

HILLSBOROUGH TOWNSHIP PLANNING BOARD

PUBLIC MEETING MINUTES

June 06, 2013

Chairman Sireci called the Planning Board meeting of June 06, 2013 to order at 7:30 p.m. All stood for the Pledge of Allegiance. The meeting took place in the Courtroom of the Municipal Complex.

Chairman Sireci announced that the meeting had been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 ("Sunshine Law").

ROLL CALL

Mayor Frank DelCore - Absent
Michael Merdinger - Absent
Committeewoman Gloria McCauley - Present
Steve Cohen, Vice Chairman - Present
Tod Mershon, *Secretary* - Present
Neil Julian - Present

Sam Conard - Present
Steven Sireci, Jr., Chairman - Present
Robert Wagner, Jr. - Present
Daniel Marulli (Alt. #1) - Arrived 7:33 p.m.
Robert Peason (Alt. #2) - Arrived 7:43 p.m.

Also present: David Kois, Zoning Officer/Assistant Township Planner; Eric Bernstein, Esq., Board Attorney (Eric M. Bernstein & Associates); Lucille Grozinski, C.C.R. and Caz Bielen, Premier Media, LLC, Videographer.

Chairman Sireci informed all those present that Hillsborough's Township Planner, friend and colleague, Robert Ringelheim, passed away earlier in the day. Chairman Sireci spoke kindly of Mr. Ringelheim whom he characterized as a person dedicated to the principles of planning and doing things the right way. A moment of silence was held for respect of Mr. Ringelheim.

ACCEPTANCE OF MINUTES

- **May 02, 2013**

A motion to approve was made by Mr. Conard, seconded by Mr. Julian.

Roll Call: Mr. Conard - yes; Mr. Julian - yes; Committeewoman McCauley - yes. Motion carries.

ACCEPTANCE OF RESOLUTIONS

None

PLANNING BOARD BUSINESS

- **GSA Belle Mead Interim Remediation (HP) - File 12-PB-10-SR - Extension of Time**

Chairman Sireci acknowledged Dr. Marulli arrived at 7:33 p.m.

A motion to approve the extension request to September 01, 2013 was made by Committeewoman McCauley, seconded by Dr. Marulli. All were in favor; none were opposed. Motion carries.

BUSINESS FROM THE FLOOR

None

PUBLIC HEARING - SUBDIVISION/SITE PLAN APPLICATIONS

- **GSA Belle Mead Interim Remediation (HP)** - File #12-PB-10-SR - Block 175, Lot 39.02 and Block 177, Lot 23.02 - Mountain View Road. **ADJOURNED TO JULY 11, 2013 WITH RE-NOTICE.**

Chairman Sireci announced that the GSA Belle Mead Interim Remediation (HP) application, File 12-PB-10-SR has been adjourned to July 11, 2013 with re-notice.

- **Copart of Connecticut - Resolution** - File #10-PB-13-SRV (RES) - Block 73.01, Lot 1 - 2124 Camplain Road. Applicant seeking to amend Condition #6 of 03-03-11 Resolution, #10-PB-13-SRV in order to modify the hours of operation and seek clarification of the Condition, for property in the I-1, Light Industrial District.

Charles Liebling, Esq. of Windels Marx Lane & Mittendorf, representing the applicant, Copart of Connecticut, Inc., owner of the property at 2124 Camplain Road, introduced the application saying the property is currently in the I-1 Zone. The applicant currently operates an internet vehicle processing facility at this site. This is a permitted use in this zone. We were last before this Board in January, 2011 for site plan approval for a number of improvements to the site. That approval also included a restriction on the hours of operation of the facility, Monday through Friday 8 a.m. to 5 p.m. and trucks allowed to enter from time to time drop off vehicles between 5 p.m. through 11 p.m.

Copart's Hillsborough business has grown significantly since 2011. We are here seeking a modification of those approval conditions that established those operating hours. Copart is seeking this modification in order to serve its' customer base

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that needs to drop off vehicles outside of those hours, to meet increased demand during emergency situations and to alleviate traffic and safety concerns within the Township.

Saturday operations are infrequent and unusual outside of a catastrophic event but future customer and business needs could make it a necessity. Weekday activity outside of those hours is due to numerous factors such as the routes and schedules of sub-haulers, traffic issues and shop and vehicle delays.

Bill Weber, the Regional Manager of Copart will explain the operations of the business. Ideally, Copart would love to run its' business inside of regular hours but just like any successful business, there are times when everything cannot get done within that window. Right now they have a permitted use in the zone that is restricted. They are not able to fully fulfill as a business operating in the district. We will demonstrate to the Board that the expansion is to properly run its' business and that these additional hours will be conducted in a way that will not significantly impact neighboring properties.

We are specifically asking for the following: to extend the operating hours, currently from Monday – Friday 8 a.m. to 5 p.m. to include Saturday, 8 a.m. to 5 p.m.; to permit an average of 15 vehicles per day to be dropped off at the site outside the regular hours of operation. Right now we would like to clarify that we do not have a specific time between 5 p.m. and 11 p.m. We may also have the occasional pick-up for someone coming in just after regular hours. And we are asking that Copart employees can be present outside of operating hours at the facility, including Sundays. We are not expecting any pick-up or deliveries though, except in a catastrophic situation.

We would like to emphasize that this business which decided to locate in Hillsborough over a decade ago, has been extremely successful. We think that is something both Copart and the Township can be proud of. The Township and Copart have worked effectively together to make this business grow, most significantly through the Township's rezoning of the site to make a vehicle internet processing facility a permitted use. Also, the Board's approval of applications in 2011 to mitigate a significant flooding problem and permit the expansion of the Copart operation onto a neighboring 16 acre property. This is a very competitive business.

We are here tonight to continue this collaboration and are not looking to seek anything dramatic in our minds. We are looking to be a corporate citizen in Hillsborough for a very long time to come.

Phillip Weber, Regional Manager for Copart of Connecticut, was sworn in and gave the following testimony in response to Mr. Liebling's questions:

I am the Regional Manager for the northeastern region which encompasses New Jersey, Maryland and Eastern Pennsylvania. We do about 80% of our business with all of the major insurance companies nationally. It is a one-stop shopping for the insurance companies. If there is an accident and the insurance company deems it a total loss, we step in and handle everything thereafter for the insurance company in terms of picking up the vehicle and bringing it back to us, processing the title work from the State and then advertising their cars on-line. We do not own the vehicles but provide the vehicles for the insurance companies. We sell across the country, about 30% are international, about 55% are out of state. It is not a parts yard, junkyard or auto graveyard of sorts. We are basically storing the vehicles for the insurance companies and selling them whole to licensed business dealer across the State and internationally.

Chairman Sireci noted the arrival of Mr. Peason at 7:43 p.m.

Mr. Weber stated, we are not open to the public. Our members are licensed businesses. We sell primarily to parts dealers, used car operations, major parts wholesalers, and licensed dealers. There is no maintenance, repair, fueling or cleaning on the site. The only thing we do at the site is image the car, inventory the car for damage and then go ahead and clean the car and protect it from any weather damage. We do not have mechanics on site.

Exhibit A-1 – Site Plan of Block 73.01, which is the site in question

Exhibit A-2 - A blow-up of the entrance area of the same site

Mr. Weber explained the way the cars arrive and leave the facility using Exhibit A-2. Once a vehicle is assigned to us, we have contracts with local and national tow operations. We then call the shop to confirm they have approved the charges for us to pay and contact the owner to remove all of their valuables. We will then dispatch our trucks with the sub-haulers who will then go pick them up during the course of the day or in the evening if it is a residence. We have 2 gates at the facility. Our trucks will come into the second gate, the one that was just added a few years ago. They will then come through the other existing gate that leads to our main facility. The drivers will then drop their cars in the receiving area. Once it is received and protected we will re-store it in any of the rows shown on Exhibit A-1. The next time we will move the car is when it is ready to be sold. Selling the car depends on when we receive a transferable title. Our gate is locked in the evening but our sub-haulers have the pass code where they will drop this in what we call the "bullpen" out front which is an area that is fenced in and secured. When we come in in the morning we will bring them further back into our facility where they can be received and inventoried.

Our membership who is purchasing is not going into our main lot. They are coming in and parking in our bullpen area. They will come into our office, pay for the vehicle, if not done so already, and pick up the paperwork. One of our forklift

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operators will then pick up the car and load it. Trucks of various sizes come in, anywhere from a one-car carrier to a ten-car carrier. For our membership, the hours are only between the business hours of 8 a.m. to 5 p.m. It happens that members are delayed due to traffic. We would like to be sure that we can service them as well.

There are currently 22 employees at the facility; in 2011 we had 13. Copart has 142 facilities nationally. That should grow to 175 facilities over the next 6 months within the United States. We also have 15 facilities in the United Kingdom, a facility in Brazil, one in the United Emeritus and will be opening up in India as well. Coparts has been in operation for over 30 years. We have been recognized by *Forbes Magazine* 8 or 9 years in a row as one of the top small businesses in America. It is an unknown business to the public but within the insurance industry, we are the leader in what we do in terms of handling the salvage operations for the insurance companies. Coparts is publicly traded. We are a source for local and national charities as a place to sell donated vehicles.

We are expanding to an adjoining parcel of land, Block 71, Lot 1.01. Our new facility, which is off of Old Camplain Road is underway right now.

Board Attorney, Eric Bernstein, said that parcel is not before this Board and should not be considered by the Board for this application.

Chairman Sireci said I understand the comment but there may be some Board members who have questions about its existence. It was a matter that was heard by this Board but we can make it clear it is not something you are presenting to us right now.

Mr. Liebling said we are not but it is attached to this parcel and does not have its own independent entrance. It is part of why we are asking for the change in conditions.

Chairman Sireci asked if this acquisition has been finalized.

Mr. Liebling said yes, the work is almost complete. It should be open in less than 2 months.

Chairman Sireci asked Mr. Weber to distinguish each parcel on the display.

Mr. Weber explained the other parcel is roughly about 2/3 the size of the front property. It is about 16 acres but only about 10 acres is usable. We have done most of the work on the ground, just waiting to put the rock down and install the fence. That area will be used as storage. We base our staffing on the number of cars that come in. We do not anticipate that changing at this time due to the expansion onto the adjacent property. The new site will be accessed through the 40 ft. corridor at the top right corner of the front property that will lead to the other.

We are averaging 65 to 70 cars incoming per day. Predominantly 95% of it are automobiles but there are also some motorcycles and boats, and heavy equipment such as tractor trailers as well. We use about 15 sub-haulers, primarily 2-car and 4-car carriers. Mr. Weber noted some of the reasons for the requested extended hours previously reviewed, adding a main factor in working with the insurance companies is called "cycle time" which is how fast we can pick up a vehicle once it has been assigned to us. We work to get the vehicle picked up the same day or within 24 hours. We are asking for an expansion of hours to include Saturdays, because like any business, you are going to have highs and lows. It is not always a catastrophic event like Super Storm Sandy. A major snowstorm or a big storm could cause a spike in business. Instead of picking up 65 cars, we might be picking up 110 cars for a short period of time. It makes it difficult for us to try to catch up. Working with the charities, many of the vehicles are not available to be picked up until Saturdays. No loading or unloading of vehicles takes places outside the facility; it is all done within the gates.

Outside of a catastrophic event, employees are only at the facility on Sundays if we are doing an inventory, catching up on paperwork or doing some basic operations outside. This facility has been in operation since 2002.

Chairman Sireci asked since your lots are connected internally, what is preventing you from utilizing that lot as well to move a vehicle there for storage. You say that this application is only for this one lot but effectively, this lot is connected to the other.

Mr. Weber said we are requesting the amended hours for our entire operations on both lots once the other lot is finished.

Mr. Liebling said I would like to make the distinction that the other lot is an unlit storage lot. The activities we are discussing are going on on the front lot.

Chairman Sireci said two of your activities are to receive cars and then to dispense cars. You may store a car in the other lot or go get a car from the other lot and dispense it. That is activity in the other lot.

Mr. Weber said potentially but only if it were daylight.

Mr. Liebling said I do not believe the other lot has any conditions associated with it. I believe the conditions were limited to this lot.

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Chairman Sireci said I want to put it on the record. I understand the transactions are taking place on this lot but the other lot would be engaged if that is where the car that is being transacted is going to or coming from.

Mr. Weber said that is correct.

Mr. Bernstein said there was a reason why I made the distinction earlier for the Board. There were two different applications for this property. Whether Copart chooses to "combine them", is part of the problem. The reason for my comment is that the application notice is only for Block 73.01, Lot 1. The original application was for Block 71, Lot 1.01. There is no notice for the second property.

Chairman Sireci said the second lot does not have conditions to be changed, according to what Mr. Liebling has said.

Mr. Bernstein said the second lot condition says that "The hours of operation shall be Monday through Friday, 8:00 a.m. through 5:00 p.m. There shall be no operation of the facility at night or on weekends." This is for Block 71, Lot 1.01. The condition for Block 73.01, Lot 1 is "8:00 a.m. to 5:00 p.m." "There will be times when trucks come onto the facility to drop off vehicles after hours." There are conditions for both.

Chairman Sireci pointed out to Mr. Liebling that he originally spoke inaccurately. Since you did not notice for that lot, what the witness said is not actually correct legally to be asking for that lot to be part of this application.

Mr. Liebling said I understand what has happened. We would like to seek the relief from the conditions on this application and if we need to come back for the other lot we will.

Chairman Sireci said I have to point out the unenforceability of potentially granting something for one lot and not for the other. It is not enforceable because there is an internal connection between the two.

Mr. Liebling said if we are able to convince you of the validity of allowing it on this lot, I am not sure on what basis you would not find it to be equally valid on the other lot.

Chairman Sireci said the notice would have brought other people into the building.

Mr. Bernstein said it cannot be granted.

Chairman Sireci said the notice would have been different and it would probably have brought more people out for the hearing.

Mr. Julian said I remember the application from a few years ago, working through the environmental issues as to where potential spills might or might not happen. During the time you have been in operations, have you had any fluids or leaks?

Mr. Weber said there has been no significant spillage. We have a spill responsive program, as mentioned. Part of our weekly and daily responsibility it to check the yard for any small spills or leaks and treat them right away.

Mr. Julian asked what the measurement of a significant leak is.

Mr. Weber said a significant leak would be 5 or 10 gallons of a fluid leaking. We have not had anything like that. We have had some small oil leaks. Most of these vehicles are a total loss. By the time we get them they are just about empty.

Mr. Julian asked Mr. Weber to walk the Board through how a spill would be handled.

Mr. Weber said I am not the expert but basically one of the things we do is to walk the property to identify any spills. We have some reactives to treat any spills. They break down the fluorocarbons and allow us to clean up the spill. We are very watchful of any oil after a rain as well.

Mr. Julian asked if there is an open sanitary sewer drains in the facility.

Mr. Cohen asked what this would have to do with the hours.

Chairman Sireci said the relevance of the question is that if the hours of operation were extended, it would be more difficult to detect any spills in the dark. Do you evaluate leakage when the vehicle is in the bullpen?

Mr. Weber said the drop-off area is lit. We do not do specifically evaluate a vehicle for leaks in the receiving process. If we notice a spill we treat it immediately. We treat them as they occur but spills do not occur with every car.

Dr. Marulli asked if there is ever a backup in the staging area for the incoming trucks.

Mr. Weber said we generally do not get backed up with them.

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Dr. Marulli asked with the increased volume, do you anticipate that there will be a backup of vehicles onto the street and shoulder.

Mr. Weber said no, not with our sub-haulers. We are having that volume now and have no problem receiving them.

Chairman Sireci asked is there someone it would happen with.

Mr. Weber explained, after our sales, the members either come to pick up the vehicles themselves or contract out to towing companies. There can be times when our bullpen can be fairly crowded with trucks to be loaded.

Chairman Sireci clarified there is a method for the drop-off but there could be a back-up for the pick-up.

Mr. Weber said we do not want a back-up on the street. If there is, the General Manager and his staff will go out and tell the drivers that they are not allowed to be out there and instruct that it would be best if they left for a while and came back when it cleared if we do not have room.

Mr. Wagner asked during the average month, how many drop-offs or pick-ups fall outside of the 8 a.m. to 5 p.m. time.

Mr. Weber said outside of the 8 to 5, we have the potential for about 15 cars that need to be picked up. We do a large amount of business with charities in the State of New Jersey. When we talk about handling customers outside of normal hours, we are not looking to receive their cars and work out in the yard. We are more concerned with getting them their vehicle and get them on their way and handle their payment inside. We need the extra hours for times when there is a spike, like after a storm. If we do not have that time, it is restrictive.

Dr. Marulli asked how many cars can be easily handled in the bullpen.

Mr. Weber replied, enough for about 80 trucks.

Mr. Liebling said I have no other testimony except for the General Manager to answer the question that was previously raised.

Kenneth Hopkins, General Manager of Copart was sworn in and asked to reply to the question previously asked by Mr. Julian regarding any storm sewer drains on the property.

Mr. Hopkins said the only stormwater management on the property is the retention pond. Everything drains into the retention pond that is pitched. There is no underground piping.

Mr. Conard asked, on a typical day, how many vehicles, boat, motorcycles, etc. are on-site.

Mr. Hopkins said in storage we have about 2,100 cars.

Mr. Mershon asked what is the maximum number you are allowed.

Mr. Hopkins said I do not know if there is an allotment; it is just how many we can stack and fit into the property. Currently I believe we have 2,300 cars which is about the maximum we can do right now.

Mr. Mershon asked Mr. Kois what the maximum allowed is.

Mr. Kois said it is based on the site plan and the areas they are allowed to park in. There are areas that are not to be used so they can be left open in case there is an emergency. I do not know of a total number that is attached to it. I do not believe that is in any resolution.

Mr. Weber said we have guidelines for the width of our aisles for safety reasons as well as to how we stack the cars so we do not bury them. We have laid out the yard to maximize the space and have perimeter roads all the way through for safe driving. The 2,300 is about all we can do right now. We have been shifting cars to other facilities.

Mr. Kois noted, for the after hours, you are asking for an average of 15 per day.

Mr. Weber agreed.

Mr. Kois said that is an average but you could have a night where there were 25 vehicles. How would you be tracking the deliveries to know you are complying with the 15?

Mr. Weber said we do not manually track it but pretty much know what we have based on the assignments that are dispatched out. We inventory the cars the next morning in the bullpen area. We have less on Mondays since there is not a lot of activity on Friday night but have more during the course of the week.

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Mr. Kois said there are only certain number of drivers that have the access code so couldn't you track it through the gate?

Mr. Weber replied some but not all of the sub-haulers contracted with us have the access to our gates for after hours.

Mr. Kois asked is there some kind of report that can be generated to show how many times that the gate is opening during the course of an evening/week/month.

Mr. Weber said no but we have security cameras in place that monitor the front yard, front gate and bullpen area.

Mr. Kois said I raise these questions with the concern as the point of enforcement or how enforcement may occur. I would like to hear a little more detail of what takes place when a trailer goes in to drop off. How much time does it take for the cars to be unloaded? You are currently asking for an average of 15 per evening after hours. How much time goes into it? What type of noise is generated? What type of light is associated? Will the trailers be idling while the vehicles are removed?

Mr. Weber said the average time for unloading depends on the size of the trailer that is being used and how many cars they are dropping off. We generally have 2 and 4 car carriers picking up and dropping off so the time could vary from 15 minutes for 1 car to 40 minutes for more. The trucks could have their headlights on. The bullpen is lit at night. I am sure the engines are idling because they have the motors to work their trucks to off load.

Mr. Kois said you mentioned earlier about a 10-car carrier. Is that the largest that would come after hours?

Mr. Weber said that would not come after hours. Anything after hours is delivered by our sub-haulers. We use mainly 2-car, some 4-car carriers mainly because we are in a crowded area. We pick up in urban and crowded suburban areas. 2-car carriers can get in and out. The large carriers are for people picking up; they are transporters.

Mr. Kois said the sub-haulers you reference, they are not Copart employees, correct?

Mr. Weber replied, no.

Mr. Kois said when they are dropping off, they would not be monitoring for any kind of leaks, correct?

Mr. Weber agreed.

Mr. Kois asked, if one of your sub-haulers noticed there was a leaking problem, what is your policy or what would they do to address it after hours?

Mr. Weber said if it was a major leak, their job would be to notify one of the managers via their cell phone numbers. Generally if it was a smaller leak, they would leave a note with their paperwork in the mailbox. As I said earlier, our first job is to go to our bullpen pick-up cars and evaluate the area because we need that area cleared as fast as possible to handle the incoming business for that day.

Mr. Bernstein asked, between January 2011 and now, how many trucks on average have been coming into the facility between 5 p.m. and 11 p.m. during the normal day?

Mr. Weber said we are trying to adhere to the current Resolution which is 4 vehicles at a time so that should be 2 to 3 trucks dropping off at night.

Mr. Bernstein said the proposal is to increase that 5 to 7 fold.

Mr. Weber agreed.

Mr. Liebling said we are mixing the number of trucks and the number of vehicles.

Mr. Bernstein repeated his question.

Mr. Weber responded, probably 2 to 3 trucks which would equate to 3 to 5 cars on average.

Mr. Bernstein asked, is the proposal you are making to increase the total number of vehicles or the total number of trucks?

Mr. Weber replied, the total number of vehicles.

Mr. Bernstein asked, how are you going to monitor that number? According to your testimony the trucks coming after hours are 2 to 4-car vehicles. When 4 4-car vehicles come, what happens when you exceed the 15th vehicle?

Mr. Weber said we dispatch through the course of the day which helps us to know for each of our sub-haulers their

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approximate delivery times and how many they will be dropping off.

Mr. Bernstein reviewed that the Board reviewed this 2 years ago and gave a strict timeframe for trucks. We are now going beyond a timeframe and talking about vehicle counts. I am sure no one other than the neighboring residents will be monitoring. The Board is being asked simply to allow this to "happen". Is the applicant willing to stipulate that the vehicles it allows on the site are either 2-car or 4-car vehicles, nothing larger?

Mr. Weber said yes, that is not an issue.

Mr. Bernstein asked when do employees now come to the facility.

Mr. Weber said our employees start arriving 30 minutes prior to the work day, around 7:30 a.m. We are not "operating" but that allows the employees to get prepared for the day, i.e. yard employees change into their uniforms. Our General Manager arrives early to get things set up to greet the employees. We have to come in prior to 8:00 a.m. in order to get ready for our first customers. This was mentioned to Mr. Kois and Mr. Ringelheim at the time of our meeting, prior to us coming before the Board. Our managers try to be finished up by 5:30 p.m.

Mr. Bernstein reviewed that in 2011, the applicant was asked what the hours of operation are. There was not even a hesitation by the witness at the time that the hours of operation are 8:00 a.m. to 5:00 p.m. Monday through Friday. That is how those hours found their way into the application. So, my question is, how is the applicant defining the "hours of operation".

Mr. Liebling said I was here as well and recall the testimony as well. There is no business where the employees arrive the moment the store is open. We were referring to when the business is open to the public.

Mr. Bernstein asked, what hours, beyond the hours open to the public is this applicant seeking from this Board?

Mr. Liebling said I do not think we are looking for permission to have employees behind a closed gate whenever they choose to be there. This is a permitted use in the zone.

Mr. Bernstein read from the narrative submitted by Mr. Liebling.

Mr. Liebling reiterated that we are not looking for any restrictions to be imposed as to when employees can be there doing paperwork or what have you.

Mr. Bernstein said then you are proposing that the facility could potentially be open 24-7 to employees.

Mr. Liebling replied by saying, it does not seem that it is a necessary thing to regulate. If we have to identify hours, I suppose we can.

Mr. Bernstein said your client is here for a condition change and that is one of the conditions.

Mr. Liebling said we are talking about the operation of the facility, noise, and everything that Mr. Kois asked. Do you regulate when the greeting store owner is there on a Sunday? We are talking about quiet operations of employees in an office.

Mr. Bernstein asked, since this application was approved in March of 2011, have you been operating on Saturday?

Mr. Weber said we had been prior to our meeting with Mr. Kois a few months ago. Once we were notified we ceased.

Mr. Bernstein asked, prior to being notified by Mr. Kois, how long had you been operating on Saturday?

Mr. Weber replied I believe just after Super Storm Sandy and twice a year to do our semi-annual inventory. We do not operate on Saturdays. We have a few facilities across the Country that do but not in this area.

Mr. Bernstein asked, so then why is the applicant seeking Saturday hours?

Mr. Weber said our business is continuing to grow. In 2011 we were bringing in 45 cars a day; now we are bringing in 70. It is dictated by our customers, the business and different factors. We are looking for the flexibility to manage our business so that we can keep up with the highs and lows. If we are operating under a strict 40 hours and seeing spikes in our business, it is very hard to get it done. We have fluctuations, just like any other business.

Mr. Bernstein asked, are there any other Copart facilities in New Jersey that operate on weekends?

Mr. Weber said we are not open to our customers in any of our locations past 8 a.m. to 5 p.m. Monday through Friday. In those facilities, we will operate on a Saturday, same conditions, if necessary.

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Open to the Public

Michael Sopko, Jr. – Camplain Road.

- Mr. Sopko said I live directly across the street from Copart. The after hours traffic comes in anywhere from 5 p.m. to 5 a.m. the following morning.

Chairman Sireci suggested Mr. Sopko be sworn in to give testimony of his observations. Mr. Sopko was sworn in and provided, in addition to the hours I previously stated, during Hurricane Sandy, they were running 24 hours a day, 7 days a week, which is why I got in touch with David Kois about what the permitted hours of operation were. Also during normal operating hours, the larger car carriers cannot make the corners in and out easily. I have pictures of what they have done to my front lawn within the past couple of months. I have talked with the Manager, Ken. Once the weather warms up, there will be a landscaper to come out to take care of my lawn. But will this be a weekly thing as it is already with the trucks running over my lawn?

Chairman Sireci suggested the photos be submitted as an exhibit so that the Board can review them. Exhibit P-1 was entered into the record.

Vice Chairman Cohen asked Mr. Sopko if he has observed trucks parking along Camplain Road. I recall that was your testimony at the last hearing.

- Mr. Sopko said sometimes, yes when they are waiting for the facility to open.

Mr. Bernstein asked Mr. Sopko to review the pictures.

- Mr. Sopko said I took all 5 pictures this morning at 6:15 a.m. They are of the front of my property on the left and right side corners.

Mr. Hopkins said what Mike is referring to is that they are still parked out front of the facility. When we had the meeting with David Kois and he mandated that those gates were to remain closed until less than 15 minutes prior to when we open, that is when this issue started with these trucks parking in front of Mr. Sopko's lawn. David did not understand that point. Before we opened the gates early so that those trucks would come into the facility and it was not such an issue.

Dr. Marulli said you agreed to that condition.

Mr. Liebling said we agreed to that at the time but these are not Copart's trucks.

Vice Chairman Cohen said it is your responsibility to instruct those subcontractors.

Mr. Liebling said these are not the subcontractors coming to drop off. They are the ones coming to pick up. They are our customer's customers.

Vice Chairman Cohen reiterated you should instruct the subcontractors and customers on how they are to behave on Hillsborough's roads; you didn't. If you did, I would like to see the written instructions given out.

Dr. Marulli asked, do you feel your responsibility should only be limited to your subcontractors and not to your clients?

Mr. Weber said I understand what you are saying. When we agreed with Mr. Kois, we agreed because we were told we did not have an option. When we were doing this it was during the "cat event". The management at our facility spoke one on one to every one of our contractors, which was numerous at the time. As you can see during that time they committed the damage. I believe we have posted signs in our lobby for all of our customers. We have customers coming from all over and we notified them to the best of our ability. We felt we were doing everything we could.

Mr. Bernstein asked Mr. Liebling if he is in possession of Mr. Ringelheim's March 14, 2013 letter. There is an attachment on the back from Police Chief Kaminsky. Would you like to address that letter for the record?

Mr. Liebling said I discussed this with Mr. Weber. We noted that these are not Copart employees and discussed what Copart could do to advise these drivers that parking on Camplain Road is illegal. I believe there are municipal signs alerting of "No Parking". We discussed that Copart could put up additional signage indicating "No Parking" more vigorously for Copart destined vehicles. We could also open the gates and get them in off the road. We also discussed that when the new lot is opened there will be the ability to bring more trucks in, admit them farther back onto the property and alleviate the back-up.

Chairman Sireci read the report dated March 26, 2013, Subject: Copart, from Police Chief Kaminsky into the record.

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- Mr. Sopko said my family and I are generally ready for bed between 9:00 – 10:00 p.m. There is noise, banging of chains, and people yelling across the street. The yelling has calmed down since speaking with Ken but the inherent nature of a tow truck throwing a chain with the flashing strobe lights going is very distracting at night. There is also the once every other week that a truck comes in at 3:00 a.m. which wakes you up. Now the applicant is proposing to open up the door to allow more of this to happen and allow more back-ups and allowing this to happen on Saturdays which prevents my family and all of the other home owners on Camplain Road from enjoying the outdoors.

Maria Janucik – Property owner on Camplain Road

- Mrs. Janucik asked if this hearing is about Block 73.01, Lot 1 only and no other block and lot.

Chairman Sireci said legally, yes. The notice did not provide for the other lot. We brought up the other lot because (a) it does exist in reality and (b) we vocalized a question about controlling the other lot since its access is on the inside. Legally, the other lot has an 8:00 a.m. to 5:00 p.m. condition on it which is not up for question today.

- Mrs. Janucik asked from what year is Copart of Connecticut the owner of this facility?

Mr. Liebling answered, it was purchased in 2001.

- Mrs. Janucik asked if it has been operating as an internet vehicle processing facility since that time.

Mr. Liebling said that term was not part of the Zoning Ordinance until the Zoning Ordinance was amended in 2010 to include that as a permitted conditional use on this property. It was the same use prior to that but not called that until 2010.

- Mrs. Janucik asked, so was that a legal use since the I-1 Zone did not include that as a use?

Mr. Liebling said I do not believe that is in question this evening.

Chairman Sireci said I understand your point but whether the use as an internet vehicle processing facility was permitted in the past is not relevant to tonight. We cannot review it at this point because the Ordinance currently allows it.

- Mrs. Janucik said the properties all around are zoned Residential. In what year was this property changed to an I-1 Zone?

Chairman Sireci replied, we are not certain at the moment but it has been zoned that way for awhile. The actual year would have to be looked up. You can give Mr. Kois a call in our Planning Office and he will look it up for you.

Mr. Kois said we will have to consult previous zoning maps, which are available for public view.

- Mrs. Janucik asked can I also get the Ordinance and all of the written information.

Committeewoman McCauley said that is all public information. You can work with the Planning Office on that.

Chairman Sireci said we are not certain when the zone was created but can make a good faith effort to try to locate everything you are asking for.

- Mrs. Janucik asked if zoning changes have to be recorded by law with Somerset County.

Chairman Sireci replied no, zoning is local. I do not understand the relevance of your questions.

- Mrs. Janucik stated I do not understand how this property can be I-1 when everything around it is Residential.

Chairman Sireci said it is not relevant. The fact of the matter is it is zoned I-1. It does not matter one way or the other to this proceeding. It has been that zone for awhile now. Figuring out when it happened and why does not change a thing about this hearing.

- Mrs. Janucik continued, the property that was bought by Copart, was that a grandfathered property?

Mr. Bernstein said the issue before the Board is fairly limited. It is whether or not the Board is willing to redefine Condition #6 in the Resolution granted to this applicant 2 years ago when it came in for this property. The property was I-1 at the time of the application and continues to be. There was no contention at the time of the application 2 years ago that I am aware of that the property was being used in an inappropriate manner, i.e. in violation of the Township Zoning

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Ordinance. The issue is even less of an issue today than it was when the applicant was before us 2 years ago when they were coming in for this facility.

- Mrs. Janucik asked why the Resolution references “pre-existing non-conforming conditions on the property”.

Mr. Bernstein said that is because the applicant does not meet some of the requirements that existed relevant to either setbacks and/or impervious coverage.

Chairman Sireci explained there are a lot more things to zoning laws than just the approved uses. Something can be non-conforming and have nothing to do with the approved use. It can have to do with one of the many other conditions of the zoning law.

- Mrs. Janucik said the properties all around the Copart property have wells. Are there any reports on the affects of Copart on the groundwater? Is there a report from the D&R Canal Commission approving this usage when there are wells?

Committeewoman McCauley said reports would have been required when this application was first heard. Tonight this hearing is to change the hours of operation.

Chairman Sireci said when a site plan application is submitted, it is reviewed by numerous agencies. There is a lot to Planning Law. Things do not just happen casually. That was all part of the application when it was originally approved. It is not part of, nor is it relevant to, what we are reviewing tonight. Tonight this is just about the hours of operation.

- Mrs. Janucik replied that the evidence was not done because the Resolution states it is conditional on all of the reports listed.

Chairman Sireci instructed, if you have issues or questions on the hours of operation and conditions of operation, now is the time to talk about it. But if your intension is to come up here and question the original approval, you are out of line for this tonight and are way off base. Either ask something relevant or I will have to ask you to sit down.

Committeewoman McCauley offered, all of our meetings are on-line so if you would like to go back and research them that way you can.

Mr. Bernstein said the language of our resolutions is that any Board approval is conditioned upon the approval of outside agencies such as the D&R, the County Planning Board, the Soil Conservation District, and other applicable agencies. Sometimes the applicant has the approvals prior to and sometimes the applicant has to provide it to the Planning Department and Construction Department, prior to construction occurring, the approvals to do so. In order to have gone further with this project, the applicant had to provide the Township the necessary approvals, which are on record.

- Mrs. Janucik said on the Hillsborough Township Application Form it lists the lot size for Block 73.01, Lot 1 as 15.637 acres; but 8.10 acres on the Tax Map. Why is there a discrepancy?

Mr. Bernstein asked Mr. Liebling, is your client using the entire property for this operation?

Mr. Liebling responded, yes.

Committeewoman asked if there is a question about the hours of operation.

- Mrs. Janucik said she did not but is questioning the discrepancy on the acreage.

Mr. Kois said according to the site plan we have on record, dated November 19, 2010, it shows Block 73.01, Lot 1 as 15.6837 acres.

Chairman Sireci said that is from an official legal document of the Planning Office which corresponds with the application. We cannot take your interpretation of a tax map as counteracting a legal document we have as part of our official file.

Mr. Kois said I am familiar with the Tax Map Mrs. Janucik has, which I provided to her. It is out of date showing when this lot used to be multiple lots. According to this application it is showing that they were all merged at some point. The current Tax Map Mrs. Janucik is in possession of does not show that.

Chairman Sireci said there is a Doctrine of Merger when multiple lots are owned by the same person and put to the same use that the lots become merged and do not remain separate. At this point legally they are merged.

Mr. Kois said that is the most recent tax map for 2013 from the Tax Assessor.

Chairman Sireci said a tax map and a land use map are not necessarily the same thing.

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- Mrs. Janucik questioned why there are 2 different addresses for the applicant, one in Pennsylvania, the other in California. Why is it different from the Tax Assessor's records?

Mr. Bernstein said there is no requirement that the applicant's address match up with the Tax Assessor's records for the purposes of where the tax bill is sent.

- Mrs. Janucik asked why the names and addresses of all stockholders are not listed in the application.

Mr. Liebling said it states that it is a publicly held corporation by which it means that no one owns 10% or more of the outstanding stock.

- Mrs. Janucik then questioned as to who signed the application itself.

Mr. Liebling said the purpose of this provision on a land use application is for when the applicant and owner are 2 different parties. Here the applicant owns the property so there was no need to complete the land owner consent.

- Mrs. Janucik replied it is signed by a Secretary but not dated.

Mr. Liebling said so then someone at Copart saw an empty signature line and signed it but it did not need to be signed.

- Mrs. Janucik again questioned who signed it.

Mr. Bernstein said the matter is not relevant.

- Mrs. Janucik questioned what the "RES" in the application number meant.

Mr. Bernstein replied it is for "Resolution".

Chairman Sireci asked Mr. Bernstein if it would be appropriate to call another member of the public up.

Mr. Bernstein told Mrs. Janucik that the Chair has indicated on more than one occasion that if you have specific questions related to the specific request of the applicant you are more than welcome to ask questions. So far you have not asked one. Do you have a question relative to the 3 conditions being sought by the applicant?

- Mrs. Janucik asked if the applicant has reports from all of the agencies he has applied to; Federal, State and Local.

Mr. Bernstein said that question does not apply; it is not relevant.

Chairman Sireci instructed Mrs. Janucik to be seated and called for any other member of the public to speak, relevant to the application.

Mr. Rzeszuek – Resident of Manville

- Mr. Rzeszuek was sworn in and stated he is against Saturday hours because the ground is not prepared for this operation and creates a lot of dust. If I want to use my backyard, I have to use a mask outside when they are working on Saturday. My son took a picture on his computer of the dust. If you agree to them working on Saturday, I do not know what I have to do. We have a lot of kids around and the dust is jeopardizing their health. We have to clean the windows a lot from the dust.

Chairman Sireci said the picture you are referencing shows a lot of dust. Legally speaking, you would have to have something you can leave with us and enter as evidence but since it is on your laptop, we cannot see it.

Mr. Weber responded, there is dust at all of our facilities, especially during the dry times. I have just taken over this facility just at the last hearing. Since that time it was recommended that we use a specific clean stone in that facility which is all we have used. We try to use larger stone that will not crumble and try to maintain the facility as best we can. At times we do get dust in all of our facilities because of the nature of the ground.

Mr. Cohen asked if this application can be limited to no Saturday hours.

Mr. Liebling said we would like to hear what everyone has to say and then make a determination as to whether or not we will ask the Board to vote this evening.

James Conover – Manville Resident

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Mr. Conover was sworn in and said I have the same problem with the dust. I have a swimming pool and the dust comes in my yard. I realize people have to work but they can use a water truck to help eliminate some of this dust. There is no speed limit; the forklifts fly by. Is there a speed limit in there?

Chairman Sireci noted it is private property. There was no speed limit imposed in the Resolution. Your comment is noted that the speed creates more dust.

Wayne Steigerwalt – Manville Resident

- Mr. Steigerwalt was sworn in and stated the dust is unbearable. We are down wind and get it constantly. Sometimes it is more tolerable than others. They have a habit of dragging the lot with an I-beam to level the dirt which really makes a lot of dust. I have been in touch with the Hillsborough Township Health Department numerous times. The County has been in touch with me in reference to the dirt. I just do not know how much more this is going to affect us by extending the hours and the days.
- As for forklifts, about 3 years ago we already had one knock the cinderblock wall down between our property and Coparts' which they fixed.

Mr. Weber said we are hoping to minimize the impact. We are looking to have the flexibility if we need it. We are not looking to be open every Saturday and will try to minimize the work on Saturdays. We are looking for a "win-win". We are looking to be a good neighbor but we are trying to have the flexibility to run our business like any other operation.

We have 2 internal audits every year. Our forklifts are hooked up to our computers so we know how fast they are going. We can tell the loader operators the speed they are going and if they are shifting incorrectly. It gets reported against us if we are over the speed limit. We have not violated that on our audits. Going through the gates the speed limit is about 5 M.P.H., about 10 M.P.H. around back.

Mr. Hopkins added the forklifts have governors on them so they are limited to 10 to 12 m.p.h.

Maria Janucik

Mrs. Janucik was sworn in.

Mr. Bernstein said you have to state who took the pictures, when they were taken, what they depict and what the purpose of your introduction to the Board is for.

- Mrs. Janucik said I took the pictures. They are the pictures of the trees and so-called "buffer zone" in front of Copart. The 6 pictures were taken at the end of April of this year. I took these pictures from Camplain Road. They depict the lot that is the subject of the hearing. They are showing the light on the property.

The pictures were shown to counsel and marked as **Exhibit P-2**.

Close public hearing.

Mr. Bernstein said Mr. Liebling would like the opportunity to respond to Chief Kaminsky's report.

Mr. Libeling said our hope is that by having flexibility with the gates and the changes that are coming down that it would alleviate the problem on Camplain Road with the customer's trucks by allowing them to come in. In crowded times we will have the capacity to be able to shift things around so that they can park their trucks behind the fence and not be backed up on the road. We have already started contingency planning for that once the property was approved.

Chairman Sireci reviewed Mr. Cohen indicated he would not consider approving Saturdays.

Mr. Julian said I would like the applicant to discuss the dust control measures they intend to provide.

Mr. Wagner added I would like to know how the applicant is going to address the parking in front of the resident's house across the street. The signs say "No Parking" but the sign post was knocked down.

Chairman Sireci asked the applicant if there is any proposal as to how parking on the street is going to be addressed, other than opening your gates earlier. I do not see how the other lot addresses people piled up before the gates open. That might address once you get the gates open to get people in more quickly so you do not have the line backing up on Camplain Road which is the other thing the Chief mentioned.

Mr. Weber said 2 other thoughts we had would be to limit the turn out of the gate to a right-hand turn only to make it easier to leave the lot. The other is to submit a request to widen the gate.

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Mr. Bernstein said both require approval from this Board, separate from what is before the Board today.

Dr. Marulli inquired about Mr. Sopko's comment of drop-offs being made at all hours of the night. I think you are asking the Board to accept in good faith that you will adhere to a somewhat vague request to when these drop offs were going to be made, based on your past history of "good faith" which is in question.

Chairman Sireci pointed out that neighbor was under oath so he testified to occasional drop-offs after 11 p.m. and before 8 a.m.

Mr. Weber said I cannot address that.

Mr. Hopkins said I am not aware what Mike testified to. It could have been before or after the storm. I am not aware of it but assume it does happen. We try our best to make sure it does not happen.

Dr. Marulli said I have heard you say that you think you do your best but you have not offered evidence of that. The other thing that concerns me is that you are saying you really do not know that that happens but yet you are asking us to try to approve a number that you really are just saying you have no idea of what those numbers really are and how to monitor or control them. It does not really sit well.

Mr. Hopkins said the way I can tell what has been dropped off over night is when I come in in the morning and count those cars.

Dr. Marulli responded, but not the number of trucks that have dropped them off.

Mr. Hopkins said you can do the math based on our carriers.

Dr. Marulli said you do not know what time they were dropped off.

Mr. Hopkins said I could if I knew there were violations. I could refer to the video.

Dr. Marulli said you know there were violations. You are not coming forward and saying here are when the violations took place and this is what we are doing to correct it. You are not doing that but are asking us to extend the hours.

Mr. Weber said we did not know about those violations. It is a subject matter we do discuss but did not know there were after hours violations. We are trying to work within the boundaries of the Resolution after our conversation with Mr. Kois. In terms of correcting that, we can put in place ways to monitor that going forward.

Dr. Marulli said so why not implement that instead of offering vague numbers. Get real numbers and then come back once you have that information. You have not implemented anything so you do not know if it will work.

Chairman Sireci added the people that are coming in at night work for you so you should have control over them.

Mr. Weber said we definitely have control over them or influence because they are 10-99 employees for us. Every 10-99 employee has been notified of the operating hours and that they have strict guidelines that they need to follow.

Dr. Marulli said personally, I would feel much more comfortable if you implemented those controls and then came back to us and said look, we have done it. We do have control over it and here is the evidence of it and the residents agree that there has been a difference. I am not comfortable with what you are proposing because you do not have enough information.

Mr. Liebling said we have heard a lot of comments, observations and ideas from the Board and the public. We understand your job here. This is an industrial zone with other uses around it so you need to strike a balance that permits both to exist. We would like to adjourn in order to give us an opportunity to develop solutions to the issues that have been raised and come back to you and tell you how we are going to address them.

Mr. Bernstein said this has been done in the past with other applicants so I would like to suggest that the applicant meet with the neighbors.

Chairman Sireci said we would encourage the applicant to meet with the neighbors to discuss the current conditions and what can be done. We have done this sort of thing in the past and have found the meetings to be very productive.

Mr. Libeling said we can certainly do that but would like a copy of the transcript so that we do not miss anything. I would also like to discuss with Mr. Bernstein as to how the other lot can be incorporated.

Mr. Bernstein said if there is a desire of the applicant to make this an all encompassing issue, then I suggest that before you come back to the Board, you re-notice for both properties, that it is going to be a combined application. I would remind the

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applicant that the condition for Block 71.01 is different than the condition for this application. There is no provision granted by this Board that allows any truck on that site before 8 a.m., after 5 p.m. and on the weekends. I think the issue has been raised as to how you are going to address the issue of getting the trucks off of Camplain Road if you do not open the gate before 8:00 a.m.

I believe an issue you will have to deal with is called “creeping” which means the new opening time might be 7:30 a.m. which means the trucks start showing up at 7:00 a.m. You have indicated that this new facility will be the correction of the problem. I think the Board is looking forward to how you will be doing that.

Mr. Libeling said we will make that our job.

Mr. Kois said the time of decision expires July 12, 2013.

Chairman Sireci said the September 12th meeting date is open which would give enough time to meet with the neighbors and propose a comprehensive solution written up and given to us ahead of time for review so that we all come prepared for the next time.

Committeewoman McCauley asked if this could be accomplished by the July 25th meeting.

Mr. Liebling said we will accept that date and grant the extension.

Mr. Bernstein instructed, if the application is planning on coming in with a more comprehensive plan proposal, you are going to have to re-notice and make the July 25th meeting accordingly.

Mr. Liebling said that is understood.

Mr. Bernstein called for a motion to continue the hearing to July 25, 2013 with the understanding that if the applicant wishes to bring Block 71, Lot 1.01 before the Board, re-notice will be required for the entire application.

A motion was made by Committeewoman McCauley, seconded by Dr. Marulli.

Roll Call: Mr. Wagner – yes; Mr. Julian – yes; Mr. Mershon – yes; Mr. Conard – yes; Dr. Marulli – yes; Mr. Peason – yes; Vice Chairman Cohen – yes; Chairman Sireci – yes. Motion carries.

Mr. Bernstein stated, if the applicant intends to come back before the Board for this application alone, they are not required to tell you there will be a hearing on July 25, 2013, this is your notice. If they intend to come before the Board for both lots, they will have to re-notice you either as to that date or a subsequent date. If you do not get another notice, we are here on July 25th for this application.

Chairman Sireci noted and Mr. Kois confirmed that there is no activity scheduled to the meeting agendas of June 13th or June 27th.

A motion and second to cancel both meetings was made. All were in favor; none were opposed. Motion carries.

Chairman Sireci announced, at the moment there is business scheduled to the July 11, 2013 agenda for the GSA Belle Mead Interim Remediation application.

Mr. Bernstein added, possibly for the WSH application as well.

ADJOURNMENT

The meeting adjourned at 9:52 p.m.

Submitted by:
Debora Padgett
Administrative Assistant
Planning Board/Board of Adjustment Clerk