

**MINUTES OF THE TOWNSHIP OF MENDHAM PLANNING BOARD
REGULAR MEETING HELD JULY 21, 2021
VIA ZOOM**

The remote meeting via zoom was called to order by Chairman Giordano at 7:38 p.m. who asked for a roll call. Upon roll call:

ROLL CALL

PRESENT: Mr. Baio, Mr. Monaghan, Mr. D’Emidio, Ms. DeMeo, Mr. Johnson, Mr. Perri, Mr. Mayer, Mr. Maglione, Chairman Giordano

ABSENT:

Others present: Mr. Edward Buzak, Mr. Paul Cancilla, Mr. Dennis Keenan, Mr. Jack Szczepanski

SALUTE THE FLAG

ADEQUATE NOTICE of this meeting of the Mendham Township Planning Board was given as follows: Notice was sent to the Daily Record and the Observer Tribune on January 6, 2021 and Notice was filed with the Township Clerk on January 6, 2021

This meeting is a quasi-judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the Board may legally consider in reaching a decision and decorum and civility appropriate to a quasi-judicial hearing will be maintained at all time.

MINUTES

A motion was made to approve the minutes to the May 19, 2021 Regular Meeting and June 1, 2021 Special Meeting. A motion was made by Mr. D’Emidio to approve the minutes, and it was seconded by Mr. Monaghan. All agreed.

DISCUSSION ITEMS

Ordinance 10-2021

Mr. Cancilla, the Township Planner, stated that after reviewing Ordinance 10-2021, he finds that the Ordinance is consistent with the Master Plan. Mr. Buzak stated that the language in the Land Use Law requires a recommendation from the Planning Board as to whether the Ordinance is not inconsistent with the Master Plan and that a motion should be made supporting this recommendation followed by a memo to the Township Committee stating as such.

Mr. D’Emidio pointed out a typographical error on Page 3 under “Cannabis manufacturer” - letter “m” should be “in.” He also inquired as to whether there are any restrictions on the method of delivery from a retail location to Mendham Township. Chief Johnson responded that he is not sure of the specifics but that the retailer must be a licensed dispensary who has the ability to deliver, and he went on to say that there are certain statutory guidelines with the method of delivery as well. Mr. Buzak added that this requirement is not an election of the Township and that the statute requires that a municipality cannot prohibit delivery service. This is memorializing what is in the statute.

Mr. D'Emidio made a motion that Ordinance 10-2021 is not inconsistent with the Master Plan along with the recommendation to correct the typographical error, and it was seconded by Ms. DeMeo.

Upon roll call:

AYES: Mr. Baio, Mr. Monaghan, Mr. D'Emidio, Ms. DeMeo, Mr. Perri, Chairman Giordano

ABSTAIN: Mr. Johnson

Capital Project Review

Mr. Buzak swore in Mr. Bob Casey, interim Township administrator and Mayor Sarah Neibart. Mr. Casey began by saying that he is presenting an exhibit of the new police facility that would be viewed from West Main Street. Due to technical difficulties on his computer, Mayor Neibart shared her exhibits to the Board and public and began with an exhibit displaying the front of the police station. She explained that Mendham Township passed a bond last fall to build a new police facility and that an exterior design committee was established. The Committee has met over the winter months to discuss the appearance of the police station since it will be located in the historic district in Brookside. Mayor Neibart opined that the design captures the overall historic nature of the Township and that the building will be pushed a little closer to the road but that the septic system will remain the same. She stated that it was a unanimous vote by the Committee to approve the design as well as obtaining the approval for the design from the Township Committee.

Mayor Neibart next presented a site view from the municipal complex standpoint and that the parking and entrance to the new facility will be through the municipal complex from the back. She stated that everything will be up to code with the offices on the first floor as well as a variety of different rooms, including a locker room with female and male lockers. On the right side of the building is a sallyport and will only be accessed from the back of the building facing the municipal complex, which is where the public will arrive. She went on to say that the architects are working with Mr. Keenan to ensure that what is seen on this presentation will be represented on the final site plan.

Mr. Keenan began by reviewing the actual site plan and stated that the project is located on the corner of Cherry Lane and West Main Street. The existing municipal building is situated off of West Main Street and Cherry Lane and that the existing police station is located off of Cherry Lane. Mr. Keenan explained that the existing police station was a residence at one time that was converted into a police station and that it does not meet the needs of the Township or code requirements for a police station. He went on to say that the emergency services building is located in the back of the site with the main parking lot in the center of the site and that off of West Main Street there is a one-way emergency access road that runs into the municipal site, which is used only for fire trucks. On the other side of the municipal building is a municipal-owned residential building, which is the site of the proposed police station and between this residential building and the Emergency Services Building is the existing septic system. This septic system will be utilized for the police facility as well.

Mr. Keenan referred to the site plan that was submitted to the Board and pointed out the existing features on the plan, which was previously discussed. He pointed out the existing residence/future police facility and the driveway off of West Main Street and stated that the intent is to locate the proposed police station in the same location as the existing residence. Mr. Keenan reiterated that the access into the building is from the rear of the structure and that there is a sallyport at the end of the building, which looks largely like a garage in appearance. This sallyport will have a driveway off of the existing access drive for the transport of prisoners into the enclosed

sallyport to the police facility. Mr. Keenan pointed out the main entrance to the building for public access, which is left to the sallyport access and that there is also an access on the left-hand west side of the building, which will most likely be used as an entry point for the employees and police officers. He went on to say that the existing driveway on the property will be removed and will become lawn and that there will be no new access onto West Main Street with all access from the back of the building. Mr. Keenan indicated on the plans the one ADA parking stall, which is off of the access drive and that sanitary will run into the existing septic system along with a new water service line into the building.

Mr. Keenan discussed the existing impervious coverage versus the proposed impervious coverage. He pointed out the green areas on the plans where the impervious coverage plans to be removed and the orange areas, which are the proposed impervious coverage areas. Mr. Keenan stated that there is an increase in impervious coverage but that this will be offset by removing some asphalt in the area of the existing police station and whereby there will be balanced sites with regards to stormwater implications. He went on to say that there is a yard on the site located within a 300-foot riparian buffer with a stream that cuts through the property currently; however, a permit by rule number 10 is allowed by NJDEP for flood hazard. The process for verification of this by DEP has been initiated and that there must also be a submission to the Soil Conservation District. Mr. Keenan stated that verification from SHPO for the location of the building is still pending since this is in an historic district.

Ms. DeMeo inquired about the 300-foot riparian buffer zone running through the property and whether this is being addressed with the DEP. Mr. Keenan responded that an application was submitted to DEP and that this project is permitted under "Permit By Rule" and that the letter should follow shortly confirming this. Chairman Giordano inquired as to where the parking will be for both the Township police cars when not in use and also for officers on duty to park their personal cars. Mr. Keenan responded that it will be within the same municipal lot that is being used today so this will not change. There was some further discussion with regards to public parking along with the parking for the police vehicles, and Mr. Keenan stated that there is more than adequate capacity in the municipal lot for parking of all vehicles. Mr. Johnson confirmed that there will be no antenna on top of the facility other than perhaps one single antenna that is approximately two feet long and located off of the side of the new building.

Mr. D'Emidio inquired as to the intended future use of the existing police station. Mayor Neibart responded that this is yet to be decided but that this space will be used as a temporary measure for the employees in Town Hall when the Town Hall building is renovated next year; however, the existing police station is not a long-term solution for municipal use. Mr. D'Emidio inquired about the time frame for the project, and Mr. Casey responded that the Township is currently out to bid with opening bids scheduled for August 12, 2021 and that hopefully a contract can be awarded on August 16, 2021. He went on to say that the contract requires substantial completion by June 1, 2022 and that the existing building is under contract for demolition in approximately two weeks from now once the disconnect letters are obtained from the utility companies. Mr. Casey confirmed that the project is being bid as 1 GC.

Mr. D'Emidio asked Chief Johnson whether this proposed facility meets the needs for a police facility. Chief Johnson responded that a great deal of thought, examination and discussion was put into the new police facility and that though it is lean, it is undoubtedly quite adequate and that all of the needs and the deficiencies that were raised throughout the planning process were addressed.

Mr. Mayer inquired about the number of holding cells in the new facility, and Chief Johnson responded that there will be a holding room, which meets all the requirements by the DOC who

has reviewed and preapproved the plans. Mr. Monaghan inquired as to the impact of traffic on Cherry Lane and West Main Street, and Chief Johnson responded that he does not see much impact of traffic on these roads in comparison to what there is now and that the new facility will be accessed off of Cherry Lane with the utilization of the municipal lot. The emergency access road will not be used unless in a rare emergency situation. Mr. Mayer inquired about perhaps raising grade along the Cherry Lane road because of flooding, and Mr. Keenan responded that raising grade within a flood plain is an issue and that it would be hard pressed to do so.

Mr. Buzak clarified that this is D-31 review, which is a courtesy review by the Planning Board, whereby recommendations are made to the Township Committee, which can be accepted or rejected. There is nothing prohibiting the Board from opening the discussion to the public; however, this is not a hearing. Mr. Mayer stated that he always welcomes public participation, and Mr. D'Emidio opined that this does not need to be opened to the public since he assumes that this has been open to the public at the Township Committee level many times already. Mayor Neibart confirmed that there have been multiple Town Hall meetings regarding the new police facility with different stages of voting. She explained that when the bid is awarded that this will need to be done in a public meeting, hopefully on Monday, August 16, 2021 and that there will be open public comment allowed at that time.

Mr. Buzak stated that as a next step procedurally the Board can make a motion stating that they have reviewed the capital project for the new Mendham Township police station and that there are no recommendations or comments to the Township Committee in connection with the proposal. Ms. Foley will send a memo to the Township Committee indicating as such. Mr. Monaghan made a motion as stated, and Mr. Baio seconded the motion. Mr. Buzak addressed a question that was asked earlier as to whether the Township Committee members can participate in the Planning Board discussion in so much that they are also on the Township Committee and that the answer to this is that they are allowed to participate in this Planning Board discussion with regards to the new police facility. Upon roll call:

AYES: Mr. Baio, Mr. Monaghan, Mr. D'Emidio, Ms. DeMeo, Mr. Perri, Chairman Giordano
ABSTAIN: Mr. Johnson

APPLICATION – PB- 21-01 – cont'd

Pinnacle Ventures, LLC
22 Saint John's Drive
Block 100, Lot 17.03

Mr. Malman, attorney for the applicant, began by saying that at the last June 16, 2021 meeting testimony was given by the applicant's architect, traffic engineer, and Planner. There was also testimony offered regarding a revised layout and that there were questions about the final coverage numbers and whether the building height was calculated properly since the plans filed earlier did not have that level of detail. The Board asked that the applicant file some revised plans in order to cover these issues, which was done. Mr. Malman stated that a revised EIS was also filed in order to address comments from the consultants, which was received a while back. The consultants have since submitted reports as a result of the revised plans, and he stated that nothing has changed relative to the variances and waivers being requested, which is all part of the record. Mr. Malman also went on to say that the fire department requested several modifications during a recent meeting with them, which the applicant intends to accommodate.

He recalled Mr. Rob Moschello, engineer for the applicant, who offered some testimony based upon the Township engineer's (Mr. Keenan) report.

Chairman Giordano reminded Mr. Moschello that he is already sworn in. Mr. Malman referred to Mr. Keenan's engineering report, which requested additional testimony with regards to whether or not the stormwater system is able to accommodate the additional impervious coverage as part of the revised plans. Mr. Moschello responded that the additional coverage, which is approximately 1,400 square feet, can be accommodated by the stormwater management system as there was some additional capacity built into the design of this system. He stated that the stormwater report will be updated to address the additional 1,400 square feet of coverage.

Mr. Malman went on to say that Mr. Keenan requested testimony regarding signage since the concern is that when people enter the site that they should not use the emergency access road and that they should use the main drive. There should be appropriate signs to direct traffic in this direction. Mr. Moschello stated that at the top of St. John's Drive there is split in the road and that signage will be added to ensure that all visitors are directed to the right at this split when they arrive at the top of St. John's Drive and thereby avoiding the emergency access road (for fire access only), which will basically become a dead end. He stated that the traffic signage will be added to the site plans.

Mr. Malman went on to discuss the recent meeting with the fire department. Mr. Betz, the Ralston Fire Department official, was present on behalf of Mendham Township and that there was some discussion regarding further modifications to the plan to address the fire department's concerns. Mr. Moschello stated that he is aware of this and that the applicant has agreed to make certain revisions to the plans in order to accommodate Mr. Betz's comments and that Mr. Betz is satisfied with these revisions. Mr. Moschello listed the following comments from the fire department that the applicant has agreed to:

- The addition of a fire hydrant along the emergency access drive to the north of the western cul-de-sac, which will be added to the plans.
- It was agreed to install a NFPA 13R sprinkler system within the townhouse buildings.
- It was agreed to have a 2-hour fire-rated wall between each townhouse unit.
- It was agreed to have no storage in the attic spaces in the units.
- It was agreed to have no solar panels on the roof.
- It was agreed that in terms of the sprinkler system, it was noted that on each of the buildings (not the units) there needs to be a small 3-foot x 5-foot appendage on the building, which will house the sprinkler controls for the sprinkler system and will be part of the building. This will be shown on the final site plans as well as a condition of approval. He confirmed that the appendage is a total of 15 square feet and will not have any impact on the storm drain system.

Chairman Giordano inquired about the addition of a hydrant, and Mr. Moschello confirmed that Mr. Betz requested one additional hydrant, which the applicant will add to the plan at the location Mr. Betz requested. Chairman Giordano asked if the added hydrant will be utilized for emergencies on St. John's Drive. Mr. Moschello responded that this hydrant is tied into the water system that is on the property and not a separate tank. It is a live hydrant on a pressurized system and is on the northern portion of the site on the Mendham side and that it would primarily be used by the fire department for onsite fire and would not apply to anyone on St. John's Drive. Mr. Moschello confirmed that the other hydrants on the site can be used for St. John's Drive emergencies, if need be.

Mr. Monaghan stated that the hydrants in the Township cost about \$6,000/month and asked whether there is a charge for the hydrants on the site. Mr. Moschello responded that this is a private system behind the pump station and maintained by the HOA and that the hydrants are not public hydrants, whereby the Township would be required to pay a certain fee to the water company for these hydrants. He confirmed that since they are private that there should not be any added cost to the Township's monthly bill for hydrants. Mr. Malman stated that he will verify this with the HOA as part of their documents. Mr. Monaghan stated that it should also be stated in the HOA document that should the hydrants be needed by the residents along St. John's Drive that it would be accessible. Mr. Malman responded that if the fire department needs the hydrants that they will use them.

Chairman Giordano referred to the Board's experts for their comments. Mr. Keenan stated that Mr. Malman has confirmed that the applicant will comply with the comments in his review letters dated March 17, 2021 and the updated July 20, 2021 review letter. Mr. Buzak stated that Mr. Keenan's review should reflect a date of July 20, 2021 and not June 20, 2021. Mr. Keenan confirmed this. He went on to say that Checklist Item #10 in his March 17, 2021 report indicates that there will be temporary sales and construction trailers on the site with a plan required for the location of these trailers. Mr. Keenan requested confirmation that a hammerhead configuration will be added on the northerly access road., and Mr. Moschello confirmed this. Mr. Keenan also confirmed that there is limited lighting provided at intersections and at the end of the cul-de-sacs and no lighting provided throughout the site. He referred to Page 2 of his July 20, 2021 review letter, which listed the design waivers along with the variance for an accessory structure in a setback, which will be required as a condition of approval. They are listed as follows:

Design Waivers

- Disturbance of steep slopes
- Placement of cut/fill within 10-feet of a property line.
- Installation of catch basins at a 90-degree angle where 45-degree angle is required by ordinance with slopes over 6%. It should be noted that the submitted configuration is recommended by the Mendham Superintendent of DPW so no exception is taken by this waiver.
- Roof drains will not be directed to drywells, but to storm drains.
- Parking within the setback line of the lot. There is limited parking located within the setback on the eastern edge of the property.

Mr. Buzak referred to Mr. Moschello's testimony regarding the deficient hammerhead configuration and whether it was going to be expanded to comply with the requirements. Mr. Moschello confirmed that it will comply.

Mr. Cancilla of H2M referred to his report dated July 15, 2021 and that on Page 3 of this report it states the application's variances and waivers. He then referred to Page 4 and Page 5 of his report where the criteria are listed, which the Board will ultimately decide upon in terms of whether the applicant has met both the positive and negative criteria for granting the variances. Mr. Cancilla stated that the recently revised plans have addressed the additional concerns and that as a general comment, the applicant is not proposing any community amenities onsite such as a loop trail that would connect to the park on the north side of the site. He inquired as to whether the applicant has any interest in providing this amenity. Mr. Malman stated that it is currently designed so that one can walk down to the Township park property, and he opined that the site has enough area for folks to walk and access the Township recreational area.

Mr. Herrman of Princeton Hydro referred to his letter of June 9, 2021 and stated that this report outlined his recommendations and comments and was agreed to by Mr. Moschello. He then

referred to his July 15, 2021 report and that Mr. Moschello has agreed to all of the recommendations and comments in this report as well. Therefore, Mr. Moschello and the applicant have satisfied Princeton Hydro's comments.

Mr. Malman inquired as to the capability of his client to advertise the development. Ms. Foley stated that Mendham Township has a sign ordinance, which would guide the applicant as to what is allowed.

There was some discussion regarding public questions and comments. Mr. Buzak stated that Mr. Moschello has provided some additional testimony and that when the meeting is opened to the public that Mr. Moschello may be questioned on his testimony only and/or also allow general comments. Chairman Giordano confirmed that he would allow the public to question and comment on whatever order they wish to comment or question.

Chairman Giordano entertained a motion to open the meeting to the public. A motion was made, and it was seconded. All agreed.

Mr. Willard Brown of 103 Mosle Road opined that the approval to him seems imminent with a building permit, and Chairman Giordano clarified that the Planning Board does not issue building permits. However, there has been a great deal of testimony and that the application is nearing closure after five months of hearings. The Board will then take a vote and is sworn to make an independent decision with respect to all that was placed on the record.

Mr. Brown referred to the discussion of the height of the buildings at the last meeting, and he opined that this was not thoroughly vetted with regards to obtaining a building permit. Chairman Giordano responded that if the applicant is not asking for a waiver, then the applicant is restricted to the Township's 35-foot height requirement. Mr. Moschello stated that the ordinance allows up to 35 feet maximum height and that it is calculated based upon an average grade around the structure. He went on to say that the architect testified that the building was designed at a height of approximately 28 ½ feet and that when the walk-out basements are factored in, the buildings comply. The site plans indicate that the maximum height of the buildings is 34 ½ feet so there is no request for variances as it relates to building height. Mr. Malman stated that the applicant will comply with the height requirement, and Mr. Keenan stated that the height requirement is reviewed again with the final plans when it reaches the Construction Department.

Mr. Chris Neff of 89 West Main Street stated that he is focused on the environmental impact that the project will create and listed his number of concerns:

- Number of heritage trees being removed
- The amount of wild life being affected in the area

He inquired as to whether there will be a wildlife study conducted before any demolition begins. Mr. Buzak referred to the Environmental Report date March 16, 2021 and stated that two pages of comments were submitted related to environmental issues. Mr. Neff stated that there are threatened species in and around the property, and he referred to a large meadow on the Peapack side, which is a very active wildlife area. He would like the Board to consider the wildlife in this area that will be affected along with the heritage trees being removed. There was some further discussion regarding the meadow that Mr. Neff referred to, which is at the entrance of the property behind the mansion towards the Peapack side. Chairman Giordano clarified that the meadow in question is not being touched by the developer. Again, Mr. Neff expressed his concern on the number of heritage trees being removed.

Mr. Buzak stated that a revised EIS (last revised July 9, 2021) was received from EcoSciences and has addressed in this revised report and in the earlier submitted report all of the environmental impacts including wildlife, trees, vegetation, air quality etc. He went on to say that all of this was reviewed by the Township professionals as part of this application. Mr. Neff stated that he did read this report but that this a standard NJDEP report and opined that it is not current.

Mr. Nicholas Kraus of 10 Carriage Hill Drive raised his concerns regarding a 60% population increase as a result of the new townhouse project, particularly in an R-5 and R-10 district, which is supposed to encompass a low population. He stated that he would ask for a reduction in the number of units and that this property is .1 percent of the acreage of Mendham but will increase the population of Mendham by 3 percent, which is 30 times an increase in population compared to the current population per acre. He went on to say that it will have an impact in our schools as well and listed his other concerns on how the project will affect Mendham Township adversely. One of these concerns is the cul-de-sac on the property that will be obtrusive to the green space that has been preserved by Mendham Township and inquired as to whether there will be trees planted to minimize the view of, in his opinion, the proposed horrendous-looking townhouses. Mr. Malman responded that the application complies with the ordinance and that there is a landscaping plan that will provide screening that was testified to about two or three months ago. Mr. Kraus raised the issue of the steep slope disturbance and asked that the Planning Board request a reduction of units to minimize the impact on the environment and population. He opined that the variances do not have to be approved. Mr. Kraus opined that the Planning Board should request that the developer reduce the number of units with a thoughtful requirement of green space within the site plan.

Mr. William Dotterweich of 11 St. John's Drive stated that he has most of the frontage along the left side of St. John's Drive. Mr. Dotterweich's audio was disrupted.

Mr. Martin Slayne stated that he is the Chair of Mendham Township's Environmental Commission and referred to the report submitted from the Environmental Commission, dated March 16, 2021, with regards to the application. He went on to say a number of concerns were addressed in the report but that it would be helpful to have a written response to these comments so that it is clear as to what is being resolved or what is being taken into account in order to be able to focus on what is necessary. Mr. Slayne stated that there are concerns about some of the variances. He expressed his concerns about the environmental impact on the entire site by putting in townhouses and that there should be less density with plans that make more sense for the location. Chairman Giordano responded that a Planning Board cannot comment on architectural style, and he asked Mr. Malman if one of his experts could respond to Mr. Slayne's questions with respect to the Environmental Commission's comments on the project. Mr. Malman responded that there is a revised EIS and that the comments were already addressed in the context of over five hearings. Chairman Giordano stated that the written request seems fairly straight forward and innocuous and again requested that Mr. Malman have whoever prepared the EIS speak to the Environmental Commission regarding their concerns.

Mr. William Dotterweich of 11 St. John's Drive stated that he has difficulty with the project as planned and that the access through St. John's Drive does not meet safety concerns specified by RSIS. He inquired as to whether there has ever been a study conducted on the structural integrity of the bridge that is two thirds of the way up into the property. Mr. Keenan stated that he is not aware of any study conducted. Chairman Giordano stated that there has been testimony as to the new width of the roadway and depth of the subsurface that will be in place prior to the commencement of construction. Mr. Moschello confirmed that the road will be milled with the removal of the existing pavement with four inches of base course repaved prior to construction. At the end of construction, two inches of surface course will then be laid for a total of a new 6-

inch-thick road. He went on to say that if any structural issues are uncovered with the bridge, as noted on the plans, that this would be repaired or replaced accordingly. Chairman Giordano stated that the developer is attempting to remediate any and all issues with respect to the roadway, which will include the bridge. Mr. Mayer inquired if the bridge is qualified as to actually being called a bridge by federal or state standards, whereby it would require a detailed structural inspection every two years. Mr. Keenan responded that he does not believe it is under the federal guidelines whereby an inspection is required but that perhaps it may be on a County inspection schedule of some kind. However, this is a private road so it most likely will not fall under any inspection requirements to his knowledge. Mr. D'Emidio corrected Mr. Moschello's testimony and stated that the road is going to be 6 1/2 inches of total thickness when the project is completed – not 6 inches. Mr. Moschello confirmed this. Mr. Keenan stated that the total thickness is compliant with RSIS standards and that it is an improvement of what is currently there today. Mr. Dotterweich stated that he has a divergent opinion of that of the developer with regards to safety concerns.

Ms. Valerie Zoller of 20 St. John's Drive inquired about the bats currently living on the property that are an endangered species. Mr. Malman stated that the EIS addresses the Indiana bats and stated that there is a protocol for tree removal during a certain period of time for the Indiana bats and that the applicant will comply with these regulations.

Ms. Zoller raised her concerns about the two culverts on St. John's Drive and that the one culvert is already in disrepair. She inquired as to whether this culvert will be repaired, and Mr. Malman stated that Mr. Moschello testified that if the repair of the culvert is needed, then it will be done when the road is being constructed. This also applies to the lower culvert as well and that it is indicated on the plans that this is being replaced. Mr. Moschello confirmed that the lower culvert will be repaired as part of the roadwork and that this part of the road will be 20-foot wide.

Ms. Zoller raised the mitigation of rodents coming from the buildings when demolition occurs. Mr. Malman stated that during demolition there will be a contractor retained who will deal with these types of issues.

Ms. Zoller inquired as to the maintenance of the emergency access from Carriage Hill Road to the site, and Mr. Keenan stated that maintenance of this emergency access road will have to be reviewed with DPW.

Ms. Zoller continued to opine about the townhouses and her discontent regarding the entire project and questioned how Mendham Township will benefit from this.

Mr. Thompson Ross of 20 St. John's Drive raised his concerns regarding the demolition expert who testified and the fact that he is not going to necessarily be the demolition contractor for the project. He stated that he is also concerned about the safety of the culvert and opined that the developer does not have the best interest of the residents along St. John's Drive. Mr. Ross also expressed his discontent with the type of townhouses being proposed and with the entire project for that matter.

Ms. Amalia Duarte inquired about a discussion at one of the previous meetings with regards to a review of what was inside the existing mansion and whether anything of historic value would be removed. Mr. Malman responded that if the Historic Commission wishes to tour the property for any valuables that there would be no objection to this; however, it would have to be coordinated with his client in order to arrange for this. Ms. Duarte asked for clarification regarding the affordable housing obligation in connection with this project. Mr. Malman responded that the ordinance specifies that affordable housing units are not required onsite but that a payment is

required. This provision was included in the ordinance seven or eight years ago and has not changed and that there will be a substantial payment to the Affordable Housing Trust Fund. Ms. Duarte also inquired about the sewage treatment plant on the site and that it is her understanding that the Township will not be involved with managing this plant. However, if issues with the sewage treatment plant develop over time and if the HOA cannot support the plant, she inquired whether this would then revert to the Township. Mr. Malman responded that he is not aware of any requirement that obligates the Township to take over the sewer treatment plant. It will be privately owned and maintained with a protocol developed for the maintenance scheduling, which would be part of the DEP review for approval with regulations for maintenance thereafter. Ms. Duarte asked for confirmation that should issues develop in the future with the sewer treatment plant that the Township would never be compelled to take over maintenance and management of the plant. Mr. Malman confirmed this and stated that this is a private system. She went on to say that she is glad to hear that the applicant will be responding in writing to the Environmental Commission regarding the concerns that the Commission has with regards to the project. Mr. Malman stated that he would coordinate the written response with the Environmental Commission.

Mr. William Dotterweich stated that Mr. Malman is incorrect with his statement that the Township would not be liable for any future issues with the sewer treatment plant since Mendham Township is the co-signer on the application of the NJDEP permit that was issued previously. Mr. Malman responded that the regulations require Mendham Township to sign the permit application but that it does not obligate the Township to own or maintain the system, so he does not stand corrected. Again Mr. Dotterweich disagreed since the Township is a co-signer on the application. Mr. Malman again stated that in his opinion the Township is not liable in case of a default with regards to the plant. Mr. Dotterweich responded that his opinion is incorrect.

Ms. Nicole Brown of 103 Mosle Road stated that she is opposed to the project and that it is inconsistent with the zoning in the surrounding area. She opined that any plan for 22 St. John's Drive needs to consider the housing density since 44 units on an 18-acre property that is in an R-10 zone is absurd. As a Mendham Township resident who lives close to Peapack-Gladstone, Ms. Brown would like to have it on the record that she opposes the project.

Chairman Giordano entertained a motion to close the meeting to the public. A motion was made, and it was seconded. All agreed.

Chairman Giordano reiterated that Mr. Malman will respond to the Environmental Commission with regards to their concerns and that he will also speak to his client to ensure that the Historic Commission can conduct a walk-thru in the building. He suggested that Mr. Malman reach out to Ms. Duarte in terms of coordinating this walk-thru. Mr. Malman asked that in lieu of a written response to the Environmental Commission that the hearing continue to address their concerns. There is a representative from EcolSciences present at the hearing along with Mr. Moschello who is also still present. Mr. Mayer stated that he is in favor of a written response by the applicant to the Environmental Commission. Mr. Malman responded that the testimony is the same as a written response since the witnesses are all under oath and bound by their testimony. Chairman Giordano stated a concern that if something is in writing, then it is not subject to cross examination as opposed to being conducted verbally with follow-up questions from the public, professionals, or Board members. Mr. Buzak stated that if there is sworn testimony on the issues, then the concerns raised by the Environmental Commission in their report can be addressed verbally at this hearing.

Mr. Buzak swore in Mr. Peter Hansen of EcolSciences Inc., 75 Fleetwood Drive, Rockaway, NJ 07933 as an expert witness in environmental remediation and land use issues related to

environmental consulting. To allow for a voir dire by the Board and persons in attendance, Mr. Hansen stated that he is a Vice President with EcolSciences and a principle of the company overseeing the large variety of work that is conducted. He is a licensed site remediation professional in the State of New Jersey and has been an employee of EcolSciences for about 18 years. He also stated that he has a Master's Degree in Environmental Science. Mr. Hansen went on to say that he has been accepted by numerous Boards and Courts throughout the State of New Jersey as an expert and that his license is current and in good standing in the State of New Jersey. He confirmed that he is familiar with this site in the EIS that was submitted on behalf of the applicant. Mr. Hansen also confirmed that he can testify to one of his employees, Ms. Karin Tekel of EcolSciences, whose name is on the report dated July 9, 2021. There were no further questions from any of the Board members or public regarding Mr. Hansen's qualifications, and he was accepted as an expert witness.

Mr. Malman referred to the Environmental Commissions report dated March 16, 2021 and began with the first comment in the report:

- The EC has major concerns regarding the potential of nitrates leeching into the soil from the wastewater treatment of 44 four-bedroom townhouses in a concentrated area and requests additional details on the septic plans. Mr. Moschello stated that the system is not a septic system but a treatment system with a treatment building that treats the effluent to a certain level and whereby it is then pumped up to a ground water recharge area where the water is recharged back into the ground. EIS details some specifics on that process. He went on to clarify that with regards to the permit, the Nitrate Dilution portion of it is reviewed by the NJDEP under the NJPDES permit and TWA permit and that there is a valid NJPDES permit on this property that already addressed the Nitrate Dilution aspect of the system from the prior application, which at the time was for a 53-unit development. Mr. Moschello confirmed that the system is consistent with the regulations and will meet all the criteria for Nitrate Dilution required by the DEP. Mr. Hansen also stated that this is a permitted system from the DEP and will receive the appropriate permits for review.

Mr. Buzak clarified that there was a previous NJPDES permit for the project that was approved previously by the Board in 2015. This permit has either expired or is inapplicable and that an application has been made for a new permit. This new NJPDES permit has not as yet been issued and that any approval of the Board would be subject to obtaining this NJPDES permit. Mr. Moschello's testimony was to imply that this is a smaller project than the previous project, which was already approved, with the implication being that this should therefore be approved as well. Mr. Moschello clarified that in terms of the overall wastewater management system on the property, there were three permits required for the project. The initial permit was a wastewater management plan amendment that put the property into the sewer service area. This was approved in 2017. Once this wastewater management plan was granted, the prior applicant applied for the NJPDES permit, which allows for the discharge of a certain amount of effluent into the ground as well as a TWA permit, which regulates the design of the treatment facility and gravity sewer system on the property. All three permits were received from the DEP. The waste water management plan amendment is still valid and the NJPDES permit is also still valid; however, the TWA permit is the permit that needs to be refiled since it has since expired. Also, since the gravity system has changed, a new TWA permit is required anyway so this permit still needs to be obtained.

- Mr. Moschello addressed the second concern (second bullet point in their report) by the Environmental Commission regarding steep slope disturbance in relation to this application and stated that from an engineering perspective, a stormwater report was

provided that shows that the onsite stormwater management system as designed will reduce the runoff leaving the property to levels that are actually less than the existing flow leaving the property per the regulation requirements. Furthermore, the plans have an extensive soil erosion sediment control system in place with silt fence, hay bales, proper staging of the disturbance etc. that needs to be approved by the Soil Conservation District and that this would basically control soil erosion and sediment loss on the property during construction. Mr. Moschello went on to say that with regards to soil absorption and recharge of underground water, the stormwater rule requires recharge of stormwater runoff back into the ground to meet the loss of recharge due to removal of wooded areas and impervious surfaces being added. He went on to say that the stormwater system certainly makes up for the loss of soil absorption and recharge of water back to the ground by following the rules of what is required to be recharged. Mr. Moschello confirmed that it complies with the regulation as far as the applicable ordinance requirements.

Mr. Moschello further addressed the Environmental Commissions concerns in their report regarding steep slope disturbance and the Mendham Township Conservation Easements on the northern and southern borders of the property. Mr. Moschello confirmed from his earlier testimony that the steep slope disturbance is not taking place within the conservation easement but only on part of the property unencumbered by those easements.

Mr. Malman went on to say that the EC also takes exception to the nature of the steep slope disturbance and that there was testimony from the applicant's Planner, Mr. Phillips, who discussed his line of justification for that slope variance since they were originally man-made slopes from many years ago and not originally natural slopes. Mr. Malman stated that the testimony was that the areas of disturbance are areas that were basically disturbed when the buildings were constructed years earlier. Mr. Moschello stated that it was testified previously that the man-made slopes were created for the buildings that are currently on the site and that these are the same slopes being disturbed today in order to develop this project. Ms. DeMeo stated that even though they are man-made slopes that since they have been in existence for about a hundred years that they are now part of the topography. She went on to say that a variance is being requested whereby the allowable limit would be increased by five times for the slopes in the greater than 25% category where 5% is allowable and that the applicant is requesting a disturbance of more than 28%. Mr. Moschello responded that a 3 to 1 slope disturbance is typical grading that engineers do on project sites and that these again are slopes that were man-made for the construction of the buildings one hundred years ago. Mr. Buzak inquired about the impact on the environmental run-off between disturbing a one-hundred-year man-made slope of 15% versus a natural slope of 15%. Mr. Moschello responded that usually when a man-made slope is disturbed it is typically around a developed area whereby there are erosion controls and flatter areas adjacent to it, which is seen with this property. This is very different than disturbing these slopes adjacent to a wooded area etc. Mr. Monaghan inquired as to what is involved with the amount of disturbance in the greater than 25% slope disturbance area. Mr. Moschello responded that basically the slope is being eliminated with the area being regraded with a road, building etc. and that by removing the slope, any erosion issues will be eliminated that is associated with the slope. The runoff is being collected in certain areas where there are buildings and that there will be drainage where there is a road. There are also swales in some areas collecting the runoff that will go into a basin or stormwater system and that it is being managed or mitigated by the stormwater system being put into place. Mr. Maglione inquired as to whether a lot of the retaining walls are being created as a result of removing the slopes. Mr. Moschello responded that this is not the case in this project since the grade of the buildings are being

utilized, and he explained this further. He stated that the one retaining wall for the eastern cul-de-sac is in the 4-6-foot height range, and that the western cul-de-sac, which is the higher wall, is anywhere between 10 – 20 feet because of the grade change in that area.

- Mr. Malman raised the next Environmental Commissions concern, which deals with the two variances for the accessory buildings – the utility structure and the water pump house. The concern was whether these variances are necessary and whether the structures can be relocated to avoid the variances. Mr. Moschello responded that the water pump building on the western side of the site needs to be as close to the access road as possible in order to tie into the service coming out Peapack-Gladstone Borough. This is the justification for the 39.3-foot variance request whereby 80 feet is the setback requirement. If this building was to comply with the 80-foot setback requirement, then more trees would need to be removed and more area graded. As far as the sewer treatment plant is concerned, the location of this building is based on a gravity location for the entire sewer system to the lower point on the property. This location is also where the treatment is taking place for the effluent and ultimately pumped back up to the recharge beds that are in the middle of the property. Therefore, a 26-foot setback variance is required whereby 80 feet is the setback requirement.
- Mr. Malman referred to the next concern in the Environmental Commissions report with respect to information requested from the Natural Heritage Program regarding threatened and endangered species. Mr. Hansen explained that the Natural Heritage Program letter is provided in the revised EIS as an attachment. With specific regard to the Indiana bats, there is a tree clearing restriction at a certain time of the year. He went on to say that tree clearing cannot occur between April 1st and November 15th. Outside of this time frame the bats are not on the property but hibernating in the hibernacula and that the property is bat-free. Mr. Hansen went on to explain that the bats return to the location where they hibernate after November 15th – limestone caves, open mine shafts etc. where there is climate control. He stated that they do not hibernate in trees since it is too cold for them and that they would not hibernate in the buildings since it is not heated and unsuitable for hibernation. Also, a building is not a typical hibernation-appropriate natural feature. Mr. Baio asked if there are any cases known whereby bats are relocated, and Mr. Hansen responded that he is not aware of any cases where bats are relocated. Mr. Hansen confirmed that any tree clearing and building demolition cannot occur between April 1st and November 15th. Chairman Giordano inquired about the heritage trees being removed and whereby these trees are a good habitat for the bats to live in during the summer months. He asked whether the new trees will be bat friendly, and Mr. Hansen responded that bats actually prefer dead trees and that there is an abundance of bat habitat. This is why the clearing time of year restriction is in place since it is not that a small amount of habitat is being removed but that it must be done at the proper time of year. Mr. Hansen directed Mr. Monaghan to the letter from the Natural Heritage Program and stated that it is in Attachment B – Pertinent Correspondence, Page 49 in the revised EIS.
- Mr. Malman referred to the next concern in the Environmental Commission's report with regards to the Emergency Access Drive along the northern border, which is contiguous with a Mendham Township Conservation Easement. The Commission inquired as to why it is necessary for this existing road to remain and whether it can be removed. Mr. Moschello responded that the fire department requested that it be left in place for access to the northern side of the property for access to the back sides of a number of the units with their fire equipment. This is also where the extra fire hydrant will be located that the fire department requested and where the turnaround will be made in order to comply with the RSIS hammerhead standards. Mr. Moschello went on to say that there were no plans

to rehabilitate this access road but that repair work would be done where necessary when the utilities are installed. These sections will be repaved but that the rest of the road is in serviceable condition. Mr. Mayer inquired whether a lockable fence should be installed for the fire department's use only in order to prevent people from using the road. Mr. Moschello explained that there will be some signage added at the intersection on St. John's Drive where the road splits as per Mr. Keenan's request. However, it would not be an issue if a chain or gate were installed past the residences just like the gate being installed on the emergency access drive between the site and the park. Mr. D'Emidio opined that a gate at that location is not necessary at all and that the signage is sufficient.

- Mr. Malman referred to the last concern in the Environmental Commission's report with regards to the Stormwater Management Ordinance as mandated by the state and what the new ordinance would have required that is not planned for this development since this project is not subject to the new ordinance because of the timing of when the Pinnacle application was made. Mr. Moschello responded that the specifics of comparing the design to the new stormwater rule was not done because it was designed under the prior rule and not applicable with this project. However, he went on to say that the design of the system does have a lot of components that are similar to some of the new requirements such as bio retention basins that have small drainage areas associated with them etc.

Ms. DeMeo stated that she is satisfied with the responses by the applicant with regards to the Environmental Commission's report and the concerns raised in that report. Mr. Buzak stated that he read the Natural Heritage Program letter and inquired as to its purpose. He asked whether the letter was limited to just the Indiana bats as opposed to other endangered species of plants or wildlife. Mr. Hansen responded that the Natural Heritage Program is a data base with some inaccuracies in it but does account for sightings in the area, which gets applied to an overall area. There is mapping and that based on this mapping, there may be different species in the area. The bats are the species that require some sort of action by the applicant because of the tree clearing restriction. There was some further discussion regarding this Natural Heritage Program letter and its content. Mr. Hansen stated that the project is not determined to have a reductive impact on the bat population. There is a tree clearing restriction to ensure that the bat population is not affected by the development and that the number of bats will not be reduced in the area. Chairman Giordano inquired as to whether he or a member of his team evaluated the site, and Mr. Hansen responded that a member of his team evaluated the site as part of the preparation of the EIS, and he stated that what was found was a habitat suitable for Indiana bat and Northern long-eared bat. He confirmed that the only existing endangered habitat that his team found were bats, and Mr. Hansen stated that the bob cat habitat was not considered core habitat. Also, the barred owl and wood turtle are wetland dependent species and that there are no wetlands on the property. Mr. Keenan added that in the report under Appendix C there is a list of the different species that were observed on the property.

Chairman Giordano entertained a motion to open the meeting to the public. A motion was made, and it was seconded. All agreed.

Mr. Martin Slayne, Chairman of the Environmental Commission, stated that there has been a mix of some objective information and some very subjective reassurances where people are not so familiar with the report and the feedback, particularly on the wildlife piece. He opined that it is important to understand more clearly the impact on the threatened and endangered species and that this warrants a more in-depth assessment at different times of the year. Mr. Slayne continued to opine that the application is being pushed through and that the residents' concerns have not been addressed adequately. Mr. Malman responded that the application has been heard over a

five-month period and that all the questions and concerns were discussed many months ago. He stated that he takes exception to Mr. Slayne's comment that the application is being pushed through.

Ms. Nicole Brown of 103 Mosle Road expressed her discontent with the project and asked if Mr. Moschello has done projects in Peapack/Gladstone or surrounding areas. Mr. Moschello responded that he has worked for Gladstone Design for 22 years and that his office is located in Peapack/Gladstone.

Ms. Valerie Zollers of 20 St. John's Drive inquired about the endangered bats and why they are located in this particular area. Mr. Hansen responded that there are many habitats throughout New Jersey with a high hibernaculum in this area. There was some discussion regarding where the bats go when the habitat is cleared, and Mr. Hansen responded that there is abundant habitat in the area that is suitable for relocation. She went on to discuss the noise level, which will be at suburban levels when construction is complete and how this will affect the bobcat population who are found in this area because of its remoteness. Mr. Hansen stated that the report indicates that the developed nature of the property and the proximity to developed areas limits the suitability of the property as core habitat for bobcats. Ms. Zollers stated that the environmental information was only available since July 9th.

Mr. Chris Neff of 89 West Main Street stated that the wildlife report has raised some further concerns and asked whether some of the endangered species listed were actually observed or whether the report was only based on habitat. Mr. Hansen stated that the list is based on observed and probable wildlife species upon observation over four days. Mr. Neff went on to say that he has walked the property and has observed the threatened species, which means that if this project is approved that these species will become more threatened. He stated that according to the list in the EIS report the endangered species he observed are not on the list and that the list was based on information from February, which is the quietest time of the year. Mr. Neff opined that the opportunity should be taken to further assess the wildlife on the property since there are endangered species on the property. Mr. Hansen clarified that the inspection dates were conducted in July, August, April and June with the wildlife listed that were observed at that time on the site.

Mr. Nicholas Kraus of 10 Carriage Hill Road expressed his discontent with the project and questioned the validity of the experts who testified since their comments were very subjective. He also raised the issue of slopes that are being disrupted and that they are now natural habitat and should not be disturbed. Mr. Kraus opined that proper studies have not been conducted with regards to the environment that will be affected by the project and that the testimony presented is very one sided with many assumptions being made. Chairman Giordano stated that he is cognizant of the fact that the developer is going to improve and correct the issues with the road and that people are not happy with the development; however, the Planning Board has to follow the rule of law. He added that the Board is very independent and will make an informed decision as they strive to be fair with what is presented to them. Mr. D'Emidio opined that what Mr. Kraus stated is not accurate and stated that the professionals represent the interests of Mendham Township and have raised considerable issues to the Planning Board that will be evaluated by the Board members. He said that the engineer's report alone had over eighty issues that had to be addressed and stated that this is not a one-side discussion. This is the fifth meeting with multiple expert reports evaluating and substantiating every aspect of the application according to their expertise.

Mr. Thomas Ross of 20 St. John's Drive stated that the residents on St. John's Drive have been fighting for an improved road for 30 years with Peapack/Gladstone. He then raised the issue of

water runoff to 10 and 12 St. John's Drive and asked whether this water runoff will be diverted elsewhere. Mr. Ross stated that his concern is that the water is going to be diverted to 10 and 12 St. John's Drive and that these residents are not even aware of this. Mr. Moschello responded that the intention is certainly not to do this and that there are nuanced grading features that must be addressed to ensure that water flowing off the road does not cause erosion and continues to flow down the hillside to the different points. He stated that the intent is to maintain the drainage patterns that are on the road currently and that the erosion occurring along the edges of the road is addressed. As was discussed when Mr. Moschello met with Mr. Ross earlier in the year, the drainage pattern would be maintained in front of his property along with fixing portions of the swale in front of his property that has erosion occurring in it. There was some further discussion regarding the water runoff from Mr. Ross' property at 20 St. John's Drive, and Mr. Moschello stated that the idea is not to redirect water into someone else's property where it is not currently flowing into today and to be cognizant of all the residents along St. John's Drive. He stated that the patterns of the water coming off of the road must be maintained with the roadway improvements.

Mr. William Dotterweich expressed his concerns with some of the safety features for access on St. John's Drive. He discussed the history of the residents' requests over the years to Peapack/Gladstone with regards to improvements on St. John's Drive. He opined that he has safety concerns with regards to the bridge and that this should be further assessed and addressed.

Ms. Valerie Zoller discussed the swale in front of her house and the redirection of the water from her property to across the street into the gully, which the applicant's team discussed with her when they met earlier on this year. She inquired as to how anything can be guaranteed that the applicant is promising she and other residents with regards to improvements on St. John Drive. Mr. Moschello responded that the applicant would work with the Mendham Township engineer to address the drainage in front of some of the properties on St. John's Drive. Mr. Malman added that Mr. Keenan will be overseeing the construction as well as the drainage issues, and Mr. Keenan added that there will need to be some process early on to ensure that the residents' concerns with St. John's Drive are clearly understood before any work commences should the application be approved. He stated that their concerns should all be properly addressed with a clear dialog throughout the process.

Ms. Jean Rice of 10 St. John's Drive stated that she has not been approached by the applicant to discuss the plans regarding drainage. Mr. Moschello responded that he had met with the residents at 12 and 20 St. John's Drive and not 10 St. John's Drive and apologized for his misstatement earlier on. She went on to say that she also has a drainage issue but again has not been approached by the applicant's team to discuss these drainage issues. Ms. Rice stated that the road has deteriorated over time and that the Sisters were pressed over and over to improve the road but to no avail and that this was only with a hand full of cars travelling the road on a daily basis. She went on to say that should this application be approved, the number of cars traveling St. John's Drive will increase significantly and that this will be an extremely dangerous situation. Ms. Rice then referred to the EIS and stated that she is unclear as to whether all of the content of the report is current or whether the information is from the prior application and redated for resubmission. Mr. Hansen responded that the EcolSciences report was updated on July 9, 2021 and that the National Heritage letter is current as of February 24, 2021. He also clarified that the EIS was prepared in 2021 and that there is some information from the prior application that is included in this report but that the report is current as of 2021. Ms. Rice also expressed her concerns about the waste water treatment plant and opined that there has not been enough testimony given with regards to this system. She discussed the Brookrace waste water treatment system with its many issues over the years and that she is concerned about the proposed 44

townhouses and the proposed waste water treatment plant for this project. Ms. Rice continued to say that she has observed a bald eagle on the property site and that there has been no mention of this species anywhere.

Ms. DeMeo stated that in both the original and revised EIS statements that it still indicates that the construction of the project will convert this property to age-restricted residential use, which is no longer the case and that this has not been updated. Mr. Hansen responded that he apologizes for the error and will have it corrected.

Ms. Marcello Holmes of 62 Mosle Road requested that Mendham Township as a good neighbor do whatever it can within the proper legal parameters to not let this project detract from what the residents in this area have invested in. Mendham Township is protected on the Mendham side by Green Acres, and Peapack/Gladstone is left with all the issues. She asked that the Township be respectful of what is already here and that she will personally be impacted by all of the lights and traffic with the new development.

Ms. Foley stated that she sees no other hands.

Chairman Giordano entertained a motion to close the meeting to the public. A motion was made, and it was seconded. All agreed.

Chairman Giordano stated that the application will not be heard any further this evening and will continue at the August 18, 2021. The Pinnacle application will be the first item on the agenda to be heard. He also stated that perhaps by this time Mr. Hansen will update his EIS with any revisions necessary and that this would also enable the Board members to consider any further questions they may have at the August 18th meeting.

Chairman Giordano noticed verbally that the application will be carried to the next regular meeting on August 18, 2021 at 7:30 pm via zoom without further notice by the applicant.

The meeting adjourned at 11:24 pm.

Respectively Submitted,

Beth Foley
Planning Board Secretary