

Gay Huber

From: Andrea Mandel
Sent: Friday, July 8, 2022 2:57 PM
To: Hemant Marathe; Council Members
Subject: Bridgepoint 8 Application

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Dear Mayor and Council,

Below is a post I intend to put shortly on social media. I am sharing it with you here for your information.

Best,

Andrea

I've had a few people ask me why I voted in favor of the Bridgepoint 8 application, especially as I obviously had a lot of very vocal misgivings about it during public deliberations. That is a fair question. As it is no longer an open application, I feel I can make comments I could not during deliberations.

I promised myself when I ran for Council a few years ago that I would only vote yes or no on any township business item if that was how I wanted the vote to go. I don't get a pass where I get to vote no and look the hero while everybody else takes the hit for doing what I know has to be done for the good of the town. Ask yourself if that is the type of person you would want in public office.

The simple fact is that rejecting the application would be much worse for the people of West Windsor than accepting it. So, I voted Yes.

A final application for Phase I and a preliminary application for Phase II with no variances was presented to the Planning Board. We had three choices when it came to a vote:

Choice 1: Accept as is, with just the standard conditions supplied by staff (final paperwork, approvals from other bodies, etc.) that do not change the application or design.

Choice 2: Accept with additional conditions that will improve the application and mitigate identified issues as much as possible.

Choice 3: Reject the application.

While choice 3 gives the false impression that it just maintains the status quo, it is very dangerous. Even without the previous court case against us, the settlement agreement, and the looming 2025 Affordable Housing round, a Planning Board cannot just reject an application because it doesn't like it. A developer can go to court and demand the right to develop their

land under the law. A court may allow them to develop it as they submitted since it was a variance free application. At that point the township may lose ability to impose conditions and we may be at the mercy of the court.

However, chapter 21 of our court approved settlement agreement with Atlantic Realty ups the ante manyfold. In addition to suing us for the right to develop the warehouses as they wished, they would have the right to sue us to develop massive high density residential on the property – a right they only give up if the project is approved, **and regardless as to whether it is ever built**. So, we could lose all the substantial benefits of the settlement of protection against residential development and still be on the hook to let them build warehouses – and be subject to the courts as to how it is done. Courts do not look favorably if you welch on your agreements.

On logical reflection it eventually became apparent to me that the best and perhaps only real rational choice would be to approve the project, while adding as many protections and changes as conditions that could be legally justified. Choice one would fail to protect the people in the town, whereas choice three might be popular with some people and feel good for a minute but could lead to the worst of all outcomes. And that is why I worked so hard on the application and voted yes with conditions in the end.

I truly struggled with this vote over many weeks, listened to all testimony and public comment, came up with conditions and fallback conditions, asked for legal opinions and expert opinions, asked for clarifications, pointed out inconsistencies and reviewed the settlement agreement and ordinance against various possibilities. People don't realize the many limitations on a Planning Board, and that these limitations keep becoming more developer friendly under state law. Unlike Council, PB members cannot speak to each other on an application or speak to our own experts or opposing experts outside of an open meeting. We are not allowed to demand deals or trades for the town in exchange for waivers or variances. We can't arbitrarily refuse to allow requested relief from the developer but make decisions under legal sets of criteria.

We do not have the power to delay. We are presented with an application deemed as complete and a list of any waivers, variances and initial conditions as well as an MLUL last date for action. The clock is already ticking, and once it runs out the applicant has the power to not extend it. Most applicants will extend the clock if they see the board is deliberating but if it is an obvious delaying tactic, they can demand a vote or an automatic approval. An obvious delaying tactic will work against us if we land in court.

And we absolutely don't have the power to insist that a property owner choose our favorite use out of over 40 permitted uses and spend a fortune to take a loss on their business development. If we did, it would have been done many years ago, back when I was happily coaching girls to build robots and didn't even dream that anybody was going to talk me into

serving my town on Planning Board as a volunteer member. I doubt that anybody who came up with or repeats this “over 40 uses” sound bite actually believes it no matter how good it sounds.

The warehouse complex itself is not a bad design. The claims of building on wetlands are not true, and there is a large amount of land that is being left undisturbed as well as tree and native plantings on land that will be disturbed. Impervious surface percentages are well below many residential developments and the stormwater system uses modern environmental techniques with various parameters exceeding current legal requirements. The roofs and infrastructure of the warehouses will be solar ready well beyond the new state law requirements even though it does not take effect for this application due to timing. Things can always be better but our staff has done a good job working with the developer to this end.

The applicant’s circulation plan to handle the trucks, particularly as it funneled an admitted 20% of trucks on Clarksville Road to Princeton-Hightstown Road, is another matter and these deficiencies have been discussed in detail. This is where this application falls short and is the cause of so much real concern for residents. Conditions were passed before the final vote to address much of these problems. It would be much simpler and straightforward if West Windsor controlled Clarksville Road, so any help in influencing Mercer County to give the Township more powers over this road will help all of us. If the bridge is ever fixed there is nothing preventing trucks from the many new and existing warehouses in the surrounding communities from using Clarksville so this was a useful wakeup call.

I brought up the truck issues during all of the many long meetings and suggested additions and changes, as well as requested information in testimony and writing. I thank those Planning Board members, including the late Chair Gene O’Brien and Mayor Marathe, who also expressed displeasure to the applicant and supported solutions. I also thank the residents who came out to make it clear we didn’t want a residential area with two schools to be a major truck thoroughfare. For the record, all Planning Board members have the ability to agree, disagree or bring up their own issues and propose what they wish during the many hours of testimony and discussion well before the final vote. That is when we all have the opportunity to make a difference. I have no special power as a Township Council member.

I would have liked to have seen alternate plans, either from our consultants or the applicant, that moved the traffic away from Clarksville Road – as the Mayor and Council had expected when we approved the settlement agreement and the warehouse zoning ordinance that specified avoiding any substantial adverse impacts to existing traffic and circulation patterns. These conditions added by the Planning Board move traffic away and will do much to prevent truck traffic where we don’t want it. But there is more work to be done and opportunity to do so. I expect Council will be looking at the bigger picture as we seek to limit not only potential but already increased truck traffic on our local roads, including county owned roads like

Clarksville, from all sources. We should take a systems approach at road regulation utilizing diverse experts and working with the County so that the problem is not moved from one place to another. We need to do this whether we are doing the building or our neighbors; we just get more control if it is us.

Thank you for listening.

Andrea Mandel

Member of Council

Member of Planning Board

West Windsor Township

July 8, 2022

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