

**Borough of Peapack & Gladstone  
Special Land Use Board**

**October 21, 2020**

**Opening Statement:** Adequate notice of this meeting of the Land Use Board of the Borough of Peapack & Gladstone was given to the Courier News on January 16, 2020 and was posted at the Municipal Complex, 1 School Street, Peapack; The Peapack Post Office, 155 Main Street, Peapack; and the Gladstone Post Office, 266 Main Street, Gladstone, New Jersey on January 16, 2020. The meeting is a web-based platform providing remote access as the meeting will be open to the public remotely. In the event any member of the public cannot access the public file documents or exhibits, and/or cannot access the Zoom web-based virtual meeting room, they may contact the Board Secretary at [snoll@peapackgladstone.org](mailto:snoll@peapackgladstone.org) or 201-400-9043.

Meeting started at 7 p.m.

**Salute to the Flag**

**Roll Call:**

**Present:**

Susan Rubright  
Greg Skinner, Mayor  
Mark Corigliano, Councilman  
Kingsley Hill  
Joan Dill  
Chris Downing  
Judy Silacci  
David DiSabato  
Peter Sorge  
James Heck, Alternate #1  
Matte Sutte, Alternate # 2  
Robert Riedel, Alternate # 3  
Paul Norbury, Alternate # 4

**Absent:**

William Ryden, Borough Engineer

**Also Present:**

Roger Thomas, Esq. Board attorney  
John Szabo, Borough Planner.  
Sarah Jane Noll, Clerk/Administrator

**Minutes** – September 16, 2020 – The minutes were approved as read.

**Consistency Review** – Ordinance 1094-2020 – An Ordinance to Amend Chapter XXIII, Article IV, Titled ‘*Land Development Ordinance*’ of the Revised General Ordinances of the Borough of Peapack and Gladstone by Amending Section 23-39.5, Affordable Housing District, AH Zone, and to Amend Chapter XXIII, Article XI, Titled ‘*Mixed Use Affordable Housing Zone*’ by Amending Section 23-95.11 for review by the Land Use Board.  
Susan Rubright asked Roger Thomas and John Szabo to enlighten the board on the ordinance. Mr. Thomas had submitted a report on the changes being proposed. John Szabo

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will explain the details. Mr. Thomas informed the board of the meetings that were held with Mr. Simon the applicant's attorney to try and alleviate the concerns of the principals of the SJP Property. He reviewed the Sections effecting the SJP property consisting of 68 units of high-quality luxury attached units. The Age restriction requirement was removed several years ago. They are in the process of preparing an application for review by the board. Mr. Thomas reported that he had received a call from the applicant's attorney Rob Simon with some concerns. These concerns have been addressed in the clarifications in the ordinance. Section 23-39. 9E needs clarification as to the size of these units. There needs to be a definition of the luxury detached units. The size of 4,000 s.f. was never intended for the affordable units. The language was not clear enough. The size of the units is to be between 2,400 s.f. and 3,600 s.f. for the luxury detached units only. It clearly exempts those requirements as it applies to the affordable housing units to be constructed on site in accordance with the proposed ordinance. Prior to turning over the meeting to Mr. Szabo, Chris Downing then asked if the developer is obligated to provide affordable housing. Mr. Thomas advised that they do not have that obligation however Mr. Thomas is aware that a none age restricted development application with affordable housing which will be on site, is forthcoming. Mr. Downing then asked if there are more restrictive ordinances, and which ordinance will be in effect. Mr. Thomas explained that the balance of the ordinance was initiated by Mr. Simon and the language is before the board now.

Gregg Skinner signed on at the beginning of the discussion at approximately 7:08.

Mr. Szabo then discussed an issue with the height of the building in Block 22, Lot 1 which is the Gladstone House. The distances between the buildings. The proposed clarifications have been sent to Mr. Simon who advised Mr. Bruder that he is satisfied with the clarifications. Peter Sorge did ask that they get something in writing from the applicant. Mr. Thomas advised that there were several emails regarding this, however they were not distributed to the Board Secretary Sarah Jane Noll. Mark Corigliano advised that Mr. Simon did acknowledge their approval in an email. Mark Corigliano then sent the emails to Sarah Jane Noll who forwarded them to the board at that time making them part of the record. Mr. Corigliano read the 10-9-20 email from Mr. Simon into the record. Mr. Thomas advised that he feels that the language in the email is adequate to accept as their acceptance to the clarifications. This satisfied Peter Sorge. Mr. Thomas explained that this was a concern because they are seeking to obtain a considerable amount of money. The property consists of 85 +/- acres. They wanted this to be clarified and made crystal clear. This is not a change of intent but rather a clarification. Peter Sorge is concerned that they are setting a precedent. John Szabo advised that this is not unusual, and that developers often approach municipalities for clarifications. Roger Thomas does not feel that a precedent is being set. Every variance stands or falls on its own merits according to Mr. Thomas. Mark Corigliano acknowledged Peter's concern which he also had had, however after he had listened to Roger Thomas, John Bruder and John Szabo he has changed his mind. David DiSabato agreed with Peter Sorge and questioned the process and that it raises questions that it is being done for Ron Kennedy and Rob Simon. Mr. DiSabato has no problem with the change. Mark Corigliano explained that this was an accommodation to the residents of Gladstone House. Chris Downing questioned the mixed use and the acreage.

**Public portion** – A motion to open the meeting to the public was made and seconded but since no one in the public wished to ask questions, another motion was made and seconded to close the public portion.

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Mr. Thomas explained that the board must find that the changes are not inconsistent with the Master Plan. Chairperson Rubright asked about the affordable housing and if it is going to be off site. Mr. Corigliano advised that there is property to the south of this property, but it is not buildable. Mrs. Rubright advised that she feels that the changes are not inconsistent with the Master Plan.

Joan Dill made a motion determining that the changes are not inconsistent with the Master Plan; Judy Silacci seconded that motion which was passed by the following roll call vote:  
**AYES:** Mayor Skinner, Susan Rubright, David DiSabato, Peter Sorge, Kingsley Hill, Chris Downing, Judy Silacci, Joan Dill, Mark Corigliano  
**NAYS:** None

Roger Thomas will send a letter to the Mayor and Council and John Bruder, Esq. prior to the public hearing of November 10, 2020 advising that the board took a vote and found the changes are not inconsistent with the Master Plan.

**Block 22, Lot 13 and Block 20, Lot 5 - Preliminary Investigation to Determine** whether the Proposed Study Area, which includes Block 22, Lot 13 and Block 20, Lot 5 – Lackawanna Ave. for Classification as an area in need of Non-Condensation redevelopment pursuant to N.J.S.A. 40A:12A:12A ET SEQ.

Chairwoman Rubright asked Roger Thomas and John Szabo to explain the purpose of this and what is the Board being asked to do. Mr. Thomas explained that the developer made a request for this redevelopment. He also commended the memorandum prepared and sent by the Chair explaining what a redevelopment is. It also indicates in the resolution that this is a non-condemnation resolution, and the governing body will go along with the redevelopment study which has to be referred to the Land Use Board. It also indicated that Mr. Szabo as the Board's planner would be the individual who will conduct the study. There will be a hearing in accordance with the standards outlined in the memorandum. It is for the Lackawanna Assemblage and in furtherance of their attempt to develop that in accordance with the Housing Element and Fair Share Plan and the ordinance that was approved back in the summertime. This plan does not authorize condemnation, and this means there will not be any use of eminent domain. The study gets prepared by Mr. Szabo which he will present to the Land Use Board. If the LUB adopts the study, then it is referred to the governing body with any recommendations. They then have a procedure to follow. Susan Rubright then explained her reasoning for sending the memorandum to the Board. This is not a request it is a 'shall'. She wanted to make sure that everyone on the board understands the process. John Szabo commented on Mrs. Rubright's memorandum and suggested that it be followed, and he advised that he would prepare an investigation report and he explained the notices involved. He reviewed the legal notice requirements, and that the Board must stay with the property that they are directed to investigate. If the area does qualify, that will lead to the development of the redevelopment plan. The adoption of the redevelopment plan will supersede the zoning ordinance for that area. There are certain powers afforded to a municipality which allows for bonding and payment in lieu of taxes. The developer approached the borough and asked that this be considered. It will be a detailed analysis. It is a planning tool given to the municipality by the State. Mark Corigliano advised that the council has no intent to take property by eminent domain, or

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bond for it, rezone or overlay the area. Melillo Equities has asked the Borough to consider the area as an area in need of redevelopment. It allows him additional options in obtaining funding and tax credits to afford to build the entire thing. As part of the affordable housing compliance, the judge specified a condition that the Borough needs to report back to Fair Share Housing Center and the court on a pilot. It has been made crystal clear to the developer that the Borough is not interested in doing any pilot that would affect the taxpayers. Mr. Thomas advised that this is a study prepared by the Land Use Board and authored by Mr. Szabo. A recommendation could be in the study having to do with pilots. David DiSabato questioned who is paying for this process. Statutorily, Melillo Equities cannot be charged for this process. There is an agreement that the cost will be passed on to Melillo Equities as a fee. Melillo Equities has partnered with the Joyce family. There will be a fee to Melillo Equities that is equal to the direct cost of the study. Several members of the board questioned the ownership of the property. Kingsley Hill then interjected with information regarding the interests of the two parties. Mr. DiSabato then questioned that the Borough has an agreement with Melillo Equities to pay a fee and reimburse the Borough for the study and who may or may not be the owners of the property. Kingsley Hill then stated that he understands why the developer cannot pay for the study because he serves to benefit from the results. Mark Corigliano read from correspondence from Melillo stating that the Joyce family has agreed to merge their Ferris Assets into a Melillo Equities Fund meaning that there will not be a sale but rather a transfer of assets from one entity to another with the Joyce Family remaining as passive investors. That is how Melillo Equities has come into the ownership of those properties. David DiSabato acknowledged the information, but he questioned if it defines the ownership. He questioned why the area needs redevelopment. John Szabo explained that there is a section in the local development housing law that talks about properties that do not meet the criteria but are needed for the effective development of properties that is anticipated for the area and that other properties that are below standard can be part of the study. He gave examples of properties that are included in a redevelopment designation. Susan Rubright said that the purpose of the study is to look at all those things and that our attorney and planner are very versed and familiar with the case law that talks about some of the issues that Kingsley Hill has. Her concern is that when an area is designated, she needs to know what that means to the property and if a redevelopment plan can be changed? Our first step is to have our planner look at it. David DiSabato questioned if the Land Use Board should have started this process, not the Council. Susan said that it could start with either. The Master Plan can talk about it in a broad sense, but the requirement is that the Council authorize it. All the powers that go with that designation comes from the Council, not the Planning Board. Whether or not to grant to do bonding comes from the Council, not the Planning Board; whether to grant a pilot, comes from the council, not the Planning Board. Mr. Szabo explained that there are two paths to go. The Council can go ahead and authorize the investigation and then refer the report to the Board for comment or authorize the Board to do the study. David DiSabato questioned why the Borough is spending money on this property.

Mark Corigliano explained the reason for this study. There was discussion on why the Borough needs to spend more money on this property. Mr. Corigliano explained that the court did say that they would check back regarding the status of a pilot. Roger Thomas advised that the court did condition the compliance. Kingsley Hill asked if the court conditioned the approval on a redevelopment plan. Mr. Corigliano explained that the court asked the Borough to report back on the progress of a pilot plan for this property. Mr.

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Corigliano advised that if Melillo Equities comes to the town with a tax neutral pilot and it provides them some mechanism to help them get funding, of course the Borough will be open to this; it has been done before. Mr. Thomas added that the Borough got conditional approval, not final approval from the court and explained the process during the hearing with the judge. If the Borough would say 'no' to conditions, then the Judge could say we are not in compliance and are unreasonable. Mr. DiSabato asked what the condition was, and Mr. Thomas explained the condition was that a report must be sent back to the court with the status of a pilot for that portion of the affordable housing which is the Melillo property. Mr. DiSabato asked if the response can be no, we are rejecting it? Mr. DiSabato did not agree with this and he does not feel that the Borough should pay for this study. As the result of questions from Chris Downing Mr. Thomas explained that there is a series of standards that are to be met with respect to redevelopment of a property. One of the standards is substandard, unsafe, unsanitary, dilapidated, and obsolete. There are more standards that are going to be looked at in terms of whether a property or an area needs redevelopment so it cannot be said that it's a rat-infested hole. He advised the board that they will decide based upon the review of the statutory standards. Mark Corigliano agreed with the concerns of the Board, but he respects the fact that it must be done and it is a requirement and a condition of our settlement. He then read off the presentation that Melillo Equities gave as public record, it stated that "in order to obtain the necessary funding, tax credits and other programs to allow this project to succeed, Melillo Equities seeks to work with the Borough Council to have the Lackawanna Assemblance designated an area in need of redevelopment and that is a footnote on page 17 of Mr. Melillo's proposal. Mr. Corigliano advised the Board members that if they do not want to do the study, then they should tell the Council that and the Council will commission a study and turn it over to the Board for comment. One way or another, the Council sees that the study must be done, and they do not know the results of the study. Mr. DiSabato advised that he does not know how the study will turn out, but he feels that the Borough should not be required to pay for it whether it gets reimbursed or not. Mr. Corigliano advised the board of a proposal made by the developer of 90 acres to the Council about a year and a half ago for the redevelopment of the second and third stories of the mansion. They did bail out of it when they realized that they would have to disclose their financials on the project which they did not want to become public. This was his first exposure to a pilot. Joan Dill asked if the LUB does the study and decides it is a 'no', will Melillo Equities still pay. Mr. Corigliano thought 'no' because there would be no developers' agreement to link it to. It would be the Council's intent to charge a fee associated with the developers' agreement. It would not come out of the operating funds but would come out of the affordable housing trust fund. It was explained that Melillo filed as an interested party in the hearing and this study was mentioned to the judge who felt it was a reasonable request and conditioned the compliance approval on the study. Melillo Equities had their attorney write to the Borough Council a few weeks or a month ago requesting that the study be done. There was considerable discussion on this and passed it on to the Land Use Board. It was suggested that the cost could be absorbed by the Affordable Housing trust fund. Mr. Corigliano reviewed his answer with Joan Dill to clarify that if Melillo Equities were to pull out, the cost of the study will come out of the Affordable Housing Trust Fund. Roger Thomas added that the Borough would attempt to put a proposal out to get another developer to do what is already part of the zoning and then the same fee that would have been charged to Melillo Equities would be charged to a future developer and if nobody ever does it and it remains fallow, then the Borough will not be reimbursed but it is understood that there may be other entities

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that may want to develop this property. Mark Corigliano opined over this affordable housing thing and for what the state has put on the Borough. The intention is to see this through. At the request of Peter Sorge, Mark Corigliano will send the final order of compliance to Sarah Jane who will distribute it to the Board. Mr. Sorge asked that somebody confirm that this is unnecessary. John Szabo answered Mr. Sorge. The law is clear that there needs to be a designation to have a pilot. Mr. Thomas will prepare another memorandum on this. Mr. Szabo went on to explain the funding of projects. Mr. Szabo answered 'no' to Mr. Sorge's statement that the Council is not considering bonding for this project. He went on to answer Mr. Sorge's question as to what benefit is there to Mr. Melillo and why he wants this redevelopment. Mark Corigliano read from the statement written by Mr. Melillo's attorney which was previously read. Mayor Skinner stated that it was clear that he can apply for funding on his own and without the redevelopment plan then that funding is not available. Mr. Thomas advised that he needs funding and he need tax credits. If more specific information is wanted, then Mr. Thomas offered to contact Melillo Equities' attorney for that information. Mr. Sorge said that he would appreciate that information. Mr. Sorge asked Mr. Szabo if in his professional opinion, a study is appropriate for this area. Mr. Szabo advised that he is very familiar with the property, but he was never asked to look at it as a redevelopment area which is the prerogative of the municipality. It is a specific study that requires a lot of attention to the criteria. Susan Rubright added that she wanted to have a robust discussion because this is a complicated issue; it's a complex process and its not a cookie cutter thing and there are a lot of things tied up into having an area looked at for redevelopment. What does the designation mean or what does it mean if it is not designated? Susan Rubright said that the study is necessary, but this is a first step, the LUB is not making decisions about a pilot now. Whatever is decided needs to be taxpayer neutral and asked the board to move on the redevelopment plan. Mr. DiSabato said he agreed with everything she said but the board was told that all they must do is zone but now the board must do other things. He felt that the board's job is done, and he is ready to vote on this tonight. Roger Thomas advised that all they must do is do a study. He advised that page 2 of the resolution talks to doing a study satisfying the criteria under statute. This board is not authorizing or paying for anything. It is not the Board's plan. It is a plan that the board is going to implement or establish and then give it over to the governing body and then it becomes their plan.

Roger Thomas has offered to contact Melillo's attorney and invite him to a meeting. The role of the board is to investigate a planning idea with objective planners and come up with a determination and send it to the council. The council can over rule the Land Use Board. Mark Corigliano advised that he wants to see this Lackawanna project succeed because when the Affordable Housing chairman in 2025 gets seated, he does not end up with a 40-unit unmet need that he will have to find a place for. He said that he does want to see this project move forward and hopes that John Szabo's study proves that it is an area for redevelopment and if it's not, it's going to present some great challenges to the council. John Szabo answered Mr. Downing's statement that the pilot program for affordable housing is not taxpayer neutral but a benefit to the developer by explaining that payment in lieu of taxes is a negotiated fee that is paid every year instead of a tax assessment. It is a discussion and arrangement that is permitted by law, once it is a designated area, between the developer and the Council. It is a fee, it is a monthly or annual or one-time infusion of money that instead of 'x' dollars, they pay 'y' dollars. It is a payment but not a full tax payment. Susan Rubright suggested getting more information about finances. Mark

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Corigliano suggested that Roger Thomas contact the attorney for Melillo Equities and invite Mr. Melillo to a land use board meeting to explain his reasoning behind this and perhaps give the board some level of comfort. Susan Rubright suggested having someone educate the board on the financing. Mr. Szabo suggested that this is the purview of the council. What the board is being asked to do is a planning function, the pilot is the council's duty. Susan Rubright stated that she feels there is some legitimacy to trying to understand what the interplay is between designating an area as in need of redevelopment other than what the land use factors are and what the end game is here. There was some discussion between Kingsley Hill and Mark Corigliano. Peter Sorge suggested wrapping up the discussion this evening and get some answers. Susan Rubright concurred with this and carried this discussion to the November 18<sup>th</sup>.

Judy Silacci moved to carry further discussion of this topic to the 18<sup>th</sup> of November; Joan Dill second the motion which was passed unanimously by the Board. Susan Rubright asked that if any board members have questions or suggestions, they should direct their questions to Roger Thomas, and he can disperse them if necessary.

**Elect Temporary Chairman** (David DiSabato) during the Red Horse Motoring Club application – public hearing date yet to be scheduled.

Susan Rubright explained her conflict with hearing and chairing the Red Horse Motoring Club application. She advised that Peter Sorge also has a conflict. She asked that the board consider David DiSabato as the temporary Chair to hear that application.

Judy Silacci moved to appoint David DiSabato as Chairman during the hearing of the Red Horse Motoring Club; Joan Dill seconded the motion which was passed unanimously by the following roll call vote:

**AYES:** Mayor Skinner, Susan Rubright, Peter Sorge, Kingsley Hill, Chris Downing, Judy Silacci, Joan Dill, Mark Corigliano and James Heck.

**ABSTAIN:** David DiSabato

**NAYS:** None

**Public portion** – No one from the public wished to speak though there were two persons listening to the meeting.

**Adjourn** – A motion to adjourn was made and seconded and the meeting was closed at 9:07 p.m.

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Sarah Jane Noll  
Administrator/Secretary