennedy replied about 6 to 8 feet higher.

Mr. Colangelo asked if there is currently a 12 foot wall in that location. Mr. Kennedy replied yes, there is a concrete wall and a fence. Ms. Zydel replied, not if you're walking back from the beach. Dr. Cetron added that if you look at the grading plan, you can see that it doesn't change until you turn all the way into the site. Ms. Zydel asked that it be pointed out on the map for her. Mr. Kennedy referred to the exhibit, pointing out the contour lines. Ms. Zydel asked where the wall is. Mr. Kennedy referred to the aerial exhibit, A-20, to point out the existing concrete wall that runs from a north south direction roughly around where lot 5.07 and 5.11 are proposed. Mr. Kennedy referred to the aerial exhibit to show where the various improvements would be located. Ms. Zydel asked if that will be drawn for the Planning Board. Mr. Giunco objected and stated that this has been asked and answered at least 10 times. Ms. Zydel continued speaking. Mr. Neff advised that it is in the plans that have been filed at Borough Hall. Mr. Giunco stated, for the record, the grading plan is sheet 5 of the plan set. Ms. Zydel asked how long the revetment and what the percentage of the angle is. Mr. Kennedy replied that revetment is about 100 feet long, the slope is a design condition and typically it is the angle of the stone, which is about 30%. It is subject to structural engineering design so if the wave velocity requires a lower angle, then so be it.

Mr. Neff asked if the Board would like to continue; it is almost 11:00 and there are about 10 or 12 names left for questions. Mr. Hawley and Mr. Pepe indicated they would like to stay. Dr. Cetron stated that if they are not going to get to a vote tonight, they will need another special meeting anyway.

After a brief Board discussion, Mr. Steib advised that this hearing is being carried to the December 13, 2018 meeting at 7:30 pm at Borough Hall, 100 First Avenue, Atlantic Highlands, where they will be announcing the new date for the larger venue. At that time, the Board will complete public questions, then move on to the public comments before completing the application. If you are interested in this hearing you must come to the meeting on December 13th or call the Board Secretary the next day. There will be no further notice required.

DR. CETRON MOVED TO ADJOURN THE SPECIAL MEETING, SECONDED BY MR. HAWLEY. BY VOICE VOTE ALL AGREED.

There being no further business to come before the Board, the Special Meeting was adjourned at 11:05 P.M.

Erin Uriarte
Planning Board Secretary