



**MINUTES  
BOROUGH OF EMERSON  
MUNICIPAL LAND USE BOARD  
April 18, 2013  
8:00 P.M.  
Borough Hall-Council Chambers  
Emerson, NJ 07630**

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This meeting of the Municipal Land Use Board was held in the Municipal Building on Thursday, April 18, 2012. Chairman Orecchio opened the meeting at 8:00 p.m. and invited Mr. Matthew Ryan to lead the assembled in the Pledge of Allegiance. In compliance with the Open Public Meetings Act, the clerk has notified all officially published newspapers of this meeting, and notice has been posted in the Municipal Office. In case of fire, follow the fire Exit signs above the doors to your right and left in the Council Chambers, and please exit calmly.

**ROLL CALL:**

Mr. Robert Adams – Present  
Mr. Tom Callagee - Present  
Mayor Carlos Colina – Present  
Mrs. Carol Dray – Present  
Mr. John DeThomasis – Present  
Mr. Gary Goursky Councilman - Present  
Chairman Mark Orecchio - Present  
Mrs. Germaine Ortiz - Present  
Mr. Matthew Ryan - Present  
Mr. Gary Schwinder - Present  
Mr. Brian Todd - Present  
Mr. Neil Tortora - Present  
Councilman Richard Worthington - Present  
Mr. Christopher Martin, Esq. - Present  
Mr. Berge Tombalakian – Present

**MINUTES:**

A motion was made to approve the minutes for the meeting held on April 4, 2012 by Mr. Todd, seconded by Mr. Goursky and carried.

### **CORRESPONDENCE:**

- Email from NJ Planners announcing the 2013 Achievements in Planning
- Letter from Brigitte Bogart, Planner referencing the Planner Review of the Emerson Golf Club, 99 Palisade Avenue
- Letter from William Smith, Esq. referencing Emerson Golf Club application
- Memo from Joe Solimando, DPW Superintendent referencing review of plans for 99 Palisade Avenue
- Correspondence from NJ Planners referencing Certificate of Membership and membership cards
- March, April Issue of NJ Planners

The Borough Planner, Brigitte Bogart, appeared at 8;10 p.m.

### **VOUCHERS:**

\$150.00 Land Use Employment Ad

\$900.00 Boswell Engineering RE: Block 17.01, Lot 7.01 & 7.03 Site Plan Review

\$450.00 Boswell Engineering RE: Hackensack Golf Club Soil Moving Permit

\$150.00 Boswell Engineering RE: Block 616 Lot 47, 45 Emerson Plaza West

\$19.85 North Jersey Media RE: Block 120, Lot 1, Published Decision

\$52.00 Pascack Press RE: Employment Ad, Part Time Secretary

\$110.00 New Jersey League of Municipalities website RE: Employment Ad, Part Time Secretary

A motion was made to approve these vouchers by Mr. Goursky, seconded by Mrs. Ortiz and carried.

### **BOND ORDINANCE #1453-13**

Chairman Orecchio said that they had to review any bond ordinance that may affect the Master Plan and this was a street paving ordinance. The Board agreed that they had no interest in it from a Land Use Board perspective. An acknowledgement would be sent to the Governing Body

A motion was made to defer this to the Governing Body with no comments from the Land Use Board by Mr. Schwinder, seconded by Mr. Goursky and carried.

Lupano – 3 FAIRWAY AVENUE

Chairman Orecchio said they had received the resolution and thought only certain people could vote on it based on their attendance. He stated that Mrs. Ortiz, Mr. Ryan, Mr. Tortora and Councilman Worthington were absent from the last meeting.

Chairman Orecchio announced that they had received the report from the Police Department regarding the traffic and they had no issues, which was a requirement of the resolution.

A motion was made to approve the resolution for Lupano by Mr. Adams, seconded by Mr. Goursky and carried. Roll call vote as follows:

Mr. Adams – yes

Mr. Callagee – yes

Mayor Colina – yes

Mr. DeThomasis – yes

Mr. Goursky – yes

Chairman Orecchio – yes

Mr. Schwinder – yes

Mr. Todd – yes

**EMERSON GOLF CLUB – 99 PALISADE AVENUE**

Chairman Orecchio introduced Mr. Louis Lamatina, the attorney for the applicant. Mr. Lamatina stated that he was submitting a variance application on Lots 7.01, 7.03, 7.09, 7.10, Block 617.01, and Lot 9.101, Block 738 and Lot 17 in the Borough of Emerson and Block 1105 in the Borough of Oradell. He said there was an application for both ‘D’ and ‘C’ variances; site plan approval was not sought at that time. He introduced the engineer who would give a detailed presentation and then take questions.

Mr. Martin asked if there were any attorneys in the audience as objectors. Mr. William Smith, Esq. came forth. Mr. Martin asked Mr. Smith if he had any initial comments before they began testimony. Mr. Smith stated that the application should not be bifurcated since the variances had to take into consideration any potential negative consequences. In his opinion, some of the factors that they needed to take into consideration could only be presented as part of a site plan application. In order to see the full picture of what was proposed, they needed not only the details related to the variance, but also the site plan – where the buildings would go, the ingress and egress and how the parking and other factors could have a potential negative impact that might outweigh the potential benefit.

Mr. Martin said he reviewed Mr. Smith’s letter and he had made some very good points but he had asked the board to commence the process with the testimony and as the board needed further clarification and information that dealt directly on the issues he presented, they might very well require that information to come forth during their questioning and supplemental submissions by the applicant. He added that their Planner and Board Engineer might have additional information required in that light as well. He said his comments were well based, but they were going to get started and add that along the way.

Mr. Smith said the application as presented as a rezoning of 134 acres and noted that the applicant did not seem to indicate how many acres were in each individual lot and they might only be talking about the rezoning of two lots. Mr. Martin said he agreed with that point and would ask the applicant’s council to respond and noted that the costs of going forth with a 134 application was different than the cost of a smaller application.

Mr. Lamatina said he would let the engineer respond in detail, but he noted that the application was for the entire golf course lot and they had decided to bring it in that way. He said he was aware that it was more expensive to bring it in as a 134 acre application but they felt it was a better application and what would be affected would come through with the testimony and evidence. He said the construction would only be on Lots 701 and 703 but the whole golf course was the application. Mr. Lamatina corrected Mr. Smith that it was not an application for re-zoning it was an application to seek variances.

Mr. Orecchio explained that one witness would testify on one specific issue, and then the meeting would be open up to the public for comments for that witness only, then move on to the next witness, allowing multiple chances for the public to comment as they moved forward with the record.

Mr. Lamatina introduced Mr. Lapatka.

Mr. Martin swore in Alexander Lapatka, Route 17, Paramus, NJ, Professional Engineer, licensed in the State of NJ since 1982 and an expert witness in civil engineering. Mr. Martin said that Mr. Lapatka had been accepted as an expert before and was accepted now before the current board as a civil engineer.

Mr. Lapatka said the property was comprised of several lots, in Emerson there were Blocks 617.01, Lots 701, 7.02, 9 and 10 as well as Blocks 738, Lot 9.01. In Oradell, Block 1105, Lot 17. The lots in Emerson were in the OSCZ, Open Space Conservation Zone and in Oradell it was in the CR zone. The total was approximately 113.5 acres. He commented about whether the application was on the whole property or not and said that in his opinion it was. He said it was not uncommon. All the lots he mentioned functioned as a whole. Some had parking lots and clubhouses, some had golf cart maintenance buildings on them and others had the golf course on them. But they all operated as a whole. Currently on the property were a clubhouse and parking areas accessed off Palisade Avenue, a cart barn and maintenance building and the golf course. The primary area they were proposing to do work in was Block 617.01, Lots 7.01 and 7.03 which contained the clubhouse, the existing cart barn and parking areas with frontage on Palisade Avenue. Just to the south of this piece was a stream that flowed easterly through the property and to the west of the tract was a drainage ditch that flowed to the south. He said the property was somewhat odd shaped and impacted by certain environmental constraints. He said when they first looked at the property for the project, they recognized there were environmental restrictions and NJDEP regulations that applied. Before they got into doing any planning on the project, they made certain applications to the DEP in order to establish parameters to use in designing the project. He said they recognized there were wetlands on the property so they delineated the wetlands, prepared reports and made an application to NJDEP for a letter of interpretation on the wetlands. NJDEP reviewed the application and approved it. He said a very small portion of the wetlands were classified as ordinary that had no buffer, but the majority of the wetlands were classified as intermediate and had a 50 foot buffer.

He added there was also flood plain on the property and riparian zone so they applied for a flood hazard area verification approval from DEP and received the approval which established the flood elevations, the extent of the flood plain and the riparian zone. He mentioned that the stream that flowed from west to east just south of the area they proposed to develop was determined to be a C-1 water course, meaning there was a 300 foot riparian zone that extended on both sides of the stream, including to the north 300 feet. He referenced document A-1 submitted to the board entitled NJDEP Constraints Map dated March 18, 2013. He noted the wetlands line approved by DEP, everything west of the green line. Fifty feet away from the line (page 44) was a dotted line labeled wetlands transition line which was the 50 foot buffer. A dark blue line going through the middle of the page was the stream which flowed from west to east into Oradell Reservoir. He noted that wetlands could not be developed per regulations. He said the wetlands buffer extended 50 feet beyond the wetlands and NJDEP regulations were a little more flexible in the buffer than in the wetlands. He explained that the principal difference in flexibility was the fact that they could buffer average that 50 foot strip. His example was in order to fit the outline of the development they were not allowed to build on the buffer area but could reduce it down to say 25 feet on one area and enlarge it to 75 feet in another so long as the areas offset each other.

The lighter blue line was the flood hazard area which they received approval for from NJDEP, explaining the flood plain would extend from that line to the south. He said the riparian zone was measured from the top of the near bank of the stream a distance of 300 feet into the property represented by a dark blue line. The existing stream flowed into a culvert in the vicinity of the existing clubhouse and the portion that was the culvert had no riparian zone too. The riparian zone went through the existing parking lot and there were a lot of regulations that dealt with what you could or could not do in that zone. But with an existing developed area like a parking lot you could not redevelop it. Map A-1 depicted certain environmental constraints due to DEP regulations and qualified and quantified exactly what they were so they could work with actual parameters.

Mr. Lapatka said from a DEP standpoint, they could build on all of the land that was not within any of those zones or lines and could build on the exiting parking lot where the lines overlapped into the parking lot since the area was already developed and they could build in the portion of the buffer line and within the flood plain as long as they balanced the cuts and fills in the flood plain. For the rest of it, their ability to build was limited.

Mr. Lapatka referenced three additional sheets. Sheet 1 of 4 showed the entire property with an area displaying a bubble around it which was the area they proposed the project within. Sheet 3 of 4 was an existing conditions map of the area of the proposed construction. Sheet 2 of 4 was entitled Site Write Out Plan which depicted the proposed project - a four story residential structure with three stories of residential units over parking, with a lobby on the ground floor. They were proposing removing the existing golf cart shed and constructing a new one.

Mr. Schwinder asked how many acres the plan accounted for. Mr. Lapatka responded that it was primarily lot 7.01 and 7.03, about 7.2 acres. In addition, they were proposing taking a little pavement off the lot to the south of those two lots in conjunction with removing the existing parts story building. He added there was a cart barn and pavement, a little over a quarter acre, pretty much on the edge of the stream, they were proposing to remove the cart barn and the pavement and restore the area to a natural condition with trees and natural shrubs to create a natural stream corridor. He said they did not have to do that for DEP but in light of the proposed construction, they felt it would make good mitigation to offset any impacts on the proposed development. They would take the cart shed and pavement away and restore the green corridor just to the south of the proposed development. Mr. Todd asked if any of that area was part of the flood plain. Mr. Lapatka replied that it was. Mr. Todd asked how that would be affected. Mr. Lapatka said that when the area was restored, only grades would be lowered and would be looked upon favorably with respect to stream restoration.

Mr. Lapatka noted that the four story structure would be located about 145 feet back from Palisade Avenue. He said the proposed building would need a height variance and they were proposing 45 feet at four stories and noted that a single family residence the zone allowed 35 feet and two and a half stories and for other buildings 20 feet. They were proposing two driveways from the parking areas to access the parking under the building, the first near the northwest corner and the other at the southeast corner for the easterly wing. He said they proposed approximately 264 spaces overall and 100 or so would be under the building. He noted the code required 249 parking spaces in total – this was for the residential structure and the golf course and maintenance building.

To access the site they were proposing one two way driveway opposite High Street that would replace the two driveways currently located to the east and west of that location with two one way driveways. At the westerly end of the frontage on Palisade Avenue they were proposing an emergency driveway with a raised brick paver drive.

Mr. Orecchio noted quite a difference in the parking requirements in two documents submitted. Mr. Lapatka said that for residential developments in New Jersey, the State had certain parking requirements. They calculated the parking requirements for the residential portion of the project based on RSIS and calculated the requirements for the other buildings based on Emerson's zoning requirements. That was how they came up with the 249 parking spaces required. They also included a calculation based on Emerson's code which reflected the requirement for single family homes. It as done for informational purposes and was their opinion that it was not actually the requirement, and the requirement was the 249 spaces. He said that logistically, single family houses needed more parking than condominiums.

Mr. Schwinder asked how many spaces were currently on the property. Mr. Lapatka said that 199 spaces currently were there. He also said that they didn't think they needed two means of egress and ingress but were providing an emergency driveway and they did not think that the development was large enough for that.

Mr. Martin noted that there were significant concerns from the Fire Department regarding access for emergency vehicles as well as other issues that would potentially affect the parking as well. Since they

had only received that information that evening, Mr. Lamatina said they would be discussing it the next day in preparation for the next meeting.

Mr. Lapatka also spoke about the fairly strict drainage regulations they had to meet and they would meet or exceed those. It would require them to reduce the runoff rate which would primarily be done with underground retention systems. The flood elevation was approximately 32.5 through the area they were proposing to build the structure. They had not yet prepared a grading and drainage plan but did foresee a ground floor elevation of the building being approximately 35 or 36. He noted that the elevation of Palisade Avenue opposite the center of the frontage was approximately 36.

Mr. Orecchio asked if the first floor of the building would be roughly similar in elevation to the first floor of the houses on Palisade Avenue. Mr. Lapatka responded that the building would probably be a little bit lower. He noted that houses on the street would probably have a cellar and be set up higher with the street; the building would be more or less level with the street. Mr. Schwinder asked if the parking lot would be lower than the first floor of the homes on Palisade Avenue. Mr. Lapatka confirmed that. He said the bottom floor would be 34 or 35, a little bit lower than the houses and the parking lot under the building would be a little bit lower than that. The driveway would be approximately a foot lower than the floor.

Mr. Lapatka said they had not yet prepared a landscape or buffer plans and would do that during the site plan review portion of the project. They anticipate constructing walls and/or fences around the front of the property and where they adjoined residential properties and also landscape in front or behind that with buffer type plantings, deciduous trees and shrubs. The deciduous trees would be evergreen type trees or evergreen type hedges as a permanent year round buffer. Mr. Orecchio asked if the walls or fences would be per requirements or if they would require additional variances. Mr. Lapatka said that he did not know yet. Mr. Lamatina said that would be part of the site plan application.

Mr. Lapatka also noted they were proposing a new car shed building off the northeast corner of the clubhouse that would be set back 13 feet from the property line, requiring a side yard variance – 100 feet would be required, and they were proposing 13 feet. They would need a variance for the total of two side yards; 86 feet were proposed and the residential requirement was 100 feet and for other buildings it was 200 feet. Additionally they needed a variance for the size of parking spaces – they were proposing 9 x 18 feet which was the requirement for residential parking spaces; other parking spaces were required to be 10 x 20 feet. In his opinion the 9 x 18 foot were certainly adequate and the normal requirement in northern New Jersey. Mr. Schwinder asked if this would be smaller than the present size parking spaces. Mr. Lapatka said he did not recall the size of the existing stalls but thought they were approximately 9 feet wide. Mr. Lapatka said the spots would be reduced from code but not from the size currently there and said the important thing was that 9 x 18 foot parking spaces work.

Mr. Lapatka discussed the environmental aspects including mitigation and said it was certainly achievable. In his opinion, they could obtain all the DEP permits they would need. Regarding grading drainage, lighting, landscaping and utilities, in his opinion they could easily be designed to good and proper standards. From an engineering standpoint, the project would present no negative impact.

Mr. Tombalakian asked if they had any information about wetlands and where the water table was currently and how that might affect the detention or recharge design for the site. Mr. Lapatka said they had not done soil tests for drainage purposes. He guessed that the water table was probably 28 or 29 elevation and would have to have a shallow seepage system. If the water table did turn out to be too high, they would need some extra detention. Mr. Tombalakian asked where the drainage would be directed. Mr. Lapatka said they would probably enter the existing stream just to the east of

the culvert or possibly into the culvert directly and said the flood went slightly overtop the culvert. Mr. Tombalakian asked to have the calculations submitted later. Mr. Lapatka agreed.

Brigette Bogart, Borough Planner, asked questions regarding DEP requirements and asked how much land was developable from the DEP perspective and asked if they had maxed out the proposed developable area. Mr. Lapatka said they could probably build more than they showed and did not think they maxed it out. And said they were careful not to go over that line. Ms. Bogart asked if they were proposing any conservation easements along the stream corridor that would ensure that they would not be developed in the future. Mr. Lapatka said not as part of this application but that would be a requirement of DEP when they got to that stage and would not be ready for the board's approval. Mr. Orecchio asked if conservation restrictions would be a condition of approval. Mr. Lapatka said they would have to do that but were not at that point yet. Mrs. Bogart asked about the buffer requirements – three staggered rows of evergreens plus lower evergreen shrubs – and did not think they would fit in 13 and 11 foot side yard setbacks and thought that would require variances and wondered why they were not being requested presently. Mr. Lapatka said they had not yet gotten to design the buffers. He said they probably wouldn't fit two rows of spruce in that space, but other types of plantings such as arbor vitae or junipers you could get three rows in there. Ms. Bogart said she was concerned because the site plan was very tight and she did not believe they were going to meet those buffer requirements and if they would need variances for that they should request them now. She added it might affect their parking plan so she thought they should provide a plan, request variances, or do both. Members of the board also recommended fencing.

Mr. Tombalakian said they would like to get as much information as necessary to make sure it was going to work so they would not have any surprises.

Mr. Martin commented that Mr. Lapatka was more concerned with excavation issues and getting the project to the point where the building could be constructed and the architect would be more involved with the building design and construction. Mr. Lapatka confirmed that he would provide the path for building as well as utilities, drainage, lighting, etc.; everything but the building.

Mr. Lapatka said there would be a series of pole mounted lights throughout the parking lot which would direct lighting downward in a very controlled pattern with sharp cutoffs. Those lights would prevent any spillage or glare on to adjacent properties. He thought that overnight there would probably be lights just around the immediate building, not throughout the entire parking lot. After a certain hour, the intensity could also be lowered so that they were still adequate for security and safety purposes but not as brightly lit as you would want during prime darker hours.

Mr. Martin asked where in Emerson or Oradell where the closest location with a four story structure. Mr. Lapatka said did not study that. Mr. Orecchio asked the operating hours of the existing parking lot site lighting. Mr. Lapatka and Mr. Lamatina did not know. Mr. Orecchio said that currently it would only be used for golfers and wanted to know what was there now and what would be proposed in the future to see how it would differ so they could get a sense of how many more hours it would be on and how many more light poles would be in place. Mr. Lapatka said they would have more specific information next month.

Mr. Smith asked Mr. Lapatka about the size of the property. Mr. Lapatka said he did not have an exact figure but estimated it was about 21 acres. Mr. Smith asked if he had done a calculation of the size of the individual lots or the size of the property. Mr. Lapatka noted the size of the individual lots: Block 617.01, Lot 7.01 was 5.271 acres, Lot 7.03 was 1.939 acres, Lot 9 was 2.058 acres, Lot 10 was 8.197 acres, Block 738, Lot 901 was 3.328 acres. The lot in Oradell, Block 1105, Lot 17 was 113.493 acres. He said the total was 134.287 acres. Mr. Lapatka calculated the total to be approximately 20.8 acres. Mr. Smith asked if they were proposing a dual use of the property – the golf course would continue as an operating business and the residences would be a separate entity. Mr. Lapatka agreed. Mr. Smith asked out of the 21 acres, how much would continue to operate as a

golf course. Mr. Lapatka answered said about 16 acres would operate as a golf course. Mr. Smith said that left approximately 4 acres for residences, basically Lot 7.01. He noted that they were really proposing to change the use on Lot 7.01. Mr. Lapatka responded negatively, saying they were proposing to put the residential lot on the whole of the property that was now a golf course and were proposing to use the area that they felt they could get the development approved on by the DEP. Mr. Smith said that everything would remain as the golf course except four acres on Lot 7.01. After an exchange on acreage, Mr. Smith asked if it was accurate to say they were planning to use Lot 7.01, approximately five acres for the residential purpose. Mr. Lapatka agreed that was where the proposed development was. Mr. Smith said they were planning to put 85 residential units on five acres. Mr. Lapatka said the development would be on that portion of the lot.

Mr. Smith asked how the parking was determined for the golf course. Mr. Lapatka said that he believed the code said that the parking requirement was four spaces a thousand of the gross of the building area, the clubhouse, the cart building and the maintenance building. Mr. Smith asked if they were planning any improvements or changes to the clubhouse. Mr. Lapatka said they were not except adding the cart building. Mr. Smith asked if the calculation of the parking area including the cart building. Mr. Lapatka said it was. Mr. Smith asked if that was in the borough's ordinance. Mr. Lapatka said there was no specific calculation for cart building. Mr. Smith asked if the cart building was going to be incorporated into the main clubhouse. Mr. Lapatka said it was going to be constructed adjacent to it as an addition to the clubhouse.

### **Public Comment to Expert**

A motion was made to open the public session to questions for the civil engineer expert, Mr. Lapatka only, was moved by Mr. Schwinder, seconded by Mr. Todd and carried.

Cathy Hornyak, 123 Palisade Avenue if the parking lot lighting would remain on all night and asked if Mr. Lapatka was aware there were deed restrictions dating back to the Bergen SWAN agreement. She asked if that had been looked into before going into the parking area. Mr. Lapatka said he was aware there were deed restrictions but did not personally look into them; the attorney did so he would not be able to discuss it in detail. She asked if they would look into the impact on the sewer system and noted flooding and sewer backup concerns.

Mr. Lapatka said there were three options for sanitary sewer on this property and discussed them in detail. Regarding storm drainage, they were not going to increase the flood elevation or the amount of water flowing through her property right now. The project was much smaller than the issue of the whole flood plain because the stream drained hundreds of acres and they were adding eight-tenths of an acre or so additional impervious surface. And they were also adding a lot of detention and they would not negatively impact the flood elevation of the stream.

Ms. Hornyak asked if they were going to share the parking spaces with the golf course. Mr. Lapatka said the primary parking for the units was under and in front of the building between the building and Palisade and the rest of the parking would be for the golf course but it could be shared. Ms. Hornyak referenced ordinance 290-8 about how parking could not be shared between different lots and asked if that meant they could not share it. Mr. Lapatka said when they talked about lots it was in the context of different developments owned by different people. He noted that all the lots in the project were part of the project. He said one option was combining all the lots and making one lot out of it. He added that if there were a number of lots that were part of one application, that application and approval covered all the lots as if it was one property and were done all the time and were not unusual.

Ms. Hornyak referenced the Bergen SWAN agreement and said she was not sure anything could be done to the area. Mr. Lamatina said there were no deed restrictions upon that property based upon Bergen SWAN.

Mr. Schwinder asked if the project was to happen, the property would go from property once owned by the applicant as part of the golf course, to private property that he assumed would have parking spaces assigned to the owners and their guests. Mr. Lapatka said the parking underground would be assigned to condominium owners and their guests and possibly some of the outside would be. Mr. Schwinder said he could understand the applicant saying he would be happy to share if the condominium owners needed extra space because of a function, but was hard pressed to believe that the private owners of a condominium would want to have the golf club impose parking on their property or share the private parking once it was a private entity. Mr. Lamatina said easement agreements have been suggested and noted that the condominium association would own the spots and assign them. Mr. Schwinder said if there was an event at the golf course and condominium owners entertaining on a holiday, he was hard pressed to believe the condo owners would want to give up those spaces beyond those under the building to the golf course.

Mr. Ryan said that the issue was there was one set area where you could have parking – there had to be sufficient parking for whatever they wanted – if there wasn't enough, they would have to cut back golf allowance or condominium allowance. He recommended to the board that it would have to stand on its own. Mr. Lamatina said that when a resident bought a condominium unit, this would be dealt with in the public offering, stating the exact parking situation so they would understand when buying the units what the parking situation was. Chairman Orecchio said that what most residents would be concerned about would be if the parking would be adequate for a busy golf day on a weekend when residents were home and had guests over – would there be enough parking to satisfy both without the parking overflowing onto Palisade Avenue.

Mr. Lapatka said the proposed residential building required 167 spaces, ten percent or 17 spots were unrestricted, open to visitors. Under the building and in the front area they had approximately 150-152 spaces, roughly enough for the maximum amount of parking spaces the condominium could designate. There would be 15 – 17 open spaces that could be utilized by the condo. Chairman Orecchio said the golf course currently had 199 existing spots, but the new plan would have 111 spaces minus 14 for the overflow of the condo, leaving 97 spaces. There were 199 currently and asked if the golf course was prepared to lose 100 parking spaces for golfers – that was the overall concern. Mr. Lapatka said that shared parking was generally seen as a good thing.

Mrs. Hornyak asked Mr. Lapatka if he saw no negative impact on the area and asked if he had driven down Palisade Avenue. He said that he testified from a civil and site engineering stand point, and there would be further testimony from the traffic engineer and architect. Mrs. Hornyak said she opposed the project being bifurcated because it was too big and they needed to see the whole thing before something slipped through.

Tom Kelly, 86 Palisade Avenue asked about the parking situation and noted there would be two separate entities with common parking. He also discussed all the variances being submitted for approval and asked why they couldn't violate DEP regulations but were trying to vary from Emerson's ordinances. Mr. Lapatka said they were proposing a use not permitted in the zone and the bulk requirements in the zone were not intended to apply to this type of building. He asked if they could build a building without the need for the variances. Mr. Lapatka said they could build a smaller building and meet the criteria, but then there might be an undue hardship on the applicant.

Mr. Schwinder asked what outside grass area of the condominium would be open for entertaining guests and asked where the property would end. He wondered if someone would use it as a ball field or soccer field or picnics. Mr. Lapatka said there was an area between the two rings of the building that could be used for passive recreation and some area 20 feet wide around the building. He said the wetlands area could not be planted with grass. It could be walked through but would not be allowed to maintain a lawn or paths or picnic tables – it would just be a conservation area.

Ken Hoffman, 61 Emwood Drive asked about the intermediate resource wetlands and asked if they had received DEP approval or not. Mr. Lapatka said they had gotten approval of the letter of interpretation application which established the delineation of the wetlands and the fact of the 50 foot buffer that was intermediate. They had not yet applied for buffer averaging. Mr. Hoffman asked about the minimum buffer. Mr. Lapatka said they would probably go to 25 feet and there might be a couple places where it would be a little bit less. The DEP regulations allowed them to go down to as little as 10 feet, but no more than 100 feet in length. Mr. Hoffman also inquired about the C-1 waterway and asked if there would be any impact on the 300 foot buffer. He asked if they would be building within the 300 foot buffer for the C-1. Mr. Lapatka said they would.

Vinnie Giacalone, 12 Dawn Drive commented on the parking situation and displayed a picture from bing.com in the winter and noted there were 106 cars at the golf course. He said that showed they were already over the number of cars the course would need to handle.

Dan O'Brien, 38 Palisade Avenue commented on the parking and said that when there was a busy golf outing, the existing parking lot with 199 parking spots was not adequate. They park all the way in front of his house which was quite a hike from the course. He asked if an emergency entrance with a 4 or 5 inch high curb would allow an ambulance to clear it without bottoming out. He asked if they had measured the Emerson ambulance and said he knew it would not. Mr. Lapatka said the curbs were designed differently, allowing for ambulances to go over them – it was not a complete vertical curb like on the street. Mr. O'Brien said that the testimony included building a wall or fence around the property and asked how there would be access to an emergency entrance. Mr. Lapatka said it would either be open or there would have to be a gate there. Mr. O'Brien commented that this would delay an emergency response of an ambulance trying to get in if the only main driveway was blocked. Mr. Lapatka agreed and said it would be delayed by the amount of time it took to open the gate. He asked if they were going to endanger the safety of the condo residents by only having a single access driveway. If the Fire Department and Ambulance Corps and Police Department were needed there would be multiple fire engines, trucks and ambulances having to get in and out of the complex all having to use one driveway. Mr. Lapatka responded that there were two driveways – the main driveway and the emergency driveway. The emergency driveway was an extra driveway in case the primary driveway was blocked. Mr. O'Brien commented that the Fire Department used five inch hoses and it was impossible for anything to drive over that which would therefore block the driveway.

Joe Boselli, 94 Palisade Avenue said that on weekends, the golf course was jammed and noted that the temple had similar issues. He said there was a lot of kids and asked what they were sacrificing. He said the street becomes a raceway.

Mr. Smith asked about impervious lot coverage and asked about the restrictions. Mr. Lapatka said the requirement was 10 percent. Mr. Smith asked about the impervious lot coverage in Lot 7.01. Mr. Lapatka did not have the figure. Mr. Smith estimated it at fifty percent and asked if that was accurate. Mr. Lapatka said that it was less than fifty but did not know the number. Mr. Lapatka said the application represented all the lots combined and they could not take one parameter and apply it to just one lot. Mr. Smith asked if the ordinance set the impervious cover maximum at 10 percent per lot. Mr. Lapatka said that it was ten percent per project – a project could have more than one lot. Mr. Smith asked if the building and selling of condominiums would all take place on Lot 7.01. Mr. Lapatka said some of the parking spots would be on the adjacent lot but the majority of the proposed project was on the one block. Mr. Smith asked if from an engineering perspective there was no real connection between what was going on Lot 7.01, the building and selling of condominiums and the golf course. Mr. Lapatka said there was a connection – in order to get to their property they would have to come through the golf course lot. Mr. Smith inquired whether when everything was done they would share some parking lots and an ingress and egress but the operation

of the condominiums would be independent from the operation of the golf course. Mr. Lapatka said he did not know if they would be totally independent.

Mr. Lamatina asked Mr. Lapatka if it was fair to say that a selling point of the condominiums would be proximity to the golf course. Mr. Lapatka agreed. Mr. Lamatina asked if it was a golf course oriented development. Mr. Lapatka responded affirmatively.

Adele Bednar, 175 Palisade Avenue asked if the property was zoned as an OCS and they wanted to put condominiums on it, whether it had to get rezoned as residential. Chairman Orecchio said there were two ways to put something on a piece of property that was not zoned for residential – one was to change the zone and one was to request a use variance and explained that the applicant was requesting a use variance with other variances to go with it. Chairman Orecchio added that the Land Use Board did not change zones; that was done at the Mayor and Council level. They could only grant a use variance.

Joseph Hornyak, 123 Palisade Avenue was concerned about drainage regarding the main entrance in line with Patrick Avenue. He noted there was currently a lot of runoff and debris when it rained heavily. He asked where the runoff would go. Mr. Lapatka said the driveway from the gutter lien of Palisades Avenue would rise slightly, have a level spot and then go down. All their drainage would be taken to the stream to the south of the project. They were not going to drain onto Palisade Avenue. Mr. Hornyak said that once they got to the stream, there were points where the DPW was constantly trying to break through. Mr. Lapatka said that all the drainage that came down from High Street currently eventually made its way down to the stream. He also noted that they would have the same flooding back there after construction that they had currently and that the project was too small to be able to make any improvements there. He said their property was so small compared to the whole drainage area that gets there so even if they built a big detention basin on the whole property, they could not fix the problem. They would design a storm water management system which would be reviewed by the Land Use Engineer, the County Planning Board, the Soil Conservation District and the DEP. He said they wouldn't make it worse and couldn't make it better.

Tom Kelly, 86 Palisade Avenue asked if additional variances were requested, if he would receive additional notification. He was informed that he would need to attend the meetings and he would not get an additional notification unless they were going to file an additional application for something unique.

A motion was made to close the meeting to questions for Mr. Lapatka by Mr. Schwinder, seconded by Mr. Todd and carried.

Chairman Orecchio confirmed with Mr. Lamatina that their next witness would be the architect followed by the traffic expert. The last witness would be the planner. Chairman Orecchio noted that the Fire Department report talked a lot about access, water pressure, and the possibility of the need for a fire pump. He said specifically their comments about access to the building might affect parking so he wanted them to be able to have comments on that by the next meeting.

Mr. Martin said it had become eminently clear from the Land Use Board's professionals that he strongly advised that the board move forward on a non-bifurcated basis as it would benefit the applicant as well – getting a full review of the entire process. Mr. Lamatina noted that they were still changing things and had just received the fire report that evening and would like to hear the comments and then work on the site plan. Mr. Martin said they were on the same page but it would be necessary for a final determination. Mr. Lamatina said that whatever they needed for a determination they would get. Mr. Martin said that a necessary site plan should be done and it should not be bifurcated; the comments were important but before the end of the game everything should be submitted for final review.

Chairman Orecchio announced that the next meeting would be held on May 2<sup>nd</sup> and the application would be carried to that point, with the architect as the next witness.

Mr. Smith asked that he be provided with a copy of the plans that everyone else had, a copy of the SWAN agreement and any borough or expert's reports that they were going to submit in response to the borough reports.

**EXECUTIVE SESSION:**

Motion to go into executive session to discuss a personnel issue was moved by Mr. Schwinder, seconded by Mr. Todd and carried.

Motion to close executive session was moved, seconded and carried.

Motion to approve Kathy Rizza as the new Land Use Board Secretary consistent with the Borough Administrator's starting date was moved by Mr. Goursky, seconded by Mr. Ryan and passed unanimously by roll call vote:

Mr. Robert Adams – Yes  
Mr. Tom Callagee - Yes  
Mayor Carlos Colina – Yes  
Mr. John DeThomasis – Yes  
Mr. Gary Goursky - Yes  
Chairman Mark Orecchio - Yes  
Mrs. Germaine Ortiz - Yes  
Mr. Matthew Ryan - Yes  
Mr. Gary Schwinder - Yes  
Mr. Brian Todd - Yes  
Mr. Neil Tortora - Yes  
Councilman Richard Worthington – Yes

**GOOD AND WELFARE:**

A motion was made to open public session by Mr. Schwinder, seconded by Mr. Todd, and carried.

Seeing no hands, Chairman Orecchio asked for a motion to close to the public.

A motion was made to close public session by Mr. Schwinder, seconded by Mr. Todd, and carried.

**ADJOURNMENT:**

A motion was made to adjourn the meeting by Mr. Adams, seconded by Mrs. Ortiz, and carried.

Respectfully submitted,

Carol Dray, RMC/CMC/CMR

