

**PLANNING BOARD  
BOROUGH OF DEMAREST**

**MINUTES**

**REGULAR MEETING**

**December 7th 7:30 PM**

Chair Hayden opened the meeting at 7:30 pm with the following announcement:

**Public Announcement of Meeting:** The notice requirements of the Open Public Meetings Act of the State of New Jersey have been satisfied by the inclusion of the date, time and place of this public hearing meeting in the annual schedule and notice of regular meetings of this Board. Such annual schedule and notice of regular meetings are posted at the Borough Hall, was mailed to The Newark Star-Ledger and The Record and was filed with the Borough Clerk of Demarest on December 8, 2021.

**Roll Call**

Mr. Keane-present

Mr. Tabacchi-present

Councilwoman Fox-present

Mr. Alevrontas-present

Mr. Rifkind-present

Ms. Hayden -present

Mayor Schooler-present

Mayor Iannuzzi-present

Mr. Verp-present

Mr. Parlamis-absent

**Professional Staff Present:**

Mr. Bern, Board attorney

Ms. Green Board Planner

Mr. Cheluis, Assistant Engineer

Mr. Hubschman, Engineer

Mr. Abrahamsen, Applicant attorney

Mr. Uri Rapaport, Architect

**Salute to the Flag**

**Steve Verp was sworn in as a new Class 4 Regular member of the Planning Board by Mr. Douglas Bern, Board attorney.** Mr. Verp will fill Risa Paster's unexpired term ending in 2025.

**Applicant Attorney, Mr. Abrahamsen** opened the meeting representing the application for 95 County Road LLC. He stated that his Engineer and Architect took into consideration the Planning Board members comments and suggestions and revised their plans. He stated that it was not economically feasible to have fewer market rate units. He stated that the revised architectural plans offer an appealing colonial aesthetic. Mr. Abrahamsen called **Mr. Hubschman** to present the engineering revisions. **Mr. Abrahamsen** asked **Mr. Hubschman** to state his name and address for the record, and he responded **Mr. Hubschman** – Engineer, 263 S. Washington Ave., Bergenfield. Sworn; previously qualified.

**Chairwoman, Ms. Hayden** asked that the presentation be reviewed sheet by sheet; and expressed specific interest in the Site plan sheet #3, the Grading, Drainage & Utility Plan. **Mr. Bern** assigned the exhibit Set A2, a colorized version set and asked **Mr. Hubschman** when the plans were prepared and revised. **Mr. Hubschman** stated that the plans were prepared 3/23/2022 and were revised as #4

on 11/22/2022.

The revised engineering plans presented by Mr. Hubschman included:

- Moving the infiltration basin 10 feet off the property line.
- Not seeking a variance for the drainage basin.
- The addition of a split rail fence along the transition area line, which is required by the transition area permit.
- Moving building A, 4 feet closer to County Road.
- Utilizing parking spaces 5 and 6 to establish a turnaround area and installing a service area sign.
- Widening the interior road from 24 ft. to 26 ft.
- Moving the rear building two feet further from the rear; in order to utilize the transition area average.
- Changed the proposed decks to patios.
- Removing 30 Trees and adding 81 trees.

**Chair Hayden:** suggested the infiltration basin be moved more towards the rear yard, between the split fence railing and the riparian line in a rectangular fashion, stating it is too close to the neighbor, and that accessory units are not permitted in the side yard. And also asked if a split rail fence is required by state regulation, if the infiltration basin is below ground and covered?

**Mr. Hubschman:** A split rail fence is not required, the basin is inground and graded, containing a concrete box and filter media, it is not covered.

**Chair Hayden:** reiterated from the previous hearing the details and the expense and complexity of the maintenance plan for the infiltration basin. And citing safety, stated that a different type of fence should be incorporated into the plan in order to deter children from climbing the fence, as well as animals and debris entering the filtration area. It was further discussed that the HOA would be responsible for the maintenance, management, and expenditures for the infiltrations systems.

**Mr. Hubschman** stated the maintenance cost for the infiltration system is estimated to be \$1,000 - \$2,000 per month for maintenance plan, he also suggested a black aluminum fence, like pool fences that are wrought iron in appearance in place of the split rail fence.

**Councilwoman Fox** questioned the 72 hour-retention basins and the performance capability after a longer more serious storm. **Mr. Hubschman** stated there is an orifice designed for the hundred-year storm. **Councilwoman Fox** asked what happens in a 25-year storm. Mr. Hubschman referred to a one-year storm water accumulation which stays in the basin, anything larger than that pours into the back. **Chair Hayden** asked if there are any existing drainage systems on the property?

**Mr. Hubschman** stated No. **Chair Hayden** noted that Sheet # 9, the Transition Area Averaging Plan was not in the engineering plans, and requested that sheet be included. She further suggested a revision of the traffic circulation plan since the road was widened, and confirmed with Mr. Hubschman that there will be two fire hydrants and asked about the ability of sanitation vehicles to be able to turn around. **Mr. Hubschman** stated that a smaller garbage truck could turn around in that area, but not a public sized one. **Councilwoman Fox** asked if the intention is to have private sanitation service. **Mr. Hubschman** stated yes, a private sanitation service would be used. **Chair Hayden** inquired about the cleanup in the back/rear area. **Mr. Hubschman** responded that it is a wetland area and the DEP does not want the area disturbed.

**Chair Hayden** asked to review the architectural plans at this time. **Mr. Abrahamsen** called **Mr. Uri Rapaport** and was sworn in by **Mr. Bern** at this time. He stated his name, address (15

Pleasant Street) and credentials, (registered architect in the state of NJ, and is licensed for 40 years). His credentials were accepted as an expert in his field. **Mr. Bern** marked the first site plan exhibit A3 and asked if the Board has an identical set. The exhibit notes Building A, the closest unit to County Road. Building A consists of the following units: an Affordable ADA accessible moderate-income unit, with three bedrooms. This unit shares a garage with the 2<sup>nd</sup> floor unit which is an Affordable, low-income two-bedroom unit. Attached to these units are units 3 and 4, which have first and second floors and are market rate units. (they also have basements but that was not mentioned by the architect) **Mr. Abrahamsen** stated the two Buildings face into the interior, and the garages contain a designated space for storage of garbage cans as required under the terms of the Settlement Agreement.

**Mr. Rapaport** displayed the Front (interior) elevations on Page 5. Then referred to page number 6, which shows the view from County Road. Materials being used were noted as shingles, cement boards for the siding, and a break of veneer on the bottom; to create a more traditional look. Mr. Rapaport stated there are small metal roofs on each garage.

Referring to the ADA accessibility in unit 1: Inside the apartment is an open kitchen which gives accessibility for a wheelchair. The bathroom is 5 feet. **Mr. Rapaport** explained that the size of the door, and the corridor must be a certain width for the wheelchair to go through and 5 feet is the minimum to accommodate this.

**Chair Hayden** asked the total number of bedrooms in the 6 market rate units. **Mr. Rapaport** referred to the plans and pointed out - 2, and 3 bedrooms in the affordable units, with 2 bathrooms in the affordable moderate-income unit. The market units are the same, he stated. Unit #4 for example, has a two-car garage, the entrance is through the foyer, and inside there is a half bathroom by the front entrance, and kitchen attached to a family room. There is a sliding door opening onto a patio. There is a formal family room and a formal dining room, the square footage is 1,173 sq. ft. The garage is 452 sq ft. The bedrooms are on the second floor, and on page #3 as displayed on the second floor – up the stairs, there are two bedrooms that face the inner driveway. The grey area on the exhibit is part of the garage, where the metal roofing extends out. There is a master suite facing the rear yard, with a master bathroom and a walk-in closet, and a second bedroom and bath facing the rear. **Chair Hayden** again asked the total number of bedrooms in the market rate units and ultimately pointed out that all the market rate units have 5 bedrooms. **Mr. Rapaport** answered: Correct. **Chair Hayden** stated there are 4 bedrooms on the second floor and there is a bedroom in the basement. She suggested that they make some changes and asked about the total number of parking spaces required and asked how many will be provided. **Mr. Hubschman** stated that the RSIS standard is met, and stated that they are required 18 spaces and are providing 28.

At this time, **Chair Hayden** asked for questions from the Board. A question was asked as to where the garbage will be stored. **Mr. Rapaport** There is ample room for a garbage storage in the garages. It was discussed that this was demarked on the Affordable unit garages, but not on the market rate garages. **Mr. Rapaport** stated garbage is not allowed outside. Storage is not allowed in the garage nor is it to be used for anything else.

**Chair Hayden** asked about the large storage area with a window in Affordable unit 2.

**Mr. Rapaport** suggested that it should be specified in the lease agreement that this is not meant to be a sleeping area.

**The Borough Planner, Ms. Green** noted that regarding the ADA certification, the scale of the plans is not accurate; the circle of the door must be clear in order to meet the ADA requirements. Mr. Rapaport stated she is correct about the door and modifications can be made. He stated they have the room to expand into other areas to meet this requirement. **Mr. Abrahamsen** stated that

there is a washer dryer unit, that could be stacked. **Chair Hayden** asked the square footage for the basements and for the total square footage for the market rate units. **Mr. Rapaport** clarified that the Affordable units do not have basements. He stated that the square footage of the basements is the same as the first floor, 1,153. **Mr. Rapaport** concluded that the livable space is 2,800 sq ft. and then **Ms. Hayden** asked about including the basement into those figures. Mr. Rappaport stated that they don't include this number (including the basement square footage) in marketing, then stated that the total square footage is 4,000 sq. ft. **Ms. Green** responding to **Mr. Rapaport**: There is one bedroom in the basement, can another bedroom be added to the basement? **Mr. Rapaport** directed the presentation to an exhibit of the basement – Unit #3 on page 8, has a basement, with a window, there's no room to add another bedroom or another window. The unit on the end, there is another window, and we can make sure its not an egress window or to be used as a bedroom. **Ms. Green** stated that under the building code another bedroom cannot be added. She also added the RSIS (Residential Site Improvement Standards-parking standards) is outdated as it does not provide a parking code for a townhouse with more than 3 bedrooms. Ms. Green noted that if this was a single family detached home the RSIS requirements do increase according to the number of bedrooms. She also noted that regarding the architectural style, the Board should render a decision on whether it is substantially in line with the Conceptual Site Plan rendering by Virgona & Virgona. A question was asked whether samples of the building materials proposed to be used, could be shown during the hearing. **Mr. Abrahamsen** stated they do not have access to the various samples; however, they have photographs. **Mr. Rapaport** spoke about cement board, which looks like siding, Hardy plank, he exhibited a photo and explained some of the benefits of this building material. **Chair Hayden** asked if the samples/photographs represent what would be used for this specific development. It was stated that what is shown this evening is more of a concept. **Mr. Rifkind** asked if residents who purchase these units could make alterations to the interior and exterior of these units. **Mr. Rapaport**: not to the exterior, which must be in accordance with the Settlement Agreement. They can eliminate a bathroom (?) or combine two rooms. A question was asked about the legality of having a certain number of tenants. A question was asked as to the number of people that can occupy a 5-bedroom unit. **Mr. Abrahamsen** suggested certain conditions in the Resolution.

**Chair Hayden** asked to review the landscaping plan. The applicant was asked to explain the waiver requested and the basis for it. The Borough has a tree removal and replacement ordinance, the ordinance includes both major and minor trees. The number and size and type of trees to be removed determines the number, size and type to be replaced. The plan removes 30 trees and that requires a replacement of 46 trees. The applicant is proposing 12 Major trees and 61 Evergreen which are 8-10 feet high. The waiver is in lieu of providing the 46 trees. The applicant was asked if the evergreen trees are considered major trees? **Mr. Hubschman** stated evergreen trees are more appropriate as the buffer trees. The applicant was asked about the condition of existing plantings and the placement of new plantings in relationship to existing planting **Mr. Hubschman** stated they would plant underneath these older existing plantings. Other questions asked: 1) what would happen to the tree near the infiltration basin. **Mr. Hubschman** stated it would have to be removed and replaced. 2) From a drainage and soil erosion perspective, how do the evergreen trees compare with the major trees that are being removed. It was stated that arborvitae soaks up more water. There was a discussion about the builder guaranteeing trees/planting if they die. **Ms. Green** stated in some towns, when a developer seeks site approval, and some trees are required because they are buffers, there is a life time guarantee of replacement. The presentation moved toward discussing drainage infiltration unit. **Mr. Hubschman** stated that regarding the drainage report, the water quality storm is 16 inches of standing water which drains about 6 inches an hour

– and could be there for 3 hours draining down. The other storms drain slowly, but the basin is not filled with 4 feet of water. **Councilwoman Fox** asked if the water pours out of the area. **Mr. Hubschman** stated that the water goes through the pipe into the Wetlands, which reduces the flow rate. Board Engineer **Mr. Chelius** stated he would have to see a revised plan to determine if moving the infiltration basin is feasible. **Mr. Chelius** also questioned the snow stock piling area, and stated the snow piling in the back would be unrealistic. **Mayor Iannuzzi** agreed that there is not enough room to move snow around in that small area. **Mr. Hubschman** stated that the area in the rear is pretty large, and that snow could be plowed up against the trees. **Mr. Hubschman** stated that they may have to take the snow off site. **Mayor Iannuzzi** stated that this is not a commercial site and wants to preserve the residential quality of the neighborhood. Further, if a unit was removed, this would resolve a lot of issues. **Chair Hayden** questioned the inlets on the north and south sides and the Filtara unit, and asked if these drains were underground. **Mr. Hubschman** stated it was a regular storm drain, and the catch basins are every 200 feet. **Chair Hayden** asked if there are local examples of the Filtara systems; **Mr. Hubschman** explained that system has grating to allow water to drain and usually has a tree planted in the grating/drain area. **Chair Hayden** stated that the Filtara system and the overall project seems very urban; with no backyard and the occupants have their housing unit and only a patio for outdoor enjoyment; and stated that this lack of usable space could be alleviated with less units. **Ms. Green** noted several discrepancies on the plan and assumes that the applicant should be willing to fix the discrepancies, which are minor.

**Mr. Hubschman** presented the lighting plan- referred to sheet 7, proposing 4 lantern type lights - 14 ½ feet high, LED, 45-Watt light, zero cutoff – the lighting is all up in the top area. The plan shows the foot handle lines, no spillage on adjoining properties, not a largely lit complex. Discussion regarding color/temperature for lighting, (kelvin’s) was explained by **Mr. Chelius**. He stated that kelvin’s displays a whiter or yellower light, which is a matter of aesthetics – the actual brightness does not change. **Mr. Chelius** stated that a yellower hue is generally used for residential applications, and that temperature is the color.

**Chair Ms. Hayden** asked for a motion to open the meeting to the public for questions regarding Mr. Hubschman’s testimony and Mr. Rappaport’s testimony.

**Motioned by Councilwoman Fox and Seconded by Mr. Verp**

### **Open to Public for Questions**

**David McLain** 9 Isabella Way: Long time Demarest resident and Zoning Board member. **Mr. McLain** directed his questions to **Mr. Rapaport**. Stating the proposed development contains 35 bedrooms on a site where there is currently a single house. The site plan does not match up and the renderings don’t match the engineer’s plans. Regarding the basement unit on page 8 – since there is a bedroom, you must provide an emergency escape area. He further stated that ANY basement bedroom must provide an escape. Further, what is proposed facing County Road, doesn’t show railings or the required well on the renderings - referring to page 6 – the plan shows minor landscaping. He is concerned as to what is visible when viewed from County Road. The engineer is showing HVAC units in the front of the building, viewable from County Road. **Mr. McLain** questioned where the HVAC units will be located. Regarding the landscaping plan on page 7, on **Mr. Hubschman’s** sheet, shows bushes very tight - up against the building. The landscaping plan does not consider the required window wells. He stated that the split rail fence

in the back appears to come within a foot of the building, according to page 9 on Mr. Rapaport's sheet. These units come out three feet from the back edge. If the transition area is a foot from the back edge, shown on the landscaping plan, which shows one tight line of bushes – If these are coming out three feet, are these units encroaching onto the setback area? The architects and engineering plans don't match and must be redone. **Mr. Rapaport** stated that **Mr. McLain** is correct. **Councilwoman Fox** stated that you can't put AC units in front of a window, and asked about the location of the generator. **Mr. Rapaport** said there is room on both sides of the windows for the HVAC units. **Mr. Rapaport** clarified that a generator must be four feet away from a window. **Mr. McLain** stated that this design does not match the Virgona & Virgona plan. **Mr. McLain** directed questions to **Mr. Hubschman**, concerning drainage; theoretically suggesting he could design a smaller project, since this project is requiring an unusual drainage plan. **Chair Hayden** said the drainage plan is dictated by the total coverage and not just the existence of the wetlands. **Mr. McLain** stated that the creek is a protected drinking water creek, sign in by Governor McGreevey in 2004. The highest protected level creek designation in the state of New Jersey, and it goes into the Oradell reservoir. **Mr. McLain** directed his questions to **Mr. Hubschman**. Referring to increased runoff, with this plan, one year rainfall/events the extra goes to the overflow and into the back of the property. He asked if this would increase the runoff to the back of the property. **Mr. Hubschman** disagreed based on prior testimony. The one-year storm would drain six inches per hour. And would take three hours to drain down. Most storms are less than a one-year storm. The rate of run off is controlled by a 6 inch and 5-inch orifice and extensive calculations and reports have been approved. **Mr. McLain** questioned that if an overflow is taken from the front and is being diverted to the back into the creek, how is this not increasing runoff into the wetlands? **Mr. Hubschman** stated this is what was wanted, based on the requirements to have the water runoff into the wetlands. The DEP requirements, and the Demarest code states that flow water cannot increase flood damage at or downstream from the state. He cited Demarest code 149-5Fb4C2. **Councilwoman Fox** clarified if **Mr. McLain** meant runoff into the brook. **Chair Hayden** asked **Mr. Hubschman** if the idea is for the water to move to the wetlands, and then to the Cresskill brook. **Mr. Hubschman** responded: Sure, everything flows to the south. **Chair Hayden** did a site visit after the technical review meeting. She stated the southeastern bank of the Cresskill Brook has a high wall, but the northwestern bank doesn't exist. Therefore, the water is not contained in the Cresskill Brook but flows into everyone's yards. **Mr. Hubschman** disagreed. **Chair Hayden** stated that the northwestern bank has eroded down to nothing. **Mr. Hubschman** stated that this is a regional problem, and that the drainage system is state of the art and meets all regulations, and that there will be less water than today. **Mr. McLain** described water running down towards Carlotta Way where residents have flooding issues. **Mr. Bern** asked what documentation **Mr. McLain** is referencing. **Mr. Bern** designated the two photographs exhibits M1 and M2. The first picture faces southwest towards the Avery property and towards the wetlands. **Mr. McLain** was asked when the photos were taken and responded that he took the photographs after rainfall four days prior. He noted the water table has risen quite a bit **Councilwoman Fox** asked **Mr. McLain** if the problem is that when the extra water goes into the wetlands and because there is no real bank, it doesn't go into the brook and it just spreads – or is the problem that it eventually goes into the brook and flows more? **Mr. McLain** responded that it's a two-fold problem. First, you must control your runoff. Second, the water can also flow onto the Borough property and make its way to residents. **Mr. McLain:** Should the borough property and the creek be the proper recipients of this unchanneled water? **Chair Hayden** clarified the question: Is it appropriate that this drainage system directs water to other residents' property and town property? **Mr. McLain** stated that he has never seen this type

of plan for residential properties, that directs water to town property, other residents' property and a creek. **Mr. Hubschman** reiterated that the water flow is reduced, and that they must mimic the same drainage pattern that exists today. **Mr. McLain** stated that the water is being directed from the front of the property to the rear, which is not the current situation. **Chair Hayden** stated that there will be increased storm water runoff due to the increased impervious surfaces proposed by the development.

**Mr. Hubschman** stated that the design of the basin is to release the overflow water slowly, and that the water is contained. **Councilwoman Fox** stated and theorized that there is more water because there will be more impervious surfaces, but instead of having it all flow at once, its sitting there and you're holding it so it won't flow all at once. It's the flow rate. **Mr. McLain** read the engineer's report regarding the Filtara unit and the NJ storm water manual; the Filtara system is meant to clean the water: It explains how the water flows through the basin, and the water that is sitting there, is exposed to debris, and goes through PVC piping. If the water is cleaned of TSS (Total Suspended Solids) which is the solids, and is sitting in a basin, then how is that water getting to a 96 percentage of filtration in the wetlands. Because it's bypassing the sand filtration in the basin. The water in the piping has no filtration to the outlet. How does that water get cleaned to 96%? **Mr. Hubschman** stated that the emergency overflow flows into the 6- and 5-inch orifice, but the water goes through a water quality treatment. He stated that a one-year storm is typically 95% of the storms. Discussion ensued regarding the overflow water and how the overflow is cleaned, and if it meets the code standard. **Mr. Keane** stated that what he was saying was accurate to an extent, and that we are held to the standards that the state imposes. And that the design meets the standard. **Councilwoman Fox** asked a question about the slope that picks up the water that trickles if there is no bank. Is this like a spillway? **Mr. Hubschman** stated that, that was correct.

**Mrs. Laura Santos 9 Carlotta Way:** Asked for clarification since the last meeting as to how the water was going to be channeled and if a retaining wall was going to be built. She requested a drainpipe and a retaining wall to prevent water reaching her property which sits four feet lower than the proposed development. And that snow is proposed to be piled up against her property line and trees. **Chair Hayden** asked **Mr. Hubschman** if the water would reach Mrs. Santos property and if a drainpipe and retaining wall is feasible or necessary. **Mr. Hubschman** stated that all the roof run off and the road is all curbed and drained to the northwest. **Mr. Chelius**, addressing Mrs. Santos concerns, explained that there isn't pumping of water, that it's all a matter of gravity. He stated that the roadway itself at the end of it, is the highest point, where it meets in an L shape is the lowest point – so, water from all directions flow towards that and that's where all the inlets pick it up and leads it to the infiltration basin. Regarding the actual buildings, the roofs, the gutters go ultimately into the infiltration basin. None of it is hitting the ground, so none of it is flowing naturally downward towards your property. **Mr. Keane** asked **Mr. Hubschman** if the property is being regraded away from Carlotta towards your drain. **Mr. Hubschman** stated the final grading is all away from her property. **Mr. Keane** stated than you are regrading the property. **Councilwoman Fox** asked - Does that mean that you must raise the portion that is closer to her property. **Mr. Hubschman** responded – No. That the road elevation is 52, and her property is 50. **Councilwoman Fox** stated that it is higher than Ms. Santos's property. **Mr. Hubschman** stated that there is curbing. **Mrs. Santos** asked for clarification if they are going to build a retaining wall? **Mr. Hubschman** stated that they can build a wall. **Chair Hayden** asked if this could be made a condition of approval? **Mr. Hubschman** stated that to build a wall is a minor issue. **Mr. Abrahamsen** stated that if this was a condition of approval, they would comply with the conditions. **Mr. Chelius** stated there is landscaping proposed in this area. **Mrs. Santos** stated she is willing to lose some of the shrubs in

order to hold down water. **Ms. Green** stated that there is existing landscaping to remain and new landscaping planned, and one of the requirements is that there must be screening. She stated: I'm not sure that both can be accomplished especially at the dead end of the roadway. **Mr. Chelius:** a retaining wall isn't warranted and the storm water is adequately captured and I don't see it being an issue on that property. **Mrs. Santos** concluded that she is not satisfied with this.

**Eileen Lewis:** 32 Brook Way. If I am understanding what you're saying then the water that now goes over to Carlotta Way, is going to be pushed in the other direction and then to drain back towards the brook. **Mr. Hubschman** stated that the water doesn't drain towards Carlotta Way. **Mrs. Lewis** - But you're saying that the water will no longer drain towards Carlotta Way, it will go towards the proposed drainage, and ultimately into the pipes, and ultimately into the Cresskill Brook "that is an already an overburdened waterway system", I live downstream and I can show you pictures from last year, in a days' time, I had water 150 ft. in my backyard and the next day, there was no water, because it receded. And if there was another ounce of water, it would have been in my house. And we must think about all the people that live downstream from this, and all the extra runoff that it's going to cause. I know you say it's a 100-year storm, but in the past year, that brook has been up to my back step 6 or 7 times. Almost every time it rains heavily it's in my backyard. **Chair Hayden** asked **Mr. Hubschman** if this proposal would help this situation. **Mrs. Lewis** stated I am also getting it from the brook because the brook makes a sharp turn right behind your property, and the water comes down the hill with such great speed. And there's so much water that it overflows its banks. **Mr. Hubschman** asked **Mrs. Lewis** - Are you in the flood hazard area? **Mrs. Lewis** stated - The back part of my property - not by my deck where the water is 6 or 7 times a year. We put mulch in, every time we mulch, its ends up downstream. 32-foot logs and all sorts of debris have landed in my backyard more than once this past year. We really need to think about what's happening downstream for all of us.

**Mr. Bill Lewis:** 32 Brook Way - I did research that a 5-bedroom homes have on average 7.5 people living in it, we are going to have an increase to the Demarest population by 1 ½ percent, and I'm not sure if that makes sense. Second, 20 years ago and I heard the same engineer discuss Lauren Pond Estates and guaranteed no increased runoff. That summer, I had increased runoff. He pointed out that the runoff rate for a one-year storm, not talking about a one-hundred-year rainstorm. He commented that the runoff rate goes out the window on a 100-year storm, which are more often now than a once a hundred years. **Chair Hayden** asked **Mr. Hubschman** if the technology has improved so much in 20 years since Lauren Pond Estates has been developed and with what you are proposing now. **Mr. Hubschman** responded, yes - the regulations have become a lot stricter. There are much more runoff rate requirements to limit runoff.

**Debra Longest:** 19 Brook Way - resides across the street from the Lewis's. Stated: she is an occupational therapist; if an aid, or a heavy-set person in a wheel chair where in the ADA bathroom, there is no room to move around in the proposed bathroom. She further stated ADA compliance is not enough in this situation. **Mr. Rapaport** stated that when they designed this for handicapped people, they had to follow the guidelines, and they are going to revise the plan. **Mr. Abrahamsen** suggested there is more room in this bathroom and that a washer and dryer could be stacked. **Mrs. Longest** asked if a bathtub is needed, she suggested a zero-entry shower instead. **Councilwoman Fox** stated that there is a zero-entry shower in the second bathroom. **Mrs. Lewis** asked if it is possible to not approve or vote on this plan this evening. She added that the parking area is disastrous for crowd control and ambulances. **Mrs. Lewis** asked who is liable if this water drain

does affect her neighbors. **Chair Hayden** stated the HOA is responsible. **Mrs. Lewis** stated that the property values could go down for long term residents and stated 35 bedrooms are too many to add to this development.

**Missy Schweitzer 106 County Road** - Questioned the moving of units 1- 4, four feet closer to County Road in the revised plans. Are they in line with the properties on County Road? How does this revision line relate to the other properties. **Councilwoman Ms. Fox** stated that the front yard setback is 35 feet in that zone, and their setback is 38, so they are further back. **Councilwoman Ms. Fox** stated that 35 is what is required so the proposed units are further back. **Ms. Schweitzer** stated that she has lived in Demarest 73 years, and that County Road is unmanageable. To add the quantity of all proposed in this plan, is not preserving the neighborhood.

**Klaus Kretschmer 46 Brook way:** Just installed a new floor in his basement due to storms. He resides on the same side as the Lewis's. The water is up to his basement and in his basement several times a year. Concerned about the real estate values of nearby properties.

**Mr. Jimmy McCagna: 28 Brook Way** –Commented that he grew up on 22 Brook Way and could view the back of this property from his second floor. He has seen how the property has transformed over that time. And how it affected his neighbors. Any additional flow of water will substantially reduce the landscape and property values.

**Mr. David McLain: 9 Isabella Way** – Commented that if this application was going to be approved this evening, considering the Borough Ordinance and the DEP restrictions, and recommendations by the manufacturer, that the contract be put into the permitting process and the HOA contract. He noted **Ms. Green** brought up the issue of the phasing schedule. Our ordinance allows them to begin within a percentage. Some developers complete the market rate units and don't complete the Affordable units, claiming/filing bankruptcy. **Ms. Green** clarified that the phasing schedule requires the entire proposed development be built at the same time, not in phases.

**Miss Laura Santos:** Not a resident of Demarest, daughter of Resident: **Ms. Santos** commented on the proposed snow piling against neighboring trees. Which could possibly kill the tree's and asked if salt would be used. **Mr. Hubschman** stated that the salt would be similar to what is used on the road, or sand. **Ms. Santos** stated that the landscaping on her side has issues. **Mr. Hubschman** stated they were trying to keep the existing trees, and add to the landscaping. She stated that there should be a contingency that occupants cannot convert the garages to storage usage. **Chair Hayden** stated that the Agreement includes these exact deed restrictions.

**Chair Hayden** Asked if there were further questions from the public, seeing none asked for a motion to close the meeting to the public.

**Motion was made to close the meeting to the public:** Mr. Keane and Seconded by Mr. Alevrontas.

#### **Closing Comments:**

**Mr. Rifkin:** Commented that the town of Demarest is required to comply to with its affordable housing obligations but stated a compromise may be needed. He sympathized with neighbors that experience flooding issues.

**Mr. Tabacchi:** Stated that the Mt. Laurel doctrine should not be used to get around good planning.

The water problem in this town gets worse and worse. Someone needs to be held legally responsible for maintaining all this drainage technology. It must start with the developer, and the successor - who must be legally required to maintain the system so that the drainage problem doesn't get worse.

**Mr. Verp** asked if it was possible to require the HOA to have a bond for the maintenance of that technology and the drainage. **Mr. Bern**, clarified; what does this mean-a perpetual bond? He stated that he hadn't seen that before. Enforcement is not what land use Boards do. He stated he would have to investigate further, whether they can require a perpetual bond. We talked about the amount for maintenance of this Filtara system, and we know approximately how much it takes, and that number as a condition of approval would have to be placed in the annual budget. And the developer would have to place that number in a reserve when turning over the project to the homeowners.

**Mr. Abrahamsen** stated that reasonable conditions are always permitted in an approval, and many of the concerns can be put into a Resolution, and they are legally binding. They would bind the HOA. **Mr. Abrahamsen** further stated the Resolution is the approval of the site plan and they can't build or even operate if they are in violation of the site plan ordinance, then you could have the building inspector issuing a summons. They won't get a CO if they are not in compliance with the site Plan. **Mr. Bern** added, the site plan and the Resolution. **Mr. Bern** mentioned an indemnification if damage occurs off site. There are remedies; which would be handled in municipal court. **Mr. Verp** questioned how would cause and effect be proved and enforced? **Mr. Bern** stated the bond and maintaining the system is one thing, and that indemnification is another tangent. **Councilwoman Fox** stated that she wasn't impressed or satisfied with the requirements on the Homeowner's Associations since they can go bankrupt. The maintenance must be related to the deed. She stated that if you don't maintain the units, the town can come in and service the units, and this is added to your taxes.

**Mayor Schooler** asked **Mr. Abrahamsen** why they added 6 bedrooms, 6 bathrooms, and recreation rooms in the basement. **Chair Hayden** stated that on October 26<sup>th</sup> at a technical review meeting the applicant was asked about basements; plans submitted up to this time did not include basements in any of the units. At the technical meeting the architect responded: yes, there will be basements but not in the affordable units. The next set of plans, submitted shortly after this meeting illustrated fully finished basements with bedrooms with an egress window, a bathroom and a recreation room in all units except the affordable units. **Mayor Schooler** referred to the parking situation, adding the addition of bedrooms will add more people. He stated that a vote should not be taken this evening. **Chair Hayden** agreed and stated there are a lot of unanswered questions and areas that require clarification. **Councilwoman Fox** stated that she would like to see the things that we discussed become part of the deed restrictions. **Mr. Abrahamsen** stated it could be in a Resolution. **Chair Hayden** stated she would like to see it before it is in the resolution. It was requested to adjourn the meeting to January 4<sup>th</sup>, 2023. **Mr. Abrahamsen** asked if there will be changes in the Board membership due to the new year and he asked if new personnel would listen to the testimonies and tapes of prior meetings. **Chair Hayden** said there would likely be two new members; anyone who is voting on the application who has not attended the hearings will be required to listen to tapes of the missed meetings and to fill out a 'Missed Meeting Certification form' **Mr. Abrahamsen** was asked to waiver time constraints and was told that he would not need to re-notice as the next hearing on this application will be announced at this meeting. There was discussion as to a deadline to deliver new plans to the Board. Noon December 20<sup>th</sup> was the decided deadline. **Ms. Green** requested a digital copy, due to her vacation schedule.

**Councilwoman Ms. Fox** stated that since the review standards for this application are different

from other applications because of the Settlement Agreement, and Affordable Housing, and suggested that they come to the next meeting with all considerations and options. **Mr. Verp** asked about additional seepage pits or other options that would reduce the runoff, not just the flow rate. Which would help with the water. **Mr. Hubschman** mentioned impervious pavers on the driveway. **Councilwoman Fox** mentioned reigning in the brook and requested a list of the deed restrictions in advance to review.

**Approval of Minutes: November 2nd** minutes

**Motion to approve:** Councilwoman Fox Seconded by Mayor Iannuzzi

**All in favor:** Alevrontas Fox Iannuzzi Keane Tabacchi Rifkind Schooler Hayden Verp

**Brief update on Voting for Chair and Vice Chair and Board appointments in January:**

It was decided a nominating committee was not needed and that the nominations would take place at the January re-org. meeting.

**Motion to Adjourn the meeting:** Mr. Alevrontas Seconded by Councilwoman Ms. Fox

**All in favor:** Alevrontas Fox Iannuzzi Rifkind Schooler Hayden Verp (Mr. Keane and Mr. Tabacchi were not present for the adjournment vote).

Respectively submitted,

*Teresa Ferrentino*

Teresa Ferrentino  
Board Secretary