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July 7, 2022

VIA E-MAIL and REGULAR MAIL

David K. Maski, PP, AICP
Planning Director
Peter J. Biondi Municipal Building
379 South Branch Road
Hillsborough, NJ 08844

**Re: Homestead Road, LLC
App. #: 21-PB-25-MS/MSP**

Dear Mr. Maski:

In connection with the above-captioned application, please incorporate this memorandum into the official record for this application.

A. Summary

The purpose of this communication is to set forth the legal requirements for the proposed two (2) lot subdivision. In summary, one of the members of the public, an attorney named Maria Vallejo, Esq., questioned the legal and procedural requirements for the subdivision and this memorandum seeks to clarify the applicant's position.

The subject application proposed a two (2) lot subdivision¹ wherein the existing lot line is adjusted to the west. The Township's planning memorandum dated April 29, 2022, indicates that proposed subdivision is *falling conforming to all the bulk lot standards*. Furthermore, as stated on the record, the applicant will agree to eliminate the three (3) "c" bulk variances identified in your memo for maximum width of curb cuts, pedestrian access, and pedestrian pathways. The applicant defers to the Board on whether these variances should be granted, but the applicant "will comply" as necessary to eliminate these variances. The Applicant will also comply with the new EV regulations. As such, this application is presented variance free.

¹ Although the subdivision is only for two (2) lots, since the project proposes a water main extension, that would be considered an "extension of an off-site improvement" per N.J.S.A. 40:55D-42 and §188-3 and this should be considered a major subdivision.

B. TECD Zone Subdivision Standards

The TECD standards as noted in the Maski report, are as follows:

	Standard	Proposed Lot 32	Proposed Lot 33
Min. lot area	5 acres	39.34 acres	49.10 acres
Min. lot width	200 ft	1,009.7 ft	2,002.4 ft
Min. lot depth	250 ft	1,573.4 ft	997.2 ft
Min. front yard	40 ft	884.9 ft	195 ft
Min. side yard	20 ft	488.5 ft east 191.3 ft west	219 ft east 230.9 ft west
Min. side yard adjacent to res. zone/dwelling	150 ft	840 ft	219 ft east 230.9 west
Min. rear yard	75 ft	150.5 ft	375.8 ft
Min. rear yard adjacent to res. zone/dwelling	150 ft	NA	375.8 ft
Max. impervious coverage	60%	23.1%	32.7%
Max. building height stories/ft	3/40 ft	1/40 ft	1/40 ft
Min. buffer non-residential	20 ft	20 ft	20 ft
Min. buffer adjacent to res. zone	100 ft	100 ft	100 ft
Min. buffer adjacent to railroad	-0- ft	-0- ft	NA

No variances are identified for the subdivision. Notably, the lots/setbacks are about 20-30x the size of 5-acre requirement and impervious is 23.1% on proposed lot 31 and 32.7% on Proposed Lot 33, where 60% is permitted.

C. Legal Argument

N.J.S.A. 40:55D-48b provides that the Board “shall” grant preliminary subdivision approval if the proposed development complies with all provisions of the applicable ordinances. Similarly, N.J.S.A. 40:55D-50a provides that final subdivision approval “shall” be granted if the detailed drawings, specifications, and estimates of the application conform to the standards of all applicable ordinances and the conditions of preliminary approval. As discussed at the hearing, this is commonplace where there is a redevelopment of a property with complete demo of the existing structures.

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Furthermore, Hillsborough ordinance provides at §188-26, entitled "Simultaneous Review", states, as follows:

The approving authority shall have the power to review and approve or deny conditional uses or site plans **simultaneously with a review for subdivision approval without the developer being required to make further application** or the approving authority being required to hold further hearings.

D. Conclusion

In summary, since the proposed subdivision plan fully conforms to the TECD standards, the subdivision is "as of right" and this matter should proceed simultaneously with the preliminary and final major site plan application.

I do concur, however, with Mr. Bernstein that the Board's subdivision vote should *precede* the preliminary and final major site plan vote (since the existing lot line would be located in Building # 1). The perfection of the subdivision would be part of compliance.

Thank you for your attention to this matter. Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,



Michael P. O'Grodnick

MPO

cc: Eric Bernstein, Esq. (via email only)
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