

**Borough of Ho-Ho-Kus  
Bergen County, New Jersey  
Planning Board Minutes  
February 5, 2015  
Special Meeting**

**Meeting Called to Order at 7:35 PM by Chairman Hanlon**

**Open Public Meetings Statement: Read into the record by the Board Secretary.**

**Roll Call:** Messrs. Berardo (absent), Pierson, Reade, Newman (absent), Cirulli, Councilman Rorty, Chairman Hanlon, Mayor Randall

**Also in Attendance:** Gary J. Cucchiara, Esq., Board Attorney; Mr. E. Snieckus, Borough Planner; Ms. JoAnn Carroll, Board Secretary

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**Ongoing Business:**

**Hollows at Ho-Ho-Kus, Chamberlain Developers, W. Saddle River**

**Road/Van Dyke Drive, Block 802, Lots 1, 2, 3, 4 and 10:** major subdivision application; the applicant proposes to construct and market single family dwelling units on each of the properties; major soil movement application.

**Chairman Hanlon:** described meeting procedures; the Borough Planner made a presentation at the January 22, 2015 meeting; applicant's attorney, objector's attorney and the public will have the opportunity to ask questions of the Borough Planner this evening.

**Mr. Michael Reade has signed the absent certification document stating he has listened to the audio of the January 22, 2015 meeting.**

**Mr. Cucchiara:** stated he had the opportunity to contact a number of engineers to replace Mr. Hals in connection with this application; some had a conflict of interest; the remaining names were shared with Mr. Whitaker and Mr. Inglima; they provided their comments; does not believe there was a conflict with any of the names submitted per the ethics law, MLUL or regulations pertaining to the ethics of engineers; in most of those cases there was a connection to persons who appeared at this hearing; discussed matter with Mr. Thomas Lemanowicz, Remington, Vernick of Secaucus; this firm does not represent private clients, only public clients; Mr. Lemanowicz conducted a conflict check within his office and responded that neither he nor his firm had any business or personal relationships with any of the person involved in these proceedings; he has had situations where he has reviewed plans/reports of professional consultants in a capacity of services rendered on behalf of municipal land use boards; specifically, he does recall reviewing plans from Mr.

Hals firm in the past; he indicated that he and Mr. Snieckus had simultaneously served as consultants to the same approving Boards; he is currently reviewing an application prepared by Jeffrey Morris of Boswell Engineering which has appeared on behalf of the applicant and he has reviewed applications in the last few years where Mr. Peter Steck, Mr. Inglima's planning consultant was the applicant's planner; those relationships would be the same as providing consulting services on behalf of the Board; Mr. Cucchiara does not see a conflict; he has spoken with Mr. Whitaker and Mr. Inglima and they do not have an objection to Mr. Lemanowicz; Mr. Lemanowicz has been a professional engineer since 1991 and indicated he has been deemed an expert by over 70 government agencies for the purposes of providing engineering services to municipalities, and engineering and planning consulting services to land use board and offering professional testimony on behalf of applicants before land use boards; he has no knowledge of any conflict that would preclude him from handling the engineering services on behalf of the Board; he also indicated that he would be available to attend meetings of the Board with respect to this application; under the circumstances, Mr. Cucchiara recommended to the Board that Mr. Lemanowicz and his firm be appointed as the engineering consultant in connection with this application; this would be under the non-fair and open process of the New Jersey Local Pay to Play Law; the Chairman be authorized to execute a contract with Mr. Lemanowicz's firm in terms acceptable to the Planning Board and that Mr. Lemanowicz's firm submit a business disclosure certificate; a resolution has been prepared for this purpose; Mr. Cucchiara asked if the Board, the applicant's attorney or the objector's attorney had any questions.

**No questions from the Board, Mr. Whitaker or Mr. Inglima at this time.**

**Mr. Cucchiara read the resolution into the record.**

**Motion to approve resolution:** Councilman Rorty, Pierson

**Ayes:** Pierson, Reade, Cirulli, Councilman Rorty, Chairman Hanlon, Mayor Randall

**Chairman Hanlon:** stated the Board would hold a Combined Session next week which will not include the Hollows application; believed it would be close to March 5, 2015 before Mr. Lemanowicz would have his work done; we would have to notice for a special meeting and put the agenda on the website and regarding the March 5, 2015 meeting.

**Mr. Cucchiara:** stated it has already been established that the engineer is prepared to review the revised plans on file with the Board Secretary; he will also review all the reports filed with the exception of Mr. Hals' reports; the Board Secretary has ordered transcripts of all the hearings in this matter; comments and statements by Mr. Hals will be redacted from the transcripts; the engineer will also be reviewing those transcripts in order to familiarize

himself with the proceedings; then he will prepare a report in connection with that and also make a presentation with regard to that report and perform any other services that would be necessary after that; hopefully the engineer can do all of this within the next two weeks; understands this may be a difficult undertaking since this is the 23<sup>rd</sup> hearing on this matter; there are a lot of transcripts to be reviewed; albeit much of his review will pertain to the engineering aspects of the application; has informed the engineer that our next meeting will take place on the 19<sup>th</sup> on this matter; he can get started and at least be in a position to begin to prepare a report; unfortunately, it may take two weeks for the transcripts to be prepared.

**Mr. Inglima:** confirmed that the new engineer would not be reviewing the plans going back to the beginning; wanted to note that in his submission of the alternate drainage design it was called that, an alternate plan, and he believed Mr. Whitaker had referred to it in correspondence to the Board and his engineer, Mr. Palus, had referred to it that way; wanted to know if that alternate design is now the plan to be reviewed.

**Mr. Whitaker:** stated the alternate plan is no longer an alternate plan but THE plan; soil movement numbers will be modified based on this plan; spoke in terms of tree removal as well based upon this plan.

**Mr. Inglima:** suggested that if there were any additional plan revisions that the applicant contemplated, they should be delivered to the new engineer immediately.

**Mr. Whitaker:** stated the applicant would submit a final plan if the Board were to grant an approval, it would be subject to conditions that they imposed that would have to be shown on the plans; standard procedure to use.

**Mr. Cucchiara:** stated in regards to Mr. Lemanowicz, and for the record, Mr. Cucchiara has worked with him in the capacity of his representation from time to time with the Rutherford Planning Board; he is the Board Engineer of that Board.

**Mr. Edward Snieckus, Burgis Associates:** gave his credentials, licenses and educational background.

**Mr. Whitaker:** asked how long he/Burgis Associates has been the planner for Ho-Ho-Kus.

**Mr. Snieckus:** stated seven years.

**Mr. Inglima:** stated he had no questions as to Mr. Snieckus' qualifications.

**No public questions regarding Mr. Snieckus' credentials.**

**Mr. Reade:** asked for an explanation of the 2<sup>nd</sup> story setback ordinance.

**Mr. Snieckus:** gave a brief overview of the ordinance and its purpose.

**Mr. Snieckus/Mr. Whitaker discussed:** Mr. Snieckus' involvement with the 2013 Master Plan; involved with reviewing zoning ordinances; reviewed all of the reports submitted in connection with this application; both the applicant's professionals and the objector's professionals; October 1, 2014 report based on information received and testimony heard; each of the 11 lots are conforming for the R2 zone; lots proposed by the applicant are larger in square footage than what is required; lots as proposed are less intense overall than what could be permitted in an R2 zone; no variances required; agrees with the zoning tables set forth in the exhibits; finds the calculations and criteria submitted consistent; building envelopes are conceptual Planning Board does not require the actual location of the dwelling units proposed; in his presentation to the Board, provided his opinion that there should be no driveway access onto Hollywood Avenue; lot lines 7 and 8 not radial to the street; in essence favorable; from a practical and planning standpoint, what is proposed is appropriate; suggested lots 10 and 11 be modified to improve lot configuration; the applicant does meet the design criteria of the ordinance; reviewed RSIS; roadway proposed meets design criteria for RSIS standards; sidewalk waiver under RSIS discussed; consideration made pertaining to necessity for additional impervious surface; tree removal discussed; review of soil movement aspect, tree removal and Shade Tree assessment; Master Plan referenced in October 1, 2014 report; three goals testified to at last meeting specifically delineated in presentation; application as proposed meets the goals of the Master Plan and requirements of the zoning ordinance of Ho-Ho-Kus; only exception is the issue of buffering which the Board has the ability to discuss and comment on.

**Mr. Snieckus/Mr. Inglima:** discussed role of Borough Planner; not the Zoning Officer of the Borough; does not believe there is a zoning officer report; conclusions given in regards to the lots themselves; lot dimensions; corner lots; referred to A6; lots 5, 11 and 1 are corner lots; lots 9 and 10 are interior lots based upon the ordinance; Mr. Inglima stated that Mr. Hals had issued two reports that referenced proposed lot 9.

**Mr. Whitaker:** objected; we cannot deal with anything Mr. Hals has provided in reports or in testimony.

**Mr. Cucchiara:** asked if Mr. Inglima could ask Mr. Snieckus his question without referencing Mr. Hals' reports.

**Mr. Inglima:** asked if Mr. Snieckus had relied upon any reports issued by Mr. Hals with respect to his conclusion as to how lot 9 would be characterized under the zoning ordinance.

**Mr. Snieckus:** stated no.

**Mr. Snieckus/Mr. Inglima:** discussed the frontage of lot 9; referred to sheet 3; according to the ordinance, the definition of lot frontage doesn't define specifically if you have to use Hollywood Avenue or the cul-de-sac; referred to Section 85-7 article 3 subsection b; definition of lot frontage; read into the record by Mr. Snieckus; there is another section in the ordinance that which clarifies lot frontage further; asked for time to review the ordinance.

**Please note: a 20 minute recess was taken at this time: 8:20PM**

**Meeting Called to Order: 8:40PM**

**Roll Call Taken:**

Messrs. Pierson, Reade, Cirulli, Councilman Rorty, Chairman Hanlon, Mayor Randall

**Mr. Snieckus:** stated he reviewed the ordinance; it does have nuances regarding lot width; when first reviewed, he did look at the issue of lot frontage; one of the distinctions that have been identified is that a lot line or portion thereof that is coexistent with a street line; the applicant has frontage of at least 75 ft. on a street line; that was the formulation of our criteria; in concert with that, he reviewed the issue of lot width; lot width lends itself to non-parallel lot lines; it discusses taking averages of those non-parallel lot lines; that was in concert with the calculations; he can go back and review his notes and double check.

**Mr. Inglima:** asked if Mr. Snieckus was changing his testimony or his report; the essential question he asked was whether or not a variance is necessary from the requirement for lot frontage with respect to proposed lot 9; asked if they need a variance because they do not have 75 ft.

**Mr. Snieckus:** stated that is frontage technically according to the ordinance; the ordinance talks about frontage defined; at this point and time it has to do with the fact that he looked at the fact that is was coexisting with a street line; and since this lot is a thru lot, effectively having frontage on two street, we noted that one of the streets conforms.

**Mr. Inglima:** asked if there was any place in the ordinance which states you can pick and choose which street frontage you are going to make your lot frontage.

**Mr. Snieckus:** stated only on corner lots.

**Mr. Inglima:** stated Mr. Snieckus had indicated that Hollywood Avenue should not be the frontage for a variety of reasons.

**Mr. Snieckus:** stated it should not be the frontage for access as frontage as far as frontage is defined.

**Mr. Inglima:** asked where in the ordinance it states that you can face a house towards one street and call the other street your frontage.

**Mr. Snieckus:** stated he did not believe the ordinance stated that at all.

**Mr. Inglima:** asked if the ordinance had restrictions contained in it that dictate where driveways can be placed in relation to a building erected on a lot in the R2 zone.

**Mr. Snieckus:** stated it does have setbacks and items to that nature.

**Mr. Inglima:** read the driveway ordinance into the record; asked if Hollywood Avenue is the frontage, in order not to require another variance, a driveway would be needed from Hollywood Avenue to the building.

**Mr. Snieckus:** stated the distinction is, and what is being used interchangeably is where a lot has frontage on a roadway and the measurement of lot frontage; the property does have frontage on two streets; but the measurement of lot width is that it has the lot frontage requirement on a street.

**Mr. Inglima:** read into the record Ordinance 10-12; stated the definition of rear yard; stated there is basically a prohibition in the ordinance against creating a driveway leading to Hollywood Avenue for any house that faces towards the cul-de-sac.

**Mr. Snieckus:** stated he did not agree; Mr. Inglima based his definition of a rear yard on the rear line of a building projected to the side lines of the lot; technically, the frontage along Hollywood Avenue is in fact the front yard, not the rear year, based on the definitions of the ordinance.

**Mr. Inglima:** stated Mr. Snieckus is saying that Hollywood Avenue is the front yard of proposed lots 1, 9, 10 and 11; all of the lots have a front yard and lot frontage on Hollywood Avenue; asked what would prevent the applicant from putting all the houses facing Hollywood Avenue.

**Mr. Snieckus:** stated nothing.

**Mr. Inglima:** asked what the pattern or design he is advancing with the subdivision if there is an opportunity for the applicant to choose which directions his houses face.

**Mr. Snieckus:** stated, in some instances, that is not the purposes of a subdivision; a subdivision itself identifies the various lots and their criteria associated with those lots; pointed out that he was involved with a project in Woodcliff Lake where they chose the front to Pascack Road and had the driveways come in from the adjacent street; in some instances it makes sense.

**Mr. Inglima:** stated Mr. Snieckus has indicated there are no variances associated with this application; asked for Mr. Snieckus to explain how the Board had any control over how the designs of those lots and houses are going to evolve in the future.

**Mr. Snieckus:** stated the driveways are regulated by the sections Mr. Inglima has already identified; there are other criteria in regards to the side yard setback for driveways; there are other requirements for the configuration of circular driveways; the ordinance does not technically identify which street a house should front on; that is also the case for lot 11, which has three frontages; the house could face either one of the three frontages; that is not something the ordinance has drawn out as a requirement.

**Mr. Inglima:** referred to lot 11 which would be located in the NE corner of the property; that lot would have frontage on three streets; there are a number of setback lines indicated on proposed lot 11; when he looked at the plan, asked if Mr. Snieckus made any conclusions with respect to whether or not a reasonably sized dwelling could be constructed within the setback lines that are indicated.

**Mr. Snieckus:** stated he looked at the building envelope and also referred to drawing 5 of 13; looked at the configuration as proposed; conceptual footprint.

**Mr. Inglima:** asked if the house proposed on lot 11 is oriented towards WSRR and a garage was constructed at the south end of the structure with a driveway leading to the cul-de-sac, would Mr. Snieckus consider that to be a reasonable development of that lot.

**Mr. Snieckus:** stated that is also an acceptable configuration based upon the ordinance.

**Mr. Inglima:** asked the same question as to proposed lot 5 which is in the SE corner of the property; asked if it would be a reasonable development if there was a house facing WSRR and a driveway leading to the cul-de-sac from the garage at the north end of the building.

**Mr. Snieckus:** asked what Mr. Inglima meant by “reasonable development?”

**Mr. Inglima:** stated he is calling upon Mr. Snieckus’ opinion as a professional planner.

**Mr. Snieckus:** stated that one could configure a home so that there could be a driveway from WSRR; it is reasonable from the standpoint of what the ordinances permit.

**Mr. Inglima:** asked if Mr. Snieckus would have a different opinion if the homes that were just described had driveways leading to WSRR.

**Mr. Snieckus:** stated he believed the ordinances would permit that as well.

**Mr. Inglima:** asked if Mr. Snieckus would make any recommendations with respect to lots 5 or 11 as to whether they had a driveway leading to WSRR or the cul-de-sac.

**Mr. Snieckus:** stated that is a good thought; one of the items that could be offered is to have the driveways fronting on the proposed road.

**Mr. Inglima:** asked how the Board would require this if there are no variances required for this development.

**Mr. Snieckus:** stated it would not be a requirement, it would be whether or not the developer would agree; it could be included in the deeds.

**Mr. Inglima:** asked if Mr. Snieckus would propose there be a restriction against access to Hollywood Avenue for driveways for lots 9, 10 and 11.

**Mr. Snieckus:** stated he believed he agreed with that recommendation.

**Mr. Inglima:** asked who made this recommendation.

**Mr. Snieckus:** stated it was on the plans originally; the Board had discussed this with the applicant; this was before the preliminary application was submitted.

**Mr. Inglima:** stated we have heard from the applicant’s witnesses and Mr. Whitaker had indicated he had concluded his case; stated he never heard anyone ever stipulate that they would agree to a restriction against access to Hollywood Avenue and make it a condition of this approval.

**Mr. Snieckus:** stated he believed there was testimony to that effect; believed it was asked of the applicant’s engineer and it is indicated on the plan.

**Mr. Inglima:** asked if Mr. Snieckus was referring to the note contained on sheet 3 of 13; read into the record by Mr. Inglima.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** asked if that was the same as a deed restriction.

**Mr. Snieckus:** stated no, it would not be.

**Mr. Inglima:** asked if it was the same as an easement.

**Mr. Whitaker:** objected; asking for legal conclusions; the plans speak for themselves; has stipulated earlier on behalf of the applicant there would be no access there unless approved by the Planning Board.

**Mr. Inglima:** stated Mr. Snieckus is an expert; believes his opinions are based upon a thorough knowledge of the MLUL and the borough's ordinances.

**Mr. Whitaker:** objected to the question regarding an easement.

**Mr. Cucchiara:** asked Mr. Inglima to lay a foundation.

**Mr. Inglima:** asked Mr. Snieckus what he believed ought to be done to keep access from being created between the site and Hollywood Avenue.

**Mr. Snieckus:** stated he believed it would be a condition of approval.

**Mr. Inglima:** asked if it would be a sounder basis for granting this approval and having a condition that can be enforced in the future, to have some type of restrictive covenant created along the northerly boundary of the site.

**Mr. Snieckus:** stated that would probably be more effective.

**Mr. Whitaker:** stated when the map gets filed it becomes a restriction; if you want the same wording in the deeds as the restrictive covenant it is there.

**Mr. Inglima:** stated the meeting is for a preliminary subdivision approval; he has not seen a final subdivision plat prepared or submitted; if the Board grants preliminary approval then the next step would be for a final subdivision plat to be prepared, submitted and acted upon by the Board; its rights to act upon a final subdivision plat once it is determined there are no variances, is going to be much different than what might be expected.

**Mr. Inglima:** stated if anyone is relying upon a notation made in a preliminary subdivision plat as a basis for imposing restriction against the applicant, believes they are mistaken.

**Mr. Cucchiara:** stated the applicant just stipulated they would include a restrictive covenant in any deed that would be filed.

**Mr. Whitaker:** stated if the concept is the Board doesn't have a legal right to impose a condition, that objection did not come from him on behalf of the applicant; he has stipulated, irregardless, of whether you have the jurisdiction to impose a condition on a non-variance application the applicant is putting that restriction on those lots; we will put it on the preliminary map, on the final map and it will be in the deed on each individual lot that fronts on Hollywood Avenue and it will be a restrictive covenant that runs with the land; this means it is for any owner that ever owns the land, it can never be removed unless it is removed by a separate approval by the Planning Board.

**Mr. Inglima:** asked Mr. Snieckus if he was familiar with the review letter from Mr. Timsak of the County Planning Board.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** stated Mr. Timsak's letter required the location of the right of way line of Hollywood Avenue, the width of Hollywood Avenue, the center line of Hollywood Avenue and an easement line 35 ft. from the center line of Hollywood Avenue to be shown; asked Mr. Snieckus if he had reviewed the subdivision plan, surveys and any other maps submitted by the applicant.

**Mr. Snieckus:** stated he reviewed all the maps submitted by the applicant; the actual survey of the property he used to refer to various distances.

**Mr. Inglima:** asked if Mr. Snieckus ever reviewed a plan that showed the right of way of Hollywood Avenue.

**Mr. Snieckus:** stated no plan that was specifically labeled as such.

**Mr. Inglima:** stated the application proposes to create four lots along Hollywood Avenue; asked if it was required by the borough's subdivision ordinance that the full street right of way be reflected on the map.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** asked where it is shown on the map.

**Mr. Snieckus:** stated he believed that what was indicated on the boundary of the property; one side of the road has been shown.

**Mr. Inglima:** stated sheet 3 of 13 shows lines reflecting other streets along the east and west side of the property.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** asked if it was Mr. Snieckus' role as a planner to confirm property boundaries.

**Mr. Snieckus:** stated that would be referred to the engineer.

**Mr. Inglima:** asked about monuments being shown on the plan.

**Mr. Snieckus:** stated that would be done at the time of the final subdivision.

**Mr. Inglima:** asked Mr. Snieckus about a deed previously identified in prior hearings regarding the dedication of a private right of way.

**Mr. Whitaker:** asked for the relevancy of the question.

**Mr. Inglima:** stated there is a deed that is between Joseph M. Whitehead and a number of additional parties as grantors including Helen B. Stalter and Charles Stalter; recorded January 30, 1947; previously been marked as Exhibit O17; showed a copy to Mr. Snieckus; stated there is a description of a conveyance to the Borough of Ho-Ho-Kus for public street purposes that is now Van Dyke Drive; the beginning of the description refers to a cross-cut upon a monument set on the west side of Van Dyke Drive; from the southerly line of Hollywood Avenue; that is the location that is in the neighborhood of the applicant's site; asked if Mr. Snieckus felt if it would be relevant for that monument to have been located in the field as part of the subdivision plat that is before the Board.

**Mr. Snieckus:** stated he could not make an opinion on that because he is not sure in what context this beginning point would refer to future surveys; it is out of his realm with regards to a professional planning standpoint as to knowing how that may affect a survey due to change of title and things of that nature.

**Mr. Inglima:** stated, during Mr. DiGiacomo's testimony he referred to a survey of his property which was marked as O25; that survey indicates that a monument was located in the field at the SE corner of the property; 65 Brandywine; Rigg Associates found a monument in 2012 in that location; asked if Mr. Snieckus felt it was relevant for the Board to have that monument reflected on the subdivision plat that is before the Board.

**Mr. Snieckus:** stated he would not know for certain; this is where he has to be careful because he is delving more into a surveyor's realm as well as engineering as to how that monument affects the description of this lot that is in question; doesn't know the relevance of how that monument may affect the boundaries of this lot.

**Mr. Inglima:** asked if Mr. Snieckus would be an advocate of having more information rather than less shown on a preliminary subdivision plan.

**Mr. Snieckus:** stated it is always helpful.

**Mr. Inglima:** asked if monuments that have been recorded should be found.

**Mr. Snieckus:** stated if possible.

**Mr. Inglima:** asked if it is the job of a planner and the Planning Board to determine whether or streets of proper width are being created or exist along the sidelines of an applicant's lots when it is being subdivided.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** stated there is an ordinance requirement in Ho-Ho-Kus that speaks to this.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** asked how a municipality determines if there is a sufficient public right of way width on WSRR.

**Mr. Snieckus:** stated they would base it on the review of the survey through their consultants and primarily the engineer who is involved with the application.

**Mr. Inglima:** asked if it was Mr. Snieckus' opinion that the engineer that has been engaged by the municipality should investigate that issue.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** asked the same question as to Van Dyke Drive.

**Mr. Snieckus:** stated the right of way width should be looked at when a subdivision is being proposed.

**Mr. Inglima:** asked if Mr. Snieckus felt that the engineer who is engaged by the municipality should be investigating this issue in order to verify that the correct street width is being provided along the west side of the site.

**Mr. Snieckus:** stated he believes that is their role.

**Mr. Inglima:** asked if the requirements in Mr. Timsak's letter had been added to the plan.

**Mr. Snieckus:** stated they show the center line; they have shown the 35 ft. offset; there was some discussion earlier that the widening of the road was at issue with the Board and it needed to be further refined and discussed with the County.

**Mr. Inglima:** asked Mr. Palus regarding how he reflected information from the DAB survey on his plan; had asked Mr. Palus why he had indicated as a center line of Hollywood Avenue on sheet 3 of 13, information that was reflected on the DAB survey as a baseline of Hollywood Avenue.

**Mr. Snieckus:** stated he does not remember those questions.

**Mr. Inglima:** asked if it were necessary to show both side lines of the street in order to determine the center line of the street.

**Mr. Snieckus:** stated he did not know that for certain.

**Mr. Inglima:** asked if there was any datum that is indicated on the plan that locates the center line.

**Mr. Snieckus:** stated on sheet 3, no.

**Mr. Inglima:** asked if Mr. Snieckus had seen any other survey that locates the center line of Hollywood Avenue based on any fixed datum.

**Mr. Snieckus:** stated not that he could recall.

**Mr. Inglima:** asked if Mr. Snieckus could think of any reason why the applicant should not be required to show both right of way lines of Hollywood Avenue so that it can demonstrate that information to the Board's satisfaction.

**Mr. Snieckus:** stated there is no reason why the Board would not have that on the plan.

**Mr. Inglima:** stated Mr. Timsak stated an easement would be required for road widening that would extend into the site approximately 10 ft. and 35 ft. from the center line as determined in the field for Hollywood Avenue.

**Mr. Snieckus:** stated he is familiar with that requirement.

**Mr. Whitaker:** stated it was a request, not a requirement.

**Mr. Inglima:** asked if it was fairly common for the Bergen County Planning Board to require this type of easement for future road widening purposes when a property is being subdivided upon a County road.

**Mr. Snieckus:** stated it is not standard; it depends upon the specific application.

**Mr. Inglima:** confirmed that Mr. Snieckus had previously testified that he felt Hollywood Avenue was a roadway of a character that should not be used to create access to the proposed subdivided lot; what was his opinion based upon.

**Mr. Snieckus:** stated that was correct; stated there are practical alternatives for where a driveway could be placed; what is being proposed in the application is a new road and that would service three lots; looking at Hollywood Avenue, there is difficulty in sight distance as you rise up from USR to the intersection of WSRR; it would make better sense to have access from an internal road; based on his own observations.

**Mr. Inglima:** asked if Mr. Snieckus would be surprised to know that the NJ straight line diagrams for Hollywood Avenue indicate that traffic volumes are significantly higher on the west side of Route 17 than they are on the east side.

**Mr. Snieckus:** stated he would have to ask Mr. Inglima to qualify that because it surprises him that they are significantly higher from a standpoint of raw volume of the roadway.

**Mr. Inglima:** stated per traffic counts.

**Mr. Snieckus:** stated probably not.

**Mr. Inglima:** asked if there are any traffic conditions or hazards that are created by having driveways that lead from any of those homes on Hollywood Avenue west of Route 17 in the future.

**Mr. Snieckus:** stated he can't arrive at that determination; in some situations a driveway may in fact be dangerous.

**Mr. Inglima:** asked if there were any comments contained in the Master Plan that speak to the issue of the suitability of Hollywood Avenue for single family residential development.

**Mr. Snieckus:** stated no.

**Mr. Inglima:** asked if there had been any concerns identified in any Master Plan documents that identified traffic hazards on Hollywood Avenue owing to the existence of single family residential lots.

**Mr. Snieckus:** stated there is a lot of dialogue about traffic and the needs for improvement in intersections; could not definitively say there is nothing that arrives at that condition.

**Mr. Inglima:** asked if any recommendations had been made with respect to limiting access to Hollywood Avenue in the Master Plan.

**Mr. Snieckus:** stated none that he is aware of.

**Mr. Inglima:** asked if any recommendations had been made in the Master Plan with respect to revising the geometry or topography of the intersection of WSRR and Hollywood Avenue.

**Mr. Snieckus:** stated he would have to review the document.

**Mr. Inglima:** asked if Mr. Snieckus would agree that the intersection of WSRR and Hollywood Avenue is complicated by issues of topography and geometry and alignment of roadways.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** asked if Mr. Snieckus was familiar with Chief Wannamaker's report in connection with this application.

**Mr. Snieckus:** stated yes; not very familiar with it because it was some time ago; he does have a copy of it.

**Mr. Inglima:** asked if the report identified difficulties for visibility for persons who would be leaving Hollywood Avenue and traveling southbound on WSRR.

**Mr. Snieckus:** stated he would refer to the letter; he refers to a slope and a curve and sight lines along the roadway; as far as the configuration it is a fair characterization of the roadway.

**Mr. Inglima:** stated he also indicated in his letter that he was concerned about the increased volume of traffic that may occur on Brandywine as a result of this development.

**Mr. Snieckus:** stated he is not sure this is specifically mentioned; he did state it would probably send traffic elsewhere; he also indicates the roadway is narrow on Brandywine.

**Mr. Inglima:** asked if Mr. Snieckus felt that his opinion with respect to the suitability of Hollywood Avenue for single family residential development is affected in any way by the speed by which drivers currently drive on Hollywood.

**Mr. Snieckus:** stated it does affect the determination of the driveways.

**Mr. Inglima:** asked if it was supposition on Mr. Snieckus' part as to whether or not it would be reasonable to develop driveways to Hollywood Avenue.

**Mr. Snieckus:** stated no it is based on his review and experience conducting and preparing actual subdivision plans.

**Mr. Inglima:** asked if Mr. Snieckus had ever prepared a subdivision plan on which he planned to put a street into a site similar to this and create lots that are thru lots.

**Mr. Snieckus:** stated none that he could think of at this time; there are some lots configured this way in Ho-Ho-Kus, but no subdivisions that he had reviewed; there are some that exist so there must have been a subdivision application.

**Mr. Inglima:** asked where they would be located.

**Mr. Snieckus:** stated there are some in the immediate neighborhood; referred to the tax map; identifies subject parcel and properties to the south and west; there are two lots that are off of Brandywine Road between Valley Forge Way and Sleepy Hollow Drive; in addition to that there is also one lot that is located along Washington Avenue with frontage on Wayne Court Road; there are also properties along Garden Court; they front on Garden and Stouts Lane; along Stouts Lane as well there is Block 602, Lots 12, 13 and 14; also, but not to the same degree, there are lots along Crescent Place that have an easement for access; Crescent Place has a common driveway or alley between lots; does not know the origin of these lots; does not know if they were landlocked; does not know if they were developed in connection with an affordable housing project.

**Mr. Inglima:** asked if the streets Mr. Snieckus referred to were full width or improved streets.

**Mr. Snieckus:** asked if Mr. Inglima meant they were full width streets from the standpoint of the right of way.

**Mr. Inglima:** stated yes.

**Mr. Snieckus:** stated he believed several of them were; couldn't be certain.

**Mr. Inglima:** asked if Stouts Lane is a developed street.

**Mr. Snieckus:** stated he believes it is a drive; it is a right of way as shown on the tax map; does not know when it was created.

**Mr. Inglima:** asked if Mr. Snieckus knew that Valley Forge Way used to connect to WSRR.

**Mr. Snieckus:** stated he believed that was brought up in earlier testimony; there was a reduction in street frontage due to the fact the roadway was abandoned; reviewed O14 which shows Valley Forge Way.

**Mr. Inglima:** stated he believes a portion of the area is shown on O10; showed the portion of Valley Forge Way which was vacated; shown better on O14.

**Mr. Snieckus:** referring to the map of Birchwood Estates, wherein it does show Valley Forge Way as a right of way that extends to WSRR.

**Mr. Inglima:** asked if his comments in the form of a question a fair characterization of what used to exist with respect to that street.

**Mr. Snieckus:** stated his only hesitation is not knowing what the existing conditions were at the time of the map; whether or not it was a proposed map or an existing map; that is why he cannot make a definitive statement.

**Mr. Inglima:** asked if he regarded the objective that is being served by the proposed development with respect to the lots that have frontage on Hollywood Avenue to be one of providing an alternate route of access to those lots.

**Mr. Snieckus:** stated the proposed road is providing an alternative access.

**Mr. Inglima:** stated Mr. Steck pointed out that this property is somewhat unique in that it is a large track that has frontage on three public roadways that provide access to the lot; asked if Mr. Snieckus agreed with this statement.

**Mr. Snieckus:** stated the exception he has is when you say “property” you are referring to all the lots of the subject application; stated there are five lots and one of the lots does not have frontage on Van Dyke.

**Mr. Inglima:** stated the Borough’s ordinances have a merger doctrine provision; they state that when there are lots that were originally created but are later found to be non-conforming as to their bulk requirements and abutting lots come under common ownership they are deemed to merge.

**Mr. Snieckus:** stated he is familiar with the doctrine but he does not know if it applies; does not know the history of the property.

**Mr. Inglima:** stated he can represent to the Board that at one point that five of those lots were under common ownership; asked, if that were to be the case, wouldn’t the non-conforming lots that exist today have been deemed to merge pursuant to the municipal ordinances of the Borough.

**Mr. Snieckus:** stated he would have to review that information in more detail.

**Mr. Inglima:** stated existing Lot 1 is less than 12k sq. ft.

**Mr. Snieckus:** stated he doesn't have the surveys of all the properties; if it is less than 12k sq. ft., then it is not a corner lot; a corner lot has to be 12k sq. ft. in the R2 zone.

**Mr. Inglima:** stated if Lot 2 is less than 10k sq. ft., then it doesn't conform.

**Mr. Snieckus:** stated that is correct.

**Mr. Inglima:** stated under the doctrine of merger and the ordinances, Lots 1 and 2 merge once they come under common ownership.

**Mr. Whitaker:** asked the relevancy of the questions.

**Mr. Cucchiara:** stated it would be helpful to the Board if you could make an offer.

**Mr. Inglima:** stated it has been stated by several witnesses that there is a change that has taken place at the site; it is going from five building lots to eleven building lots; in an attempt to show that it is not that big a change, the doctrine of merge states otherwise; trying to get that through this witness; if he doesn't know then he can say that.

**Mr. Snieckus:** stated he knows the doctrine of merger but he does not have enough information in front of him to make a finding.

**Mr. Inglima:** stated Lot 3 is only 7392 sq. ft; well below the 10k sq. ft. requirement.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** asked if that would merge with Lot 4.

**Mr. Snieckus:** stated if it complied with the doctrine of merger.

**Mr. Inglima:** stated 1 and 2 merge, and 3 and 4 merge.

**Mr. Whitaker:** stated we don't know that; it is an assumption; where are we heading with this.

**Mr. Inglima:** stated there are three building lots existing at the site.

**Mr. Snieckus:** stated yes, under that assumption.

**Mr. Inglima:** asked if Mr. Snieckus was involved in the preparation of an affordable housing compliance for the municipality.

**Mr. Snieckus:** stated no he was not.

**Mr. Inglima:** asked if he was familiar with what it provides.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** asked if it states how many building lots there are on this particular property.

**Mr. Snieckus:** stated he doesn't know if it specifically states that.

**Mr. Inglima:** asked if it states how many existing dwelling units exist on this property.

**Mr. Snieckus:** stated he doesn't know.

**Mr. Inglima:** stated it is the position of this municipality that it is a fully developed municipality for purposes of affordable housing.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** asked if any aspect of this property had been quantified to the COAH as an area that is vacant or capable of being developed for single family homes.

**Mr. Snieckus:** stated not that he was aware.

**Mr. Inglima:** stated he had asked Mr. Snieckus about an easement requirement along the frontage of the site with Hollywood Avenue; asked if it were the case that the Borough's ordinance requires an applicant to provide information that is required by the County on the preliminary subdivision plat when it is filed with the municipality.

**Mr. Snieckus:** stated that was correct and it was stated in their letter.

**Mr. Whitaker:** stated at this point it has been a request not a requirement; the applicant does not have approval that would make that a requirement; the application before this Board will be subject to approval by the Bergen County Planning Board.

**Mr. Inglima:** asked Mr. Snieckus if it was his position that the information should not be provided.

**Mr. Snieckus:** stated not that it not be provided; it will be discussed with the County and it is made a component of this application.

**Mr. Inglima:** referred to Section 32B-9 (u) of the Borough's ordinance; read aloud; stated the ordinance does not mention requirements by the County.

**Please note: an 8 minute recess was taken at this time: 9:58PM**

**Meeting Called to Order: 10:06PM**

**Roll Call Taken:**

Messrs. Pierson, Reade, Cirulli, Councilman Rorty, Chairman Hanlon, Mayor Randall

**Mr. Snieckus:** stated, before the recess, Mr. Inglima was asking about plot details; item d, subsection u; read aloud.

**Mr. Inglima:** stated the ordinance doesn't say that it has to be an ultimate requirement of the County; it is information the County is looking for that has to be added to the plan.

**Mr. Whitaker:** stated it shouldn't be paraphrased; read into the record; "as" may be required.

**Mr. Cucchiara:** asked if it was in the form of a request at this point.

**Mr. Inglima:** stated Mr. Timsak, in his letter, used the word recommendation as a member of the committee that reports to the County Planning Board.

**Mr. Cucchiara:** stated that would not be in the form of a requirement at this stage.

**Mr. Inglima:** stated Mr. Timsak wants the information to be shown on the plan; there is no question that his letter requested that the information be shown on the plan and be re-submitted in that revised format; the Borough's ordinance says that if that type of request, recommendation or requirement is set forth by the County then that information should be reflected on the plat when it comes before the Board.

**Mr. Cucchiara:** stated he does not believe we are getting into the area of semantics but he is not certain that this is a formal requirement at this stage; if Mr. Whitaker wants to be heard, that would be fine.

**Mr. Whitaker:** stated any approval granted by the Board under the MLUL is subject to and conditioned upon all other governmental approvals; on this basis, if the other governmental approval requires something to be done, it will

be shown on the plan and it will be shown to the Board; it is not shown on the plan now because they do not have a requirement from the County or approval or feedback from the County; this is a matter for a later date.

**Mr. Cucchiara:** stated ordinarily that would be the case.

**Mr. Whitaker:** stated it is a preliminary in front of the Board subject to other governmental approval.

**Mr. Inglima:** stated this is information that is being required by the County in the course of their review of this application.

**Mr. Whitaker:** stated it was requested not required; required is when you have a condition of approval.

**Mr. Cucchiara:** stated because then it would eventually be submitted to the County based upon the Board's approval.

**Mr. Inglima:** stated if the application proceeds to a preliminary approval from the Board, without an easement shown along the north side of the site where it abuts Hollywood Avenue, with nothing shown at all, then the County imposes a requirement for a road widening easement along Hollywood Avenue, the municipal subdivision ordinance states that you can't count as lot area the area within a road widening easement.

**Mr. Snieckus:** stated he would have to check the section of the ordinance that speaks to a road widening easement; he believed it talks about if there is dedication to the County, but not necessarily for an easement.

**Mr. Inglima:** stated if a road widening easement is required and ultimately the County widens the road, asked what impact that would have to proposed Lot 1.

**Mr. Whitaker:** stated it is a vague question; they don't know what it would have because we don't know what the size of it would be, the area, etc.

**Mr. Inglima:** asked if the plan currently showed a road widening easement; an area located 35 ft. from the center line.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** asked if that area is subsequently dedicated to public use for a roadway, it would no longer be a part of the lot.

**Mr. Snieckus:** stated it would be taken away from the lot.

**Mr. Snieckus:** stated it would bring that lot down below 12k sq. ft.

**Mr. Snieckus:** stated yes if that was the requirement.

**Mr. Inglima:** asked why you wouldn't want a plan of the design of that lot so that it could comply in the future if that widening, which has been indicated as an objective of the County, is ultimately done.

**Mr. Whitaker:** stated it was an absolutely improper question.

**Mr. Cucchiara:** stated any approval of this Board would be subject to County approval which would make any approval conditioned upon that; if the County did not approve it then there would be no approval of this application; it seems we are getting beyond the expertise of this witness.

**Mr. Inglima:** stated he is asking Mr. Snieckus as a planner what he feels would be the appropriate course for this Board to take.

**Mr. Inglima:** asked if he knew whether Bergen County has any requirements or restrictions against access to Hollywood Avenue for driveways serving single family homes.

**Mr. Snieckus:** stated not that he was aware.

**Mr. Inglima:** asked if Mr. Timsak's letter indicated any intentions to restrict access to Hollywood Avenue for the proposed lots.

**Mr. Snieckus:** stated he did not see that in the letter.

**Mr. Inglima:** stated with respect to the proposed development of the proposed lots, many times people have said that they are conceptual footprints that are shown on the plan; asked Mr. Snieckus if he has reviewed any information that is not submitted or on file with the Board that gives him an expectation of what would be developed on those lots.

**Mr. Snieckus:** stated no; he has not seen any plans or photos of homes, nor has he met with the applicant.

**Mr. Inglima:** asked if his opinions with respect to this case have to do solely with the information that is shown on the plans.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** stated the rear yards of the proposed houses on Lots 9, 10 and 11 were discussed earlier; if a house is construction on any of those lots and faces the proposed cul-de-sac, asked if the owner of that property be permitted to place structures behind the homes.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** stated that Mr. Snieckus had stated earlier that the lot frontage of Hollywood Avenue would be applicable to each of those lots.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** stated that Mr. Snieckus maintained that even though the property would have frontage on two sides it would have a rear yard behind the house.

**Mr. Snieckus:** stated it wouldn't be a rear yard; rear yards are defined by a front lot line or a rear lot line; in this instance the through lots have two front lot lines; they virtually have no rear yard.

**Mr. Inglima:** asked if you would be allowed to have a swimming pool in a front yard in Ho-Ho-Kus.

**Mr. Snieckus:** stated he would have to check the ordinance; probably not.

**Mr. Inglima:** stated there are restrictions in the ordinances with respect to certain types of accessory structures that would be developed on a residential property.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** stated Mr. Snieckus indicated in his testimony that he had made a calculation of the prevailing setback along Van Dyke Drive for purposes of new structures that would be created on proposed Lots 1, 2, 3 and 4.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** stated Mr. Snieckus indicated that it was not in his purview to rule on that issue.

**Mr. Snieckus:** stated that was correct.

**Mr. Inglima:** stated he calculated for the setbacks to comply with the prevailing setback requirement of the ordinance would be greater than 30 ft. from the right of way line of Van Dyke Drive.

**Mr. Snieckus:** stated yes, based on his calculations.

**Mr. Inglima:** asked if Mr. Snieckus based that on any revised right of way line that might be necessary in order to provide right of way widening of Van Dyke Drive.

**Mr. Snieckus:** stated no he did not.

**Mr. Inglima:** asked if Mr. Snieckus performed a similar calculation with respect to the applicant's frontage on WSRR.

**Mr. Snieckus:** stated no.

**Mr. Inglima:** asked why.

**Mr. Snieckus:** stated it wasn't the issue that was being brought to the Board.

**Mr. Inglima:** stated the property does have frontage on WSRR; would the prevailing setback rules be imposed with respect to that frontage as well.

**Mr. Snieckus:** stated it could be as well.

**Mr. Inglima:** stated Mr. Snieckus would have to look at other homes that are developed north or south of the property in order to come up with a calculation.

**Mr. Snieckus:** stated within 200 ft.

**Mr. Inglima:** stated there is a property that directly abuts the SE corner of the site; asked if Mr. Snieckus had made a calculation of the setback of that building from the right of way line of WSRR.

**Mr. Snieckus:** stated no.

**Mr. Inglima:** asked if that would be included in any calculation of the prevailing setback requirement for the lots that front on WSRR.

**Mr. Snieckus:** stated based on the ordinance it would be required.

**Mr. Inglima:** stated Mr. Snieckus talk about lot depth requirements earlier; asked if there are any lots that are proposed as part of the subdivision for which the lot depth requirements had to be analyzed.

**Mr. Snieckus:** stated he believed he was referring to lot depth as it relates to lot width; you are supposed to take the average of the lot width at 10 ft. increments based on the dimension of lot depth; all the lots were evaluated for lot depth; all complied and/or they relied on the applicant's information that was provided because oftentimes the CAD files can generate much more accurate information.

**Mr. Inglima:** asked if it was fair to say that lot width of a lot that does not have uniform depth across its width would be calculated as an average of the depth.

**Mr. Snieckus:** stated the definition of lot depth and how it is measured.

**Mr. Inglima:** asked how many points would be used to create the average.

**Mr. Snieckus:** stated the question needs to be clarified; stated Mr. Inglima is saying the “measurement of width”; asked if Mr. Inglima was speaking about lot width or lot depth.

**Mr. Inglima:** stated he is talking about lot depth.

**Mr. Snieckus:** stated it talks about measuring from the mid-point of the front lot line that right angles radially from the street, lot line to the rear lot line; measured from mid-point to mid-point.

**Mr. Inglima:** asked if it was only the mid-point distance.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** asked if a lot was diamond shaped, and as long as it had the required frontage, you could still meet the lot depth requirements.

**Mr. Snieckus:** stated that is correct.

**Mr. Inglima:** stated he is asking in particular about proposed Lots 6 and 7; lot 6 is trapezoidal in shape.

**Mr. Snieckus:** stated that was a good characterization.

**Mr. Inglima:** stated the frontage is narrower than the rear line and the lot lines that form the side lines are skewed out from the front; asked where the lot depth was measured from.

**Mr. Snieckus:** stated from the mid-point of Lot 6 to the midpoint of the rear lot line of Lot 6.

**Mr. Inglima:** asked how the calculations were made.

**Mr. Snieckus:** stated he scaled it from the drawings.

**Mr. Inglima:** stated the number he comes up with is 98.5 ft.; asked how Mr. Snieckus had a distance of 100 ft.

**Mr. Snieckus:** stated based on his scale he has 100; not a rubber scale but an official scale; 30 scale; again, Mr. Inglima is measuring on a print that has been printed multiple times and often they are stretched on the drawings in various direction; often times he will refer to this but ultimately what is being

provided in the applicant's data table are the compliance numbers; if he is measuring something in the order of 99.8 ft., based on the line work on the drawing, he will rely on the applicant's information that has been sealed by a licensed engineer and submitted to the Board.

**Mr. Inglima:** stated it is indicated on proposed Lot 6 a lot depth of 100.3 ft.

**Mr. Snieckus:** stated that is correct.

**Mr. Inglima:** asked Mr. Snieckus if he knew how it was measured.

**Mr. Snieckus:** stated that was not asked.

**Mr. Inglima:** asked if Mr. Snieckus had asked any engineer to confirm the calculations that he made by using a scale on the drawing.

**Mr. Snieckus:** stated no.

**Mr. Inglima:** asked if Mr. Snieckus would admit that it is extremely close no matter how it is measured.

**Mr. Snieckus:** stated it comes close.

**Mr. Inglima:** stated, in respect to proposed Lot 7, asked if Mr. Snieckus is saying that he measured the depth of that lot to the apex of the rear line or some point in that area.

**Mr. Snieckus:** stated he has to confirm which is the rear lot line based on the ordinance requirements; this is a situation where the ordinance is not very specific as to how to measure the rear lot line; he used the common principal which is referred to as the lot line which is most distant from a front lot line; that is provided in the Moskowitz Book of Developmental Definitions which is often referred to and accepted in court as to a source material to provide a rational for understanding a definition; referring to Lot 7, a lot line that is measured 62.01 ft. is the rear lot line; took the mid-point of that lot line which is 31 ft., then calculated the center of the front lot line; took 48.25 ft. over from the same side lot line in order to establish the center point of the front lot line and then if you measure between those two points it is approximately 116/117 ft.; the applicant provided a lot depth of 115.7 ft.; it is within the margin of error of measuring it on the plan in front of him.

**Mr. Inglima:** asked if the lot line that has the 62 ft. dimension on it is based on Mr. Snieckus' interpretation or the applicant's interpretation.

**Mr. Snieckus:** stated it was based on his interpretation and it is a common interpretation of what a rear lot line often is.

**Mr. Inglima:** asked if the shape and size of Lot 7 advanced the objectives of the zoning ordinance.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** asked if Mr. Snieckus had a problem with the fact that it is an 86 ft. lot depth along the NW line of that property.

**Mr. Snieckus:** stated no.

**Mr. Inglima:** stated Mr. Snieckus had mentioned the concept of transitional lot design.

**Mr. Snieckus:** stated it was because of the property fronting on the boundary of the R1 and R2 zones.

**Mr. Inglima:** asked if Mr. Snieckus felt the design of the lots that are being proposed by the applicant are a transition between the R2 and the R1 zone.

**Mr. Snieckus:** stated he offered that to the Board as an understanding that this property borders the R1 zone which has a 43k lot area requirement and a 200 ft. width requirement; this is a 10k sq. ft. lot zone with a 75 ft. lot width; virtually a 4x multiple in size; in his opinion, and from a planning prospective this represents the border of that zone so therefore one thing to consider in the orientation of lots is to configure the property and/or the arrangement of buildings so that it helps form that transition.

**Mr. Inglima:** asked if Mr. Snieckus considered in determining whether or not it is a transition the conditions of the property that abut the lots that are being created.

**Mr. Snieckus:** clarified that Mr. Inglima meant the adjacent property.

**Mr. Inglima:** stated yes; he referred to Block 802, Lot 6; showed on map; this property consists of the entire area that he is showing; there is a line that divides, but it is one big property; asked if Mr. Snieckus felt that proposed Lot 7 is in some ways transition to the lot that is shown as Lot 6 in Block 802.

**Mr. Snieckus:** stated he was not referring to that area; he was referring to the frontage of Hollywood Avenue.

**Mr. Inglima:** asked if the concept of transition take into account the properties in the R2 zone that directly abut the applicant's site.

**Mr. Snieckus:** stated not necessarily because when reviewing a subdivision, and for this instance, this was not on the border of the R1 zone; we often have

lots backing rear to rear to one another; in this instance this is an appropriate arrangement because there are lots that meet the minimum requirement of the zone, they actually exceed the minimal requirements; they are an appropriate arrangement based on the zone plan.

**Mr. Inglima:** stated these lots don't exist but for the creation of the proposed road; Mr. Snieckus suggest that transition condition will be created by these lots; trying to find out where the transition is.

**Mr. Snieckus:** stated it is the border lots; the lots that border the R1 zone.

**Mr. Inglima:** stated if he drew a line through the site in a northeasterly direction, he goes from the Hayes property to a much smaller lot, proposed Lot 7; once he comes on to the applicant's site the lot gets smaller; asked how that is a transition.

**Mr. Snieckus:** stated he was not bringing up that lot as the transitional area.

**Mr. Inglima:** referred to the Bone property; the Bone property is 2 lots; one with a house and one with another structure; there is a large lot that fronts on Brandywine and then a lot that barely conforms to the zoning ordinance right behind it; stated there is no transitional effect there.

**Mr. Snieckus:** stated no.

**Mr. Inglima:** asked in what way a transitional interest being advanced.

**Mr. Snieckus:** stated what he was offering was that the arrangement on the lots on Hollywood Avenue, the lots that are facing Hollywood Avenue, are forming a transition to the adjacent R1 zone; if in fact they were oriented to the internal roadway; the purpose for that is because there would be buffering and landscaping with no access along Hollywood Avenue; from a planning standpoint it would form a transitional area.

**Mr. Inglima:** asked if the people on Brandywine love Hollywood Avenue.

**Mr. Whitaker:** objected; from a planning perspective it has been testified that the applicant meet or exceed the requirements of the R2 zone.

**Mr. Inglima:** stated that Mr. Snieckus indicated that the lots that are in the area of Hollywood Avenue are the ones that he intended to refer to as the transitional lots.

**Mr. Snieckus:** stated Mr. Inglima is putting words in his mouth; he offered it for the purposes of the zone plan; he started off stating the cover sheet of the applicant's drawing is incorrect; he didn't want to deceive anyone reviewing the

plans in the sense that the lots across WSRR were also in the R2 district, they are not; the R1 zone coincides with WSRR and Hollywood Avenue; he was offering to the Board is that this lot represents a transition to the R1 zone; one of the considerations they can take a look at is in the orientation of buildings and the orientation of the configuration and use of the lot that the frontage along Hollywood Avenue, but not having access and/or buildings oriented towards it, would form, in essence, a transitional component; it is offered for the Board's consideration in reviewing the issue of buffering.

**Mr. Inglima:** asked if Mr. Snieckus had reviewed the relationship between proposed Lots 1, 2, 3 and 4 and the lots that are located on the west side of Van Dyke Drive.

**Mr. Snieckus:** stated yes.

**Mr. Cucchiara:** asked if Mr. Inglima could define what he meant by "relationship."

**Mr. Whitaker:** asked what is the relationship and the relevancy.

**Mr. Inglima:** stated Mr. Snieckus had not determined whether the lots that are on the west side of Van Dyke Drive are similar in frontage or width or area to the lots that are being proposed as 1, 2, 3 and 4.

**Mr. Snieckus:** stated he had not.

**Mr. Inglima:** asked if it would be Mr. Snieckus' opinion that Lots 1-4 are really compatible, in terms of size, as the lots on the west side.

**Mr. Snieckus:** stated they are compatible from the standpoint of the zone plan; these lots conform with the zone requirements; he has not looked at the lots on the opposite side to see how they conform with the zone requirements.

**Mr. Inglima:** asked if Mr. Snieckus had noted the fact that the lots that are shown as proposed Lots 8 and 9, the two largest lots on the applicant's site, abut lots 1-4.

**Mr. Snieckus:** stated yes, it was noted.

**Mr. Inglima:** asked if occurred that possibly the applicant was creating a better condition for his own lots and not anyone else's.

**Mr. Snieckus:** stated he was not aware of that.

**Mr. Inglima:** stated, in respect to transitional aspects between Lots 1-4 and 8-9, asked if Mr. Snieckus felt there was any interest being served there.

**Mr. Snieckus:** stated no.

**Mr. Inglima:** asked whose interest would it serve if a buffer is created along Hollywood Avenue.

**Mr. Snieckus:** stated it would serve the adjacent residents on the opposite side of Hollywood Avenue, the future residents of the potential subdivision, as well as, the public that passes by on Hollywood Avenue.

**Mr. Inglima:** asked if Mr. Snieckus suggested that people who are driving in cars on Hollywood Avenue need to have a planted buffer strip so they don't see the houses on the new street.

**Mr. Snieckus:** stated a buffer would enhance their view; it improves the decorative quality of the landscape.

**Mr. Inglima:** stated a lot of trees will be removed from the site; asked if Mr. Snieckus that advances the decorative aspects of the site.

**Mr. Snieckus:** stated it depends on what the new landscaping is.

**Mr. Inglima:** asked whether or not Mr. Snieckus discussed with anyone the idea that the applicant might want to put the trees in anyway.

**Mr. Snieckus:** stated no.

**Mr. Inglima:** asked if Mr. Snieckus was suggesting to the Board that it be made a condition of approval.

**Mr. Snieckus:** stated yes.

**Mr. Whitaker:** stated it is going on the plan.

**Mr. Inglima:** asked why Mr. Snieckus felt it should be made a condition of approval.

**Mr. Snieckus:** stated because he felt it improves the arrangement of the lot.

**Mr. Inglima:** stated Mr. Snieckus had mentioned earlier that people who live on the north side of Hollywood Avenue would be protected by having a buffer strip.

**Mr. Snieckus:** stated he believed their view would be enhanced by seeing a buffer strip.

**Mr. Inglima:** stated that Mr. Snieckus felt that people driving along Hollywood Avenue would have the aesthetic qualities of driving along the road enhanced by having the buffer strip.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** stated a buffer strip is only required because the street is being created and lots that will have houses facing toward the street will be located south of Hollywood Avenue.

**Mr. Snieckus:** stated that was one of the reasons.

**Mr. Inglima:** stated if the houses were facing Hollywood Avenue none of this would be needed.

**Mr. Snieckus:** stated he couldn't say that; someone may want to landscape in front of their property.

**Mr. Inglima:** asked if Mr. Snieckus felt there were some unattractive element of the rear yards of homes that will back up to Hollywood Avenue

**Mr. Snieckus:** stated it is not an unattractive element it is an issue of privacy; would not say that backs of all homes are unattractive.

**Mr. Inglima:** asked if Mr. Snieckus felt that houses that face the cul-de-sac and back up to Hollywood Avenue is a proper planning technique.

**Mr. Snieckus:** stated he testified that it is not the most desirable configuration but sometimes it is the most favorable when you weigh the positives and negatives.

**Mr. Inglima:** asked what positives Mr. Snieckus has identified.

**Mr. Snieckus:** stated the positive of the buffer and of landscaping; those features off-set any potential impact.

**Mr. Inglima:** asked if there would be positives by having fewer homes on this property.

**Mr. Snieckus:** stated there could be.

**Mr. Inglima:** asked if there would be positives by having non-structural drainage systems installed throughout the property.

**Mr. Whitaker:** stated where are we going with this; if we are going to go through the shenanigans of a positive being there is no development, from an

environmental standpoint then we will agree to that; it is an R2 zone; the Master Plan in 2013 designated it and continued it as an R2 zone and that is what is being complied with; the questions being asked are absurd.

**Mr. Inglima:** stated that Mr. Snieckus had testified earlier that he felt the unit density per acre was comparatively a positive attribute of this application.

**Mr. Snieckus:** stated it is consistent with the Master Plan.

**Mr. Inglima:** asked, in regards to the R2, how he calculated the average unit density per acre.

**Mr. Snieckus:** stated he took the area of the site and divided it by the number of lots.

**Mr. Inglima:** asked how Mr. Snieckus determined the R2 requirements for this site to come up with units per acre.

**Mr. Snieckus:** stated you take the 10k sq. ft. requirement.

**Mr. Inglima:** asked if he used 12k for the corners even though there are two corner lots that would have to be created.

**Mr. Snieckus:** stated they could be.

**Mr. Inglima:** asked if he deducted that off the top.

**Mr. Snieckus:** stated no.

**Mr. Inglima:** asked the number Mr. Snieckus came up with.

**Mr. Snieckus:** stated 4.4.

**Mr. Inglima:** stated he had indicated there were 3 for the applicant's site.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** asked, if in making that calculation for the applicant's site, did he include the right of way for the proposed cul-de-sac.

**Mr. Snieckus:** stated no.

**Mr. Inglima:** stated he added up from the subdivision plat, sheet 3, all the lot areas and came up with 140,115 sq. ft.; stated it is 11 lots; it comes out to 3.42 lots per acre; asked how Mr. Snieckus did his measurement.

**Mr. Snieckus:** stated he measured it without the roadway; measured it based upon the parent lot and the density of homes that are being proposed on the lots.

**Mr. Inglima:** asked if Mr. Snieckus would normally include the street right of way in determining unit density.

**Mr. Snieckus:** stated only if in fact that was already in existence; the fact that the lot is being subdivided with this proposed roadway he would not have calculated that; it is similar to a multi-family development, you are looking at the roadways themselves; you base it on the overall lot area.

**Mr. Inglima:** asked if it was fair to say that he was not using the most conservative measurement.

**Mr. Snieckus:** stated that could be a point of view.

**Mr. Inglima:** stated there is a request in the applicant's application form for a waiver from item 19; read into the record by Mr. Inglima; asked if the applicant had submitted any drainage area map.

**Mr. Snieckus:** stated he did not know.

**Mr. Inglima:** asked what was Mr. Snieckus' opinion with respect to whether or not a waiver should be granted from that requirement after hearing all the testimony in this case.

**Mr. Snieckus:** stated he had no opinion on this; it is out of his realm; it relates to the core of engineering.

**Mr. Inglima:** confirmed that Mr. Snieckus felt, as a planner, he should not weigh in on the issue of whether a waiver from the requirement should be granted.

**Mr. Snieckus:** stated that was correct.

**Mr. Inglima:** read aloud from a case entitled Jack W. Field vs. Mayor and Council of the Township of Franklin; Planning Board of the Township of Franklin, Superior Court of NJ, Appellate Division, decided June 30, 1983.

**Mr. Snieckus:** stated he was not familiar with this case.

**Mr. Inglima:** asked if Mr. Snieckus agreed, as a planner licensed in the State of NJ, with the expressions of the Appellate Division contained in the case as he read them.

**Mr. Whitaker:** stated it is taken out of context; he doesn't know what the case was all about or if that was going to be explored tonight; noting his objection on the record of extrapolating something and then asking a planner about a case like this; the application before the Board was deemed complete; information provided; if the Board makes a determination that there is insufficient information then so be it; not something that is in the realm of Mr. Snieckus to answer at this point.

**Mr. Cucchiara:** stated it also appears to be more addressed to an engineering consultant than a planner; understands it is cross examination.

**Mr. Inglima:** stated he was asking if Mr. Snieckus agreed with the expression of the court.

**Mr. Whitaker:** stated Mr. Inglima was doing so on cross examination on items that were never brought up on direct.

**Mr. Cucchiara:** stated, not only that, but if he even understands the concept or whether he is in such a position to provide such an opinion or answer the question; reiterated that Mr. Inglima can ask the question but it seems to be inappropriate for a planning consultant to address these questions.

**Mr. Snieckus:** stated he doesn't believe he has enough information regarding the impacts of such a drainage study nor is it his realm of expertise; it involves a core issue relative to drainage and distribution and how that relates the Board's review and the subsequent approval of an application.

**Mr. Inglima:** asked if Mr. Snieckus was familiar with the report from the water department.

**Mr. Snieckus:** stated he believes he had seen a copy via email.

**Mr. Inglima:** asked if Mr. Snieckus had reviewed the reports that were issued by various municipal consultants and officials.

**Mr. Snieckus:** stated yes; within the realm of planning.

**Mr. Inglima:** asked if Mr. Snieckus was aware that the Master Plan describes in detail the problems that are currently experienced with respect to water supply.

**Mr. Snieckus:** stated yes.

**Mr. Inglima:** stated, and the fact that the DEP has allocated a lower amount of water to the municipality than the municipality currently uses.

**Mr. Snieckus:** stated he does not know that for certain.

**Mr. Whitaker:** asked if Mr. Inglima was working on an assumption.

**Mr. Cucchiara:** asked Mr. Inglima to lay a foundation in the first instance.

**Mr. Inglima:** directed the witness to review the Master Plan provisions that deal with utilities and water supply for the next meeting; it would be better than having him read them now; also asked Mr. Snieckus to review the report from Mr. Fooder in respect to the water supply.

**Mr. Whitaker:** stated the relevancy of subdivision approval in the adaptability of utilities is irrelevant for the subdivision approval process; when a subdivision is granted, and at that point if the Borough cannot supply water to any given tap in the future for a building, that is something that an individual owner deals with at that time; it doesn't prevent a subdivision; the whole concept of this is irrelevant.

**Mr. Cucchiara:** asked if Mr. Inglima disagreed with Mr. Whitaker.

**Mr. Inglima:** stated yes; the provision of adequate water supply is a requirement for this Board to consider a major subdivision approval.

**Mr. Whitaker:** stated he would let counsel rule on that.

**Mr. Inglima:** stated he will also have some questions regarding the existing drainage system in the area of the site; asked if the witness could review the information which was previously on the record with respect to that system.

**Mr. Snieckus:** stated drainage is out of his realm.

**Mr. Inglima:** stated his questions will only be related to his discipline as a planner or landscape architect.

**Mr. Whitaker:** stated there has been nothing that has been testified to on direct and there is nothing that is in any of the reports.

**Chairman Hanlon:** stated there are two letters regarding the water department; it states they have approval for additional water consumption in the Borough and the other letter is regarding the water line that comes through for the proposed street on Van Dyke Drive.

**Mr. Inglima:** stated he will be brief in his questions to Mr. Snieckus regarding water.

**Chairman Hanlon:** stated the public has not had their turn in questioning the planner; they will have that opportunity going forward; working on getting an engineer; Mr. Whitaker is not available next week; the Board will be meeting for different business; it will be a Combined Session next week; will attempt to hold a hearing on March 5, 2016; we need to get all the documents to the new engineer; we have to cause notice in the paper, post a notice on the website and the meeting will also be shown on the agenda which will also be posted on the website.

**Mr. Whitaker:** stated he has a problem with the length of time these hearings are taking; he has not granted an extension of time; the new engineer that is coming on Board is coming on March 5, 2015; in the meantime we are not going to wait for the engineer to make a report and then come back to Mr. Snieckus; there is time that could be used productively between now and when the engineer comes; suggesting this gets done before the engineer comes in and that can be done on February 19, 2015.

**A brief discussion was held at this point of the meeting regarding scheduling and meeting dates.**

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**Motion to Adjourn:** Pierson, Mayor Randall  
**All in Favor**

**Meeting adjourned at 11:00PM.**

Respectfully submitted by:

JoAnn Carroll  
Planning Board Secretary