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MEMORANDUM

To: Planning Board
From: Lauren A. Wasilauski, Open Space & Stewardship Director
Date: October 16, 2023
Re: PB-03-23: Harlingen Associates, LLC
Block 6001 Lots 33, 34, 34.01, 35, 35.01, 36 (Route 206)
Preliminary & Final Subdivision & Site Plan

This office has reviewed the following materials and offers the comments below:

- Outbound Survey, prepared by Van Cleef Engineering Associates, dated 12/12/2020 (1 sheet)
- Final Plat, prepared by Van Cleef Engineering Associates, last revised 5/18/2023 (1 sheet)
- Flood Hazard Area Delineation Map, prepared by Van Cleef Engineering Associates, last revised 8/22/2022 (1 sheet)
- Wetlands Delineation Plan, prepared by Van Cleef Engineering Associates, last revised 11/21/2019 (1 sheet)
- Preliminary & Final Subdivision, Site Plan & Final Construction Plans, prepared by Van Cleef Engineering Associates, last revised 7/28/2023 (39 sheets)
- Architectural Plans, prepared by Holliday Architects, Inc., last revised 5/19/2023 (24 sheets)
- Environmental Impact Statement, prepared by EcolSciences, dated 1/19/2023

A. Application overview

1. The Applicant proposes to develop the following:
 - a. Three (3), two-story apartment buildings, containing 18 residential units (total), comprised of 11 affordable units and 7 market rate units
 - b. Thirty six (36), three-bedroom townhouses with driveways and two car garages
 - c. Associated sidewalks, sitting areas, tot lot, bike storage, dog park, pump station, etc.
 - d. A retention basin (or wet pond) is proposed for stormwater management
 - i. The EIS states the pond has been designed in accordance with NJDEP's new Green Infrastructure Rule amendment.
2. Approximately 13.329 acres of the total site (22.189 acres) is proposed for development with 8.86 acres proposed to be dedicated to the Township, mostly

- containing wetland areas and stream corridor at the rear of the property (eastern portion).
3. The properties formerly contained single family residential uses and commercial uses which have been demolished.
 4. Access is proposed from US Route 206.
 5. The properties are located within the Site-Specific Inclusionary Zoning District (SSIZ-3).
 6. The proposed development will be served by public water from New Jersey American Water, and sewer from the Township's Pike Brook Wastewater Treatment Plant. A pump station is proposed for the southeast part of the site.

B. Proposed Sewer Connection

1. The Applicant proposes to connect their project to the Pike Brook Wastewater Treatment Plant by constructing a force main through the easterly portion of their property, alongside Fox Brook, and continuing onto adjacent Township property (block 6009 lot 6) which includes a detention basin for the existing neighborhood on Montfort Drive and a portion of which is encumbered with a conservation and drainage easement.
 - a. The easement area through the Township's lot is indicated as a proposed 20' wide sanitary sewer easement totaling 14,174SF ($\approx 1/3$ acre) per sheet 21.
2. This office is of the understanding that the proposed pump station is sized solely for the capacity of the residents of the proposed development.
 - a. This office understands the value of connecting the Harlingen Village residents to sewer in order to protect health and safety, as well as water quality. Many of the residences in Harlingen Village operate on older septic systems and holding tanks. However, individual connections cannot be made into the force main, and no gravity line is proposed to service the village of Harlingen. The alignment of the proposed force main will solely serve the proposed development of 54 residential units.
 - b. An alternative plan (Option A) has been provided on sheet 18 to "upsized" the pump station in order to provide a potential opportunity to accommodate flows from offsite users.
3. The Board should discuss alternative alignments for the force main that don't impact critical areas (wetlands, stream corridor, flood hazard area), threatened and endangered species habitat, and existing conservation easements.

4. This office reviewed the project with the Open Space Committee and they are very concerned that the alignment impacts an existing conservation easement on the Township's property (6009/6) and will require significant tree removal. The Committee is also concerned about the precedent to be set by this decision – that restrictions imposed for conservation purposes can be superseded for other purposes and uses.
 - a. This area was protected by a conservation easement at the time of a previous Planning Board approval and directed to be protected in its natural state due to the valuable resources present. Trenching through these areas to install a force main, and then continuing maintenance to keep the area clear of trees and brush to protect the integrity of the pipe will impact these areas and cause fragmentation of habitats for plant and animal communities and likely result in the proliferation of invasive species.
 - b. The Applicant's attorney has argued that the conservation and pedestrian pathway easement is voided per the doctrine of merger and Restatement of the Law Third, Section 7.5 because the Township subsequently took title to block 6009 lot 6. This concept seems reasonable for easements of necessity or easements by prescription – such as easements granting access to the Township or granting rights to maintain a drainage structure. This type of easement would no longer be required once the Township takes ownership of the property. However, the conservation easement was intended to benefit the public at large. This is in fact stated in the second "Whereas" clause on page one of the easement (copy of filed easement attached):

"WHEREAS, the Grantee has determined that the health and welfare of its residents may best be served by the preservation of the Easement Areas in their natural, scenic, open and existing state; and"

And further reaffirmed in item 8 on page 2:

"8. Although the conservation and drainage easements granted and intended to be granted hereby, have been created for the benefit of the general public through the protection of water and land resources and natural beauty..."
 - c. When weighing the alternatives, the Board should consider whether the ability of 54 residences connecting to sewer is a significant enough benefit to warrant effectively nullifying a conservation easement, cutting dozens of trees, and creating permanent disturbance to habitat.



Red line represents approximate alignment of proposed force main. A significant amount of trees will be removed if the force main is located through the Township's basin. Nearmap May 15, 2023 image.

5. If the Board is inclined to approve the proposed force main alignment (which ultimately requires approval by the Township Committee), this office suggests that the Applicant provide a pathway along the sewer easement since it will be a mowed area. This will provide an enhanced recreational opportunity for the proposed neighborhood to be able to walk to Montgomery Veterans Park via the pathway system in the neighboring Country Classics development (Twin Brook Drive, Stone House Court).
 - a. The Applicant would need to secure a pathway easement to coincide with the sewer easement from the owner of Block 6001 Lot 32.02.
6. This office reserves the right to request additional conditions for the restoration of the Township's property (6009/6) if the sewer line is constructed as proposed including but not limited to tree planting (to replace trees that will have to be removed), specific seed mixes used for restoration, etc.

C. Sidewalks and Pedestrian Circulation

1. Sidewalks are required on all public streets per Code Section 16-5.14C:

"Except for all local, rural collector and scenic collector roads in the MR District, sidewalks shall be provided along all existing streets upon which all residential and nonresidential developments abut, unless specifically waived in certain locations by

the reviewing municipal agency based upon good cause shown by the applicant, such as, but not limited to, the existence or proposal of alternate linkages for pedestrian movement and/or where other improvements are proposed to better facilitate the movement of people between the development and adjacent lands;"

The Applicant appears to fulfill this requirement.

2. This office defers to the Board Engineer to review the provided sidewalk specification, and defers to the Board Engineer and Board Traffic Engineer to review the crosswalk specification and placement, as well as the location and frequency of 5'x5' ADA passing areas.

D. Tree Planting and Landscaping

1. Tree Removal: The Applicant's EIS reports that 5.605 acres of trees will be cleared (page 20).
 - a. Sheet 25 indicates a number of trees to be removed in the tables provided; the Applicant should provide a total numeric value of the number of trees to be removed.
 - b. Based upon these results, and the proposed removal of an undetermined number of trees on the Township's property (6009/6) to install the force main, the Board may wish to decline the Applicant's request to calculate the shade tree planting requirement based upon area of disturbance as discussed below.
2. Shade Trees: 14 trees per acre are required for residential and non-residential development per Township Code Section 16-5.6d.3.
 - a. Based on the total area of 22.189 acres, the Applicant is required to plant 311 trees.
 - b. The Applicant is seeking a waiver from this requirement to calculate based on area of disturbance, rather than gross tract area.
 - i. The soil erosion and sediment control plans represent a calculation of 534,515 SF of disturbance, equal to 12.27 acres.
 - ii. The Applicant should provide testimony regarding whether this disturbance calculation includes the acreage to be disturbed by installation of the proposed force main on block 6009 lot 6. If not, the additional acreage to be disturbed offsite should be part of the tree calculation.
 - iii. $12.27 \text{ acres} \times 14 \text{ trees/acre} = 171.78 = 172 \text{ trees (rounded)}$ required by ordinance

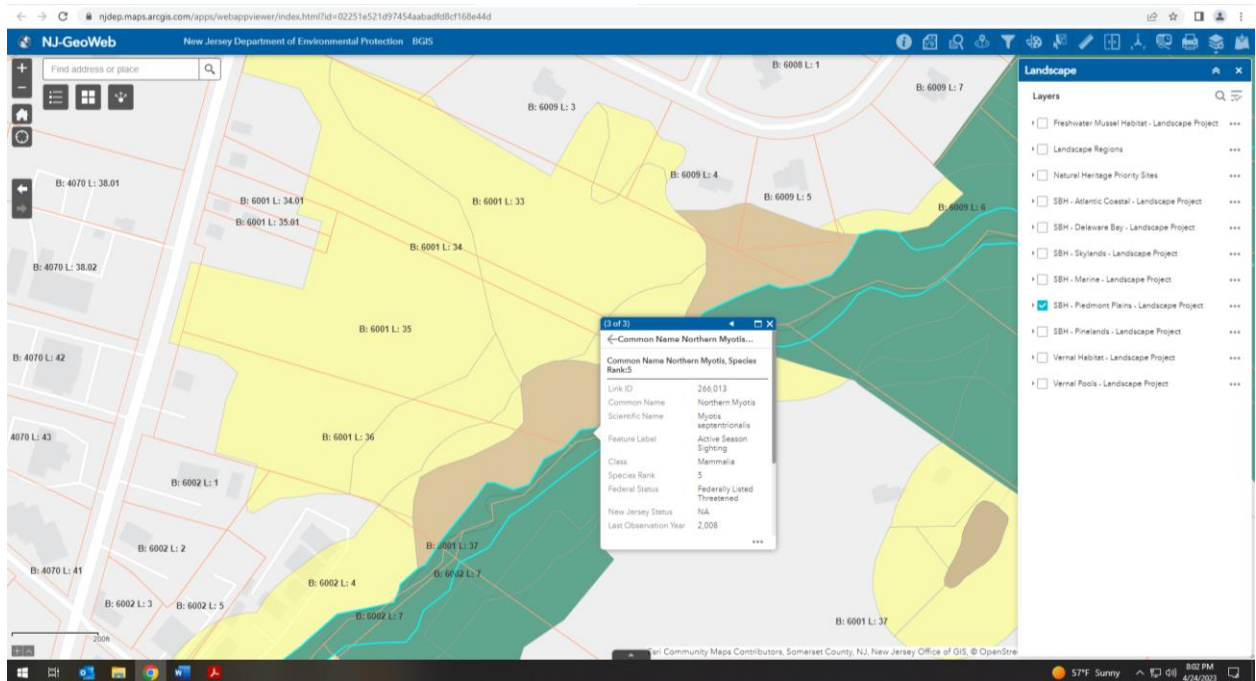
- iv. According to the Landscape Schedule on sheet 28, there are 110 shade trees proposed, 97 evergreen trees and 80 ornamental trees.
- 3. Street trees are required along all streets at 50' intervals (Township Code Section 16-5.6.d.15). The Applicant states they have met the requirement by providing 62 street trees (sheets 26, 27 & 28). This office defers to the Board Landscape Architect to determine if the proposed street trees are sufficient.
- 4. Landscape buffer screening is required by Code Section 16-5.6d.13.
 - a. Sheets 26 and 27 indicate that 33 existing trees along Route 206 will be preserved (Route 206 Buffer Landscaping Note 1). The applicant will provide 49 evergreen trees, 10 shade trees, 30 flowering trees, 90 evergreen shrubs and 271 deciduous shrubs.
 - b. Buffer screening is particularly important given the project's proximity to the Harlingen Historic District.
 - i. The Applicant should impose a landscape buffer easement along the Route 206 frontage (variable width, 30' – 50') in order to ensure the landscape buffer remains intact over the long-term and doesn't get gradually thinned out by over-landscaping, or by a homeowners' association board with a different opinion on the aesthetic of the neighborhood.
 - c. Buffer screening should be added along the property's southern boundary to buffer the view of the Public Works facility.
 - d. This office defers to the Board Landscape Architect to determine if the proposed buffer plantings are sufficient.
- 5. Native plant species are required by Township Code Section 16-5.6.d.5. This office defers species review to the Board Landscape Architect.
- 6. All plant materials must include a two (2) year guarantee as required by Township Code Section 16-5.6.d.10:

"All plant material shall be guaranteed for at least two (2) years from the date of landscape inspection for approval and any plant material that does not survive within that time period or is in poor condition based upon the opinion of the Township Landscape Architect shall be replaced by plant material of the same size and species at the expense of the developer."

E. Conservation Easements & Deed Restrictions

- 1. The Applicant proposes to dedicate 8.86 acres at the rear (eastern portion) of their site to the Township.

- a. The Township requests copies of any Preliminary Assessment reports, Phase I environmental reports or similar reports to determine if any areas of concern or contamination exist on the property. If no such reports exist, the Township may request these studies be conducted at the Applicant's expense.
 - b. The Open Space Committee supports acceptance of the property pending appropriate due diligence. The decision to accept this property ultimately rests with the Township Committee, and this office will discuss the proposal with the Governing Body upon review of any available documents.
 - c. Should the Township choose to accept the donation of property, the Applicant must set concrete monuments and line markers to demarcate the boundaries of the property so as to prevent future encroachment.
2. Township Code Section 16-5.6e requires conservation easement or conservation easement deed restrictions on all critical areas (e.g. steep slopes, stream corridor, wetlands).
 - a. The Township will not require a conservation deed restriction on any areas that are regulated by DRCC, NJDEP or other outside agency.
3. There are several proposed lots that are impacted by the existing wetland swale:
 - a. Block 6001 Lot 33.12: yard area only
 - b. Block 6001 Lot 33.13: portion of proposed structure
 - c. Block 6001 Lot 33.14: portion of proposed structure
4. Compensation areas for impacts to the wetland transition area are depicted on the plans, but this office could not locate any compensation area(s) for the wetland swale disturbance described in item 3 above. The Applicant should provide testimony regarding NJDEP's requirements regarding this disturbance.
5. Habitat for the federally listed Northern Myotis bat and State endangered Bald Eagle is located at the rear of the property (eastern portion) and continues north and south and along the Fox Brook stream corridor (see screen grab on following page from NJDEP Geo Web application).

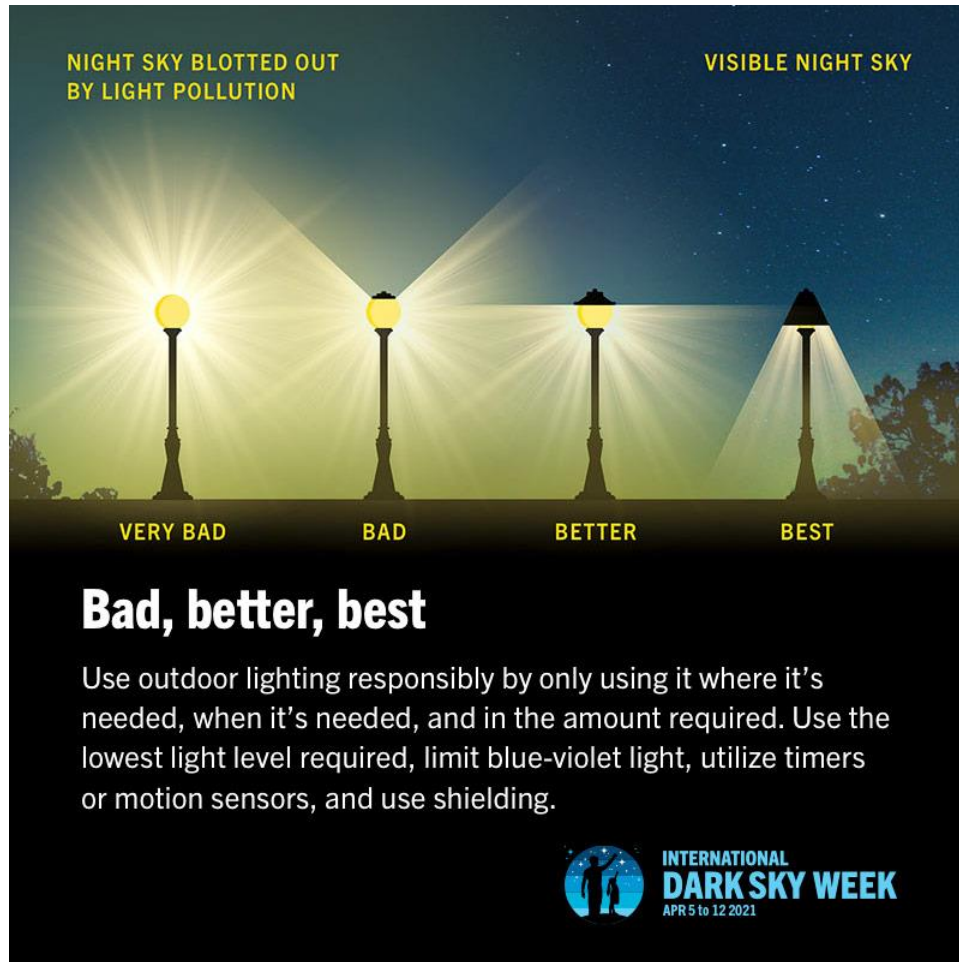


- a. The Applicant's EIS indicates that tree clearing will be limited from October 1 to March 31 to minimize disruption to the bats. This office encourages the Board to impose this limitation in its resolution, should the proposal be approved.
6. A more thorough discussion of the impacts to existing Township property (block 6009 lot 6) which is protected by an existing conservation easement is enumerated above in item B.

F. Lighting

1. On sheet 12, a property entrance sign and apartment entrance sign are shown with details for lighting.
 - a. Since the time of the Site Plan Subdivision Committee, the Applicant has revised the plans to incorporate lighting that is directed downward. The notes also indicate that shields will be added and the color temperature will be no greater than 3000K. These notes are acceptable to this office, and we appreciate the revisions made.
2. The lighting along the streets and around the site shown have also been revised to incorporate comments made at Site Plan Subdivision Committee. The street lighting is now Lithonia D-series size 1. The note on sheet 31 reads that external glare shield (EGSR) will be installed on all fixtures. This change is welcome.
3. The Applicant should select the lighting option that utilizes a color temperature no greater than 3000 kelvins.

4. This office recommends these specifications about shields and color temperature be included as conditions imposed by the Board should the proposal be approved.



5. The impacts of too much light at night (particularly “blue” or short wavelength lighting) have been documented to negatively impact human health, as well as wildlife and insects.
 - a. Princeton University’s Office of Sustainability recently released a short documentary detailing these negative impacts:
<https://www.youtube.com/watch?v=FW0WZX75Nmo>
6. This is particularly important because there is habitat for the federally threatened Northern myotis bat and State endangered Bald Eagle along the property’s easterly border and properties along Fox Brook as discussed above.

G. Recreation & Site Amenities

1. The Applicant has relocated the dog run from the northwest property corner to the southeast corner near the tot lot, which this office supports.

2. Two 30' x 40' storage sheds are proposed which this office supports to allow residents to store their bikes and other items (e.g. strollers, holiday decorations, beach chairs) that can't be easily stored in-unit.
3. Two sitting areas are proposed – a large area at the northern portion of the site and another smaller area to the south, adjacent to the tot lot.
 - a. Adirondack chairs are shown at the northern site, and the southern site will have benches and picnic tables.
 - b. The Applicant should provide at least one picnic table that is ADA compliant.
4. The proposed tot lot appears too small given the scale of the development, and is smaller than both proposed seating areas. As we know, many people move to Montgomery for the excellent school system. With 54 proposed residential units, most units will be the home to at least one child, but more likely two children, given the bedroom counts of most of the proposed units.
 - a. The detail on sheet 12 says that tot lot equipment will be provided for ages 2-6 and 6-12, but only one play structure is shown. Three spring riders are shown, as well as one seesaw bouncer and a tot friendly picnic table.
 - b. Due to the relative isolation of this development from any other recreation opportunities within walking distance, additional opportunities for outdoor play should be provided. This office suggests that the Applicant add swings which can be used by children and adults, and another play or climbing structure.
5. The details provided for the bike rack, dog waste station and outdoor grill area are supported by and acceptable to this office.
6. The apartment buildings contain in-unit laundry which this office supports.

H. Electric Vehicles

1. The Applicant is providing three (3) electric vehicle charging stations and six (6) dedicated parking spaces to accommodate charging at the apartment portion of the project which meets the requirements of Code Section 16-5.21 d.

I. Architectural Comments

1. While not the purview of this office, the proposed End Units A and B contain loft space that appears to lend itself to conversion to bedroom space. This office

recommends the Board consider imposing a bedroom count restriction, and/or removing the powder room.