

PLANNING BOARD MINUTES  
**PUBLIC MEETING**  
DECEMBER 8, 2022- 7:00 P.M.  
HELD AT THE OAKLAND SENIOR CENTER  
20 Lawlor Drive, Oakland, NJ  
[www.oakland-nj.org](http://www.oakland-nj.org)

Pursuant to Chapter 231, Public Law 1975 (Open Public Meetings Act) adequate notice of this meeting has been provided by:

- ❑ Adoption of an annual schedule of meetings
- ❑ Posting a copy of same at Borough Hall and the Borough's website
- ❑ Advertised in The Record more than 48 hours in advance of the meeting
- ❑ Mailing a copy to any person requesting same

**\*\* MEETINGS CONCLUDE AT 10:30 P.M., THEREFORE, NO TESTIMONY WILL BE TAKEN AFTER 10:00 P.M.**

PLANNING BOARD MEMBERS:

Sarah Michel, Andrea Levy, Gregory Liss, Joseph Marscovetra, Michael Rose, Thomas Connolly, Lee Haymon, John Morris, Councilman Pignatelli, Mayor Linda H. Schwager and Chairman Thomas Potash.

FLAG SALUTE, MEETING OPENED AT 7:05 P.M., ROLL CALL:

Present Members: Mmes. Michel and Levy, Messrs. Liss, Marscovetra, Connolly, Haymon, Morris, Councilman Pignatelli, Mayor Schwager and Chairman Potash.  
Absent Members: Mr. Rose\*

EXCUSE ABSENCES:

Motioned by Councilman Pignatelli and seconded by Mayor Schwager, to excuse the absence of Mr. Rose was voted unanimously by the Board.

Mr. Joseph Russo, Esq., Board Attorney, Mr. John Yakimik, Borough Engineer and Mr. Steve Lydon, Borough Planer were in attendance.

BOARD PROFESSIONALS SWORN IN:

Mr. Yakimik and Mr. Lydon were sworn in.

Ms. Levy sitting in for Mr. Rose.

OPEN MEETING TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA.

Motioned by Mr. Connolly and seconded by Mayor Schwager to open the meeting to the public was voted unanimously by the Board.

No comments.

CLOSE MEETING TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA.

Motioned by Mr. Connolly and seconded by Councilman Pignatelli, to close the meeting to the public was voted unanimously by the Board.

PUBLIC HEARING:

1. K Hovnanian – McCoy Road, Block 4202, Lots 1, 2 & 3. Continued public hearing for a Preliminary Site plan and Major Subdivision.

Mr. Meese, representing the applicant, approached the Board. He reminded the Board members that at the October meeting it was decided that the applicant's engineer, Mr. Cote, would revise the plans as per all the comments and recommendations that were made during the course of the application and agreed upon both applicant and Board. Just before Thanksgiving, Mr. Cote submitted revised plans to the Board office.

The preliminary site plan and major subdivision plan consisting of 75 sheets includes various revision dates. The cover sheet has a revision date of November 22, 2022. Also, there is a preliminary and major subdivision site plan consisting of 9 sheets both revised November 22, 2022 along with a revised McCoy Road stormwater report and operational manual.

A letter dated November 22, 2022 was submitted in response to Mr. Yakimik's engineering review and a letter consisting of eight pages in response to Mr. Yakimik's second review. A review letter was submitted on November 22, 2022 in response to Mr. Lydon's planning report, Lt. Rowin's police report and Fire Chief Dies review of the application.

A copy of the Bergen County site plan exemption was submitted on March 24, 2022, a McCoy Road development project sanitary sewer flow estimate dated November 3, 2021, a DEP Flood Hazard Act Verification Permit dated May 19, 2021 and a DEP Wetlands Permit dated November 10, 2021.

There is an additional exhibits to mark concerning a revised letter dated November 22, 2022 in response to Oakland Shade Tree Commission's comments. An exhibit was entered.

Exhibit A-37A, Letter dated November 22, 2022 in response to Shade Tree Commission's comments.

Exhibit A-37, New Plan dated December 8, 2022 is titled Master Site Plan last revised November 22, 2022.

Mr. Meese reminded Mr. Cote that he was still under oath and requested him to explain the revisions.

Mr. Cote referred to exhibit A-27, an aerial image of the site plan that covers the overall area including the high school. The new plan marked A-37 dated December 8, 2022 is titled Master Site Plan last revised November 22, 2022 which include several changes.

There is a location change for the sign at the main entrance and it is now parallel to the road. A crosswalk has been added to the boulevard just before the entrance to the affordable housing buildings and leads south to the high school property. Contingent to Board of Education approval, the sidewalk there will be constructed. The new location for the pump station is being proposed in the area of Road A and E which will tie into the townhouse portion of the complex.

Parking spaces within the affordable housing complex have been removed in order to add some more shade trees and plantings as per his discussion with Mr. Clark with the Shade Tree Commission. A fence has been added around the pool and recreation building. Additional ADA parking spaces have been added for visitor parking which will be positioned in various locations around the site. The overall parking count has been reduced by 4 parking spaces to include more landscaping but will still exceed the RSIS requirements. Mr. Cote entered an exhibit.

Exhibit A-38, Master Landscape Plan last revised November 22, 2022.

Mr. Cote explained that he met with Mr. Clark, Chairman of the Shade Tree Commission, to go over his comments concerning various trees and plantings throughout the site. As requested, they have modified the types of trees along the boulevard, enhanced surrounding plantings to add stability to those trees and made the tree diameter smaller throughout the property. Another key element was to provide more screening along the southwest and west side of the site which runs along the high school. Additional shade trees within the affordable housing area as well as irrigation for those plantings have been added. Also requested by the Mr. Clark, more woody vegetation be added on the downstream side to help protect the embankments. Landscaping associated with the entrance signage, has been shifted and additional trees have been added throughout the site and adjacent to some of the market value townhomes. These trees will be more vertical so that it has a long-term future.

The applicant has agreed to put money into escrow for the cost associated with construction of the sidewalks in the event the Borough moves forward with installing sidewalks along Yawpo. They did review the concept of "right in" and a "left and right " turn out and the results were that this concept creates a line of site and safety issue so they have eliminated the second lane from the

boulevard exiting the development. A discussion ensued concerning different scenarios. At the last meeting, the traffic engineer did not recommend the second lane from a safety point of view but offered to have it evaluated.

Lastly, in a letter from the high school, it mentions an area where the school property (athletic field) encroaches upon the applicant's property. The encroachment will remain and the applicant has agreed to provide an easement to the high school to maintain their use of it and indemnification insurance.

Mr. Meese informed the Board that there are some smaller details such as curb returns and parking spaces. Chairman Potash questioned if mountable curbing along the island on the boulevard is still being proposed. Mr. Cote responded that part of the revisions that were made include mountable curb islands to be installed throughout that portion of the boulevard. Vehicles will be able to traverse over the island to bypass a lane closure under an emergent situation. Chairman Potash questioned if more openings between the islands were included in the revisions. Mr. Cote responded yes. They have expanded more openings near the affordable housing buildings and further up by the pump station. Chairman Potash asked if the Board had any questions.

Mr. Liss questioned if connecting sidewalks from the property to the high school was still under discussion. Mr. Cote responded yes. They will proceed with the installation of connecting sidewalks to the high school subject to Board of Education approval. Mr. Liss questioned if the encroachment onto the applicant's property could be used as leverage or a swap. Mr. Meese responded that if the Board of Education say no to connect the sidewalk to the high school, they will put that cost towards the constructions of sidewalks along McCoy Road and towards a larger project to be undertaken by the Borough if sidewalks have to be constructed along Yawpo Avenue.

Mr. Yakimik clarified if the Board was satisfied with the applicant's response concerning bollards not being a requirement of RSIS. The discussion lead to that bollards would be placed at the entrances of the affordable buildings. Chairman Potash questioned Mr. Lydon if the ordinance only applies to the commercial zones. Mr. Lydon responded that he believes the ordinance reads that bollards are required wherever there are sidewalks adjacent to parking spaces. Mr. Meese expressed that he believes that the RSIS will govern over the town's ordinance. Mr. Lydon explained that the ordinance is in place to prevent a car going up the curb onto the sidewalk and into the building. Mr. Meese expressed that RSIS will trump the ordinance in place. He recommended that maybe something other than a bollard can be used such as planters to be used as an obstruction in front of the entranceways. Something that would serve the same purpose but be more decorative. Again this would be over and above what is required by RSIS and something that the applicant and also the affordable housing developer would have to agree to do. Mr. Cote explained that the Borough's ordinance would require 106 bollards. He suggested a barrier of planters in front of the entranceway of the buildings. Bollards are assigned for the EV parking spaces that are located near the affordable housing buildings.

Mr. Russo confirmed the EV parking location and that that the market rate townhouses would be setup with made ready EV charging capability. Mr. Cote responded that based on the new law, the EV station requirements will be satisfied in the affordable housing area and all the market rate townhouses will be wired and ready made for EV charging if the owner request it. Mr. Morris expressed that he thinks Mr. Cote's suggestion that planters at the entrance replacing bollards is reasonable since the applicant, according to RSIS, is not required to comply with the Borough's ordinance. Mr. Haymon agreed with Mr. Morris's statement. Chairman Potash informed Mr. Cote that the consensus of the Board is they accept that type of barrier. Mr. Cote confirmed with Mr. Russo that there will be 6 entrances in front of parking spaces for the 2 buildings. Chairman Potash informed Mr. Cote that the entrance planters and design will be contingent to the approval of the Board Engineer. Mr. Cote agreed.

Mr. Yakimik reminded the Board that this application is for Preliminary approval and their comments on the drainage calculations were minor. However, his firm has not had an opportunity to review this in detail and requested that the Board refer drainage calculations to the final approval. Drainage and bollards were his only comments. Chairman Potash requested that Boswell submit a final report of the amendments discussed this evening.

Mr. Lydon referred his question to Mr. Caniglia with K. Hovnanian if the project was intended to be built-out as one phase. Mr. Caniglia, previously sworn, explained that there has not been a formal divide as for construction phases but the construction will start from McCoy Road, beginning at the entrance. The pump-station will need to be in place before the construction of the affordable housing units which is located in the beginning near the entrance. The likelihood is that the major site work, grading, establishing detention basins will be done upfront. Typically, K. Hovnanian does not build out in front of sales. A model building will be constructed followed by the construction of more buildings once the sales supporting them become available. The affordable housing phase needs to tie in between market rate certificate of occupancies and understand that it will be conditional approval, as per the developer's agreement. Since the grading is going to be done up front, they predict that the first affordable building will start promptly after and the construction cycle of the market rate townhouses should start 14-16 months after. They do not expect any issues with meeting C.O. requirements for the affordable housing units but understand that they may be stopped temporarily for the market rate units from getting C.O.'s. Mr. Lydon expressed that this does not sound problematic and imagines that this will all be stated in the resolution that COAH scheduling will adhere with the issuance of C.O.'s. Mr. Lydon confirmed that it is not construction phasing, its C.O. phasing.

Mr. Lydon thanked Mr. Cote for adding sight triangles to the revised drawings. He explained that there may have been some misunderstanding of one of his comments in his August 2nd memo. The comment was that he is concerned about the 40-percent slope downstream of the riprap basin and the water coming back together creating an erosion issue. Mr. Cote responded that this is a limited drainage area. There is a small portion of the driveway for the access point to the adjacent property and the discharge there is not significant and it comes off of riprap. He explained the purpose of the riprap is to stabilize the discharge and dissipate the energy before it heads downhill and this complies with the state.

Mr. Rose entered the meeting at 7:54 p.m.

A discussion continued concerning drainage. Some of the Board members requested guarantees that the improvements being proposed will not adversely impact the downstream. Mr. Connolly asked Mr. Yakimik if he could guarantee this for the residents in the audience. Mr. Cote recapped the testimony given at previous meetings and assuring residents that this will be an improvement of what is there now. Mr. Yakimik finished up the discussion by informing the Board that the developer has offered to help with off-site improvements which is technically not necessary because they have testified that they are not increasing runoff as per DEP regulations. He estimated that it will cost 8.6 million to rehabilitate Allerman Brook from the bend at the I-287 ramp to the Crystal Lake dam including repairs to the dam. Mr. Meese explained that he has not reviewed Mr. Yakimik's estimate but the applicant is willing to contribute towards improvement. However, case law is very clear on this matter and the applicant cannot contribute more than 1-percent which adds up to \$86,000.00. A discussion ensued concerning why the applicant cannot contribute more than 1-percent. Mr. Meese referred to the Nunziato case law.

The discussion continued with drainage and comments from the Shade Tree Commission. Chairman Potash expressed his biggest concern is with maintenance of the detention basins. Mr. Cote responded yes this is a DEP obligation. Chairman Potash confirmed that the maintenance manuals will be provided to the homeowner's association and they will be responsible for the maintenance. He explained that he wants to make sure that maintenance is carried out on a regular basis because with runoff comes silt and debris which will clog up the outflow structures. He wants to ensure that 20 years from now the same maintenance is carried out to protect the people downstream who are affected by it. Mr. Cote responded that this is a requirement of the O&M manuals and an obligation of the permit. It will also be in the developer's agreement to make sure that maintenance is being done. In addition, the O&M manuals are required to be a recorded document. Typically, this is included and recorded as an exhibit in the master deed and also the obligation of the homeowner's association to comply with the requirements of the O&M manual.

Mr. Caniglia informed the Board that the homeowner's association will be responsible for maintenance of the overall property. The Board confirmed that this includes the affordable housing property and fair market value townhomes. Mr. Caniglia responded yes, this includes roadways which includes maintenance, repair and replacement of the road as well as snow removal, stormwater facilities and the sanitary sewer pump station maintenance. This will be done by a cost-sharing agreement with the Ingerman for the affordable housing portion. A discussion ensued concerning hiring maintenance people. Mr. Caniglia responded that the HOA will hire the professionals and other vendors to perform services through the cost sharing agreement with Ingerman and the HOA. The Board questioned if that contract would still follow through if Ingerman were to be sold. Mr. Caniglia responded yes, whoever purchases the affordable housing development will have to continue to comply with the terms and conditions of the agreement attached. Mr. Russo confirmed that Mr. Meese mentioned that there will be a 30-year deed restriction on the affordable housing portion. Mr. Caniglia responded yes. Mr. Yakimik

requested if Mr. Cote could share some of the requirements found in the maintenance manual. Mr. Cote responded that the obligation is that an inspection occurs after any 2-year storm and a biannual manual inspection of various structures throughout the site. The detention basins and infiltration basins are inspected annually to review the content and make sure that the base conditions are still operating. After the inspections, a document reporting the inspection is required. Mr. Yakimik informed the Board that the obligation of maintenance falls upon the HOA but the DEP requires the Borough is responsible for making sure that the HOA has satisfied their obligations. The Board questioned the type of training required for doing these inspections. Mr. Cote responded it could be a professional engineer or a lot of these landscape companies are taking on the responsibility by cleaning out the basins and replacing the sand layers. A discussion ensued concerning landscapers being qualified to conduct these inspections and the integrity of these detention basins in the event of a significant storm. Chairman Potash expressed that the Borough engineer will oversee the report and that should be the line of confidence. The Board questions if efficiency is measured to make sure the infiltration basins are recharging properly after years of being maintained. Mr. Cote responded that there is a requirement in the O&M manual to verify that the system is operating as per its design on a biannual basis. No further questions. Chairman Potash requested that the Board break.

Meeting recessed at 8:30

Meeting resumed at 8:45

Roll Call:

Present: Ms. Michel, Ms. Levy, Messrs. Marscovetra, Rose, Connolly, Liss, Haymon, Morris, Councilman Pignatelli, Mayor Schwager and Chairman Potash.

Absent: None.

Chairman Potash informed the Board that the applicant has finished with their presentation and updating the Board on the revisions. He entertained a motion to open the meeting to the public.

Motioned by Mayor Schwager and seconded by Mr. Liss, to open the meeting to the public for final questions and comments pertaining to the application was voted unanimously by the Board.

Mr. Secora with LAN Associates stepped forward. He explained that his firm is the architects and engineers representing the school district of Ramapo Indian Hills and Oakland K - 8 school district. The school sent a letter to the Planning Board and the applicant responded addressing many of the items but there are some items that he would like to put on the record. One of their concerns for both K-8 and the high school is the demographics. He questioned if there was a study done as far as the impact of development on the schools. School districts must plan for any increase in enrollment and this development is going to affect the teachers and the possible expansion of the school district. They want to know how many students will be generated by the proposed development. The second item is that Ramapo Indian Hills has a private sewage treatment plant and they would like the opportunity to discuss connection to the proposed sanitary sewer system for the development. He understands that the municipality has a

wastewater management plan under review by the DEP but, if permitted by the plan, the school district would like to eliminate their private sewage treatment plant and connect to the sanitary sewer system being proposed by the developer. He expressed interest in reviewing the revised landscape plan and perhaps adding to the buffer near the athletic field to help conceal the lighting for both the residents and also the reverse lighting coming back to the spectators. Lastly, He questioned what will be done to eliminate odors that may be generated from the proposed sewage pumping station which is 200-feet from the bleachers at the Indian Hills High School property.

Mr. Meese responded to Mr. Secora's first question regarding the number of students generated. He responded that this is a zoning question. The zone was put in place 3 1/2 years ago and the applicant is consistent with the zoning and the ordinance put in place. With respect to connecting to the proposed sanitary sewer, Mr. Meese informed Mr. Secora that the high school has been addressed as part of the proposed wastewater plan amendment which the high school will tie into sewers down on Route 202 when the sewers are ready to be installed. Mr. Cote addressed the questions concerning the landscaping and the pump station. Mr. Cote explained that the pump station will have control measures for odor which is part of the design. He also informed Mr. Secora that they have been working with Shade Tree Commission and will share the landscaping plan that has been submitted. The Board questioned if it was a definite no for the high school to tie into the sanitary sewer system. Mr. Meese responded that is correct. During the planning stage for the development, around 5 years ago, the high school was asked if they wanted to tie in and at that time, they were not interested. Chairman Potash wanted to go back to the discussion of the impact more children will have on the school system. He explained that the property has already been zoned for the number of units they are proposing and the Planning Board does not have a say as to the impact on the schools system, this should have been considered during the zone change made by the governing body. He suggest the Board planner help estimate the number of students. Mr. Lydon explained that Mr. Meese and his client are before the Board due to the affordable housing decision announced by the Supreme Court 50 years ago. This means that Oakland has an obligation to create affordable housing opportunities. All towns in New Jersey have to provide affordable housing for a broad range of people and families. Whenever a community attempts to address a small portion of that affordable housing obligation, it will include children and have an impact on school districts. Right now, it is difficult to estimate the number of school-aged children but whatever the number might be, New Jersey requires municipalities to educate them.

Mr. John Scerbo, 77 Spear Street, Vice President of Oakland's K-8 Board of Education and liaison to the Mayor and Council. He explained that he understands that the Borough will likely not turn down the project due to COAH's demands since it will end up in court. He requested Mr. Meese give a timeframe of construction because the school district needs to have a long-range facility plan. Elementary students would attend Dogwood Hill school system and that's the smallest and oldest school so they will have to plan for an expansion at some point. He expressed that with the 151 units being proposed, he guarantees that this will involve families with school aged children. He informed the Board that they will need to start planning now for the impact and reminded that their budget was defeated during the last school election and they will need to find



money to prepare. Heights is at full capacity, Manito is close and Dogwood has a small amount of room. He expressed as a liaison to the Mayor and Council and for the BOE, he is disappointed that they were not notified sooner. He requested a timeframe of when the development will be completely constructed so they can plan going forward. Mr. Russo explained that this application is only for preliminary approval and the applicant will have to come back for final approval. Mr. Caniglia responded that along with final approval, they need approval from the DEP on the TWA for sanitary sewer and will have to wait until the wastewater management plan is adopted sometime in 2023. There will be a lot of site work to be done so maybe some of the first residents may be able to move in around 2024. Completion could be over a several year period depending on the pace of sales. Mr. Scerbo responded that he appreciates the information and requested that the school district be informed of any projects of this size in the future. The Board confirmed that the affordable units will be built before the market rate units. Mr. Caniglia responded that they can build up to 25 percent of the market rate units before the affordable units are completed.

Mame Schwarzfisher, 187 West Oakland Avenue, informed the Board that this application has been going on for months and she just learned of it at the last Council meeting. She warned what that what happened in Pompton Lakes will happen in Oakland. Every taxpayer should have known about this application.

Mr. Ed Clark, 6 Morton Place, Chairman of the Shade Tree Commission. He thanked Mr. Cote and Mr. Meese for working together to improve the plan, it is a great start. He informed the Board that he did issue a letter concerning minor things such as species. Irrigation, maintenance and long-term survivability of plantings can be talked about in the future. It is important to maintain the living product so that it lasts for 20 years down the road. Some of the lawn areas have been eliminated to reduce the amount of fertilizer to be used and the meadow areas need to be maintained properly. He commented that the topic concerning areas for stockpiling snow have not been addressed. Snow will need to be removed because there is little on-street space to stockpile snow even with a snowfall of 6-inches. Mr. Clark is afraid if snow is stock piled between trees and plants, it will impact the long-term performance of the landscape. He also expressed that detail for landscaping, particularly related to the emergency access points, needs to be addressed. There is no in house tree crew that can step in during an emergency, so details concerning the HOA's plan for these events. Mr. Clark confirmed that the limit of disturbance has not changed for the landscape plan. He knows the plan does not have to comply to the ordinance but the applicant's proposal is not close and the current ordinance for 22 acres requires the applicant to replace 2,024 trees. With the revisions, the applicant is up to 50-percent of what is required and he would like to see them do better than that. A discussion ensued concerning an item in the Shade Tree ordinance where if the applicant cannot supply the amount of plantings required for the proposed site, they can make contribution elsewhere in the town to make up the difference. Mr. Meese reminded Mr. Clark that the landscape plan complies with the requirements for the subject zone and project.

Mr. Elkin, 147 Lakeshore Drive, expressed his appreciation for the applicant's willingness to work together with the different agencies. However, he still has concerns with the people downstream and deterioration of the Allerman Brook. He expressed that a traffic study was done but not a

study concerning the impact on Allerman Brook. He hopes that the applicant would be willing to help more than the 1-percent. No further questions or comments.

Motioned by Mr. Rose and seconded by Mr. Connolly, to close the meeting to the public for final questions and comments pertaining to the application was voted unanimously by the Board.

A discussion ensued concerning the combination of the snow melt and rainfall and how this contributes to the performance of the storm system. Mr. Cote responded that this will not affect the off-site discharge because snow does not equate to a rain event. To manage the snow on site, the basins and reserved parking spaces can be used for temporary storage and remaining snow will be hauled off site. It is not the responsibility of the basins to operate the way they do during rainfall events. The snow will melt and the rain will melt the snow. The Board questioned if the detention basins were designed to hold snow. Mr. Cote responded that they were not designed to hold snow but they hold the water associated with the snow.

Chairman Potash informed the Board that all the testimony has been given and the Board has heard questions and comments from the public. Mr. Russo confirmed with Mr. Meese that the town is going to be responsible for the terms of the Kelly Bill. He explained the Kelly Bill terms that was enacted years ago for townhouse and condominium developments for the purposes of road maintenance. These terms are supplied by way of the HOA hiring contractors for services the town would provide and the town will reimburse the HOA a reasonable value that is calculated for those services.

Mr. Russo confirmed that the HOA will provide a private garbage hauler and the town reimburses the HOA what those services would have cost the town. In addition, he confirmed that street lighting will also be maintained by the HOA and the town will provide reimbursement for what it would have cost the town. He identified these services as snow removal for the roads, garbage/recycling and the lighting. Chairman Potash questioned if fire hydrants should be included. Mr. Yakimik responded that this will be the water company, Veolia's, responsibility. Mr. Caniglia mentioned that the Borough can make the choice concerning garbage/recycling pickup and snow removal but the HOA is going to have their own contractor regardless for parking areas and sidewalk areas.

There was a discussion concerning flow rates and sewer fees. Mr. Caniglia responded that a small section for sewage goes through Franklin Lakes and connect to Northwest Bergen Utility Authorities. NWBUA does not bill retail customers so there will be a service agreement between Oakland and NWBUA and Oakland will bill the HOA. How those charges will be billed still have to be determined. No further questions or comments.

Chairman Potash explained that normally the Board will consider a resolution, but the professionals will need to submit an official report supporting revisions made. He recommended that the Board vote to authorize Mr. Russo to draft the resolution either in the affirmative or negative regarding the application so we can include the final reports from the professionals. Both Mr. Yakimik and Mr. Lydon expressed that not much has changed to add to a report. Mr. Yakimik

informed Chairman Potash that there is still drainage to be confirmed but that will be completed when the applicant comes back for their final approval. Mayor Schwager expressed that she is not ready to vote. She explained that this is major and she wants all the questions answered before it goes to a vote. Chairman Potash disagrees and questioned the thoughts of other members.

Mr. Russo informed Mr. Meese that as far as wording concerning the contribution, he will make the amount “to be determined.” Mr. Yakimik agreed the contribution number can be sorted out later. Mr. Russo added that this can also be the case for the escrow for the sidewalk. The condition can read “amount to be agreed upon.” Mr. Meese agreed.

Mr. Morris expressed that he believes that sufficient testimony has been given to satisfy his concerns. The issues that the Board had when the application started have been addressed. Improvements have been made by the applicant to deal with significant concerns that both the public, this Board and our professionals had. The applicant has demonstrated that they are responsive and the remainder of the concerns and issues are minor, particularly at this stage in the process when voting on preliminary approval. He would not have a problem with entertaining a vote on preparation of a resolution either in favor or against at this stage in the process. Mayor Schwager expressed that if the Board moves forward now, they are not going to be agreeable to talk about trees and other issues. Mr. Morris responded that the applicant’s response has been in good faith and this is preliminary approval. Chairman Potash commented that regarding the issue with Shade Tree, he appreciates everything that Mr. Clark is doing to help this process and help the development. He believes that the applicant has met the requirements of the ordinance associated with this property and the settlement agreement. Hopefully the applicant can do a little better with regard to the request of Shade Tree but this should not hold their approval up. Mr. Rose expressed that he would like to review the 60 minutes that he missed. Mr. Morris responded that the applicant should not be penalized due to the tardiness of Mr. Rose. He explained that the Board has a responsibility to take action once the applicant has fulfilled their obligations to the Board.

Chairman Potash confirmed the eligible voters. Mr. Liss informed the Board that he is ready to vote. He expressed to the public that a settlement agreement has been endorsed by the Mayor and Council. According to the endorsed settlement agreement, the applicant has met the requirements. He agrees with Mr. Clark and asked Mr. Meese if they would be willing to increase the percentage of what is being proposed for landscape. Mr. Meese responded that he will continue to work with Mr. Clark but they will not contribute plantings off-site.

A discussion ensued concerning the applicant’s 1-percent cap of the cost for repairs to the Allerman Brook that could be contributed. Mr. Marscovetra expressed that before moving forward, he wants to know what that legal cap is. Ms. Levy questioned if there was recourse concerning the school district. She informed the Board that the 3 bedroom townhouses will attract families. Mr. Russo reminded that if the property is zoned for this project, the town needs to educate them. This should have been taken into consideration when the zone was being changed. They comply with the ordinance. Mr. Lydon explained that these kind of conversations have been held across the state for 50-years since the addressing Mount Laurel developments.

Mayor Schwager expressed that they also have a duty to the residents to get all the answers before going to a vote and informed the Board that she will not vote this evening. She wants the final report of the planner and engineer and comments of Mr. Rose and Mr. Clark addressed. She informed the Board that she did sign the consent order on behalf of the Borough because they were told that they had no choice due to the Borough's affordable housing obligation. Once they get their approval and build the project, they will be finished and the Borough is left to deal with it.

Councilman Pignatelli confirmed that the Board would be voting on authorizing the attorney to draw up a pro or con resolution. He reminded the Board that we are voting on preliminary approval. Mr. Russo responded that this is correct. Mr. Morris added that if the questions that the Board is looking for by the next meeting are not answered to their satisfaction, they can vote no.

Chairman Potash entertained a motion to authorize Mr. Russo to draft a resolution either in favor or against the application.

Mr. Morris entertained a motion and Mr. Liss seconded that motion, to authorize Mr. Russo to draft a resolution incorporating those elements heard this evening and previous meetings in the affirmative for consideration by the Board. No discussion.

Roll Call Vote: Ayes: Mmes. Levy and Michel, Messrs. Marscovetra, Connolly, Liss, Morris,  
Councilman  
Pignatelli and Chairman Potash  
Nays: None  
Abstain: Mayor Schwager  
Absent: None  
Ineligible: Messrs. Haymon and Rose

Chairman Potash announced that the K. Hovnanian application has been carried to the January 12, 2023, public hearing here at the Senior Center at 7:00 p.m. with no further notice.

#### PAYMENT OF BILLS:

Motioned by Mr. Liss and seconded by Mr. Rose, to approve the bills list subject to the availability of funds.

Roll Call Vote: Ayes: Mmes. Levy and Michel, Messrs. Liss, Marscovetra, Rose, Connolly,  
Haymon, Morris, Councilman Pignatelli, Mayor Schwager and Chairman  
Potash.  
Nays: None  
Abstain: None  
Absent: None

APPROVAL OF MINUTES:

November 10, 2022, Minutes:

Motioned by Ms. Levy and seconded by Mr. Morris, to approve the November 10, 2022, minutes.

Roll Call Vote:           Ayes: Ms. Levy, Messrs. Liss, Marscovetra, Rose, Connolly,  
                                  Haymon, Morris, Mayor Schwager and Chairman  
                                  Potash.  
                                  Nays: None  
                                  Abstain: Councilman Pignatelli, Mr. Haymon and Ms. Michel  
                                  Absent: None

MEMORIALIZATIONS:

None

NEW BUSINESS:

Committees were formed to review RFQs.

Mr. Liss, Mr. Connolly and Chairman Potash will review the RFQ's. Chairman Potash informed the committee to come to the meeting at 6:30 to review their findings.

Mr. Russo gave an update on Master Grinder's application. He informed the Board that this application will be heard at the February meeting.

OLD BUSINESS:

Mr. Lydon informed the Board that at the January meeting, they will have a final public hearing on the Housing Element and Fair Share Plan. The plan will be distributed before the meeting.

Chairman Potash thanked the dedication of Mr. Morris and Councilman Pignatelli since they will not be returning in 2023.

PUBLIC MEETING ADJOURNED AT 10:30 P.M.

Motioned by Ms. Michel and seconded by Mr. Morris, to adjourn the meeting by a unanimous vote by the Board.

Respectfully Submitted by,

Kathlyn Gurney, Administrative Assistant

\*Next meeting on January 12, 2023