

A meeting of the Township of Hamilton Planning Board was held on the above date with Chairman Gordon Dahl presiding. Members present were Richard Cheek, William Christman, Wayne Choyce, Nelson Gaskill, John Kurtz, Charles Pritchard and David Wigglesworth. Also present were Kevin Dixon, Engineer Consultant and Landscape Consultant; Charles Endicott, representing Vincent Polistina, Planner Consultant; Steven Mazur, Traffic Engineer Consultant; John Rosenberger, Solicitor, and Philip Sartorio ,P.P., Community Development Director.

Compliance with the Open Public Meetings Law was acknowledged.

Harding Highway, LLC, Woods Edge (General Development Plan Hearing) – Nicholas Menas, Attorney, John Canuso, Michael Canuso, Robert Bower and Robert Swartz were present.

Mr. Sartorio summarized the history of the project, for the edification of Board members who weren't familiar with the lawsuit involving the Applicant and the subsequent Settlement Agreement.

Mr. Menas informed the Board that the Applicant was seeking General Development Plan approval for a density up to four hundred seventy five units, consisting of one hundred ninety single family detached, one hundred ninety townhouse units and between sixty seven and ninety five affordable house units, and that an application would be presented with a fully engineered site plan and subdivision plan at a future date for approval by the Board. He noted that a General Develop Plan is a concept plan and explained how it differs from a formal site plan application' and how it would benefit the Developer.

The General Land Use Plan, latest revision date of October 8, 2009, was marked as Exhibit A1.

Mr. Menas stated that the property was approximately one hundred eleven acres and was located within a Pinelands Growth Area, with a Planned Village Development zoning designation.

Mr. Menas summarized the background of the project, beginning with why the "builders remedy lawsuit" was filed against the Township. He stated that the end result was an inclusionary development that he believed would be mutually beneficial in terms of the Township meeting its affordable housing obligation as well as providing a comprehensive plan that would meet the Township's, State's and the Regions' smart growth planning principles.. Mr. Menas advised that the concept plan that became part of the Settlement Agreement contained six hundred ten units with a thirty seven thousand square foot commercial component, but the plan that was presented to the Board contained substantially less units, with no commercial component. .

Mr. Endicott referred to his report, noting that the application was somewhat unique in that certain items did not need to be presented due to Settlement Agreement. He expressed the opinion that there was enough information provided to deem the application complete.

Mr. Dixon concurred with Mr. Endicott that enough information had been provided to deem the application complete.

Mr. Choyce moved, seconded by Mr. Pritchard, to deem complete for review Application No.2009-10, submitted by Harding Highway, LLC, Block 1134, Lot 1.

ROLL CALL VOTE ON THE ABOVE APPLICATION:

Mr. Cheek – Aye  
Mr. Christman – Aye  
Mr. Choyce – Aye  
Mr. Gaskill – Aye

Mr. Kurtz - Aye  
Mr. Pritchard - Aye  
Mr. Wigglesworth - Aye  
Mr. Dahl – Aye

SAID MOTION CARRIED.

Pointing to an exhibit, Mr. Bower described the property location and where the various housing types would be located.

Mr. Bower described the proposed site access, and advised that the Pinelands Commission would not permit the plan to show the extension of New York Avenue into the site from Route 40, as shown on the plan that was part of the Agreement, as the Applicant did not have control over the property through which the street would traverse. He stated that the Township would need to take a role in securing the portion of the property needed to provide the connection and to demonstrate that there is no reasonable alternative, as the street would be crossing wetlands.

Mr. Bower advised of the various studies that had been undertaken that resulted in the plan that had been presented to the Board.

Mr. Bower stated that the Applicant was not presently requesting any variances or waivers; that the plan was conceptual; that the housing types proposed were permitted; that there would be no commercial component; and that the mix was appropriate.

Mr. Endicott referred to his report and the Settlement Agreement and advised that submission of three documents was waived by the Agreement.

Mr. Endicott noted that the Agreement permits construction of six hundred ten units, but the Applicant was proposing up to four hundred seventy five units. Mr. Endicott advised that the Municipal Land Use Law permits a decrease of the number of units by up to fifteen percent without affecting the original approval of the GDP.

Mr. Endicott pointed out that the extension of New York Avenue to Cologne Avenue was included in the Township's Master Plan, and the NJDOT and the County have supported it. He stated that there is alternate site access, so the Township would need to become involved with convincing the Pinelands Commission to permit the extension due to wetlands crossing.

Mr. Endicott advised as to how the application complied with open space and recreation requirements, and stated that a construction timing scheduled had been provided. He noted that the affordable housing units would be phased in according to COAH requirements.

Mr. Dixon referred to his report and the Settlement Agreement and noted that the Applicant had submitted a plan that differed significantly from the Plan that was part of the Settlement Agreement. Within his report, the differences and recommendations are set forth.

In response to Mr. Dixon's recommendation that the approval contain a condition involving the time period of the approval, Mr. Rosenberger advised that a condition would not be necessary, as the Municipal Land Use Law provides for a certain time period and the Settlement Agreement includes a provision with which the Board has to comply.

Mr. Dixon continued with his report, pointing to items that would have to be addressed and making certain recommendations.

Mr. Mazur advised that his review was limited, with regard to traffic, as the Applicant was not required to submit a traffic study. In response to Mr. Dahl's concern, Mr. Mazur commented that it would be difficult without the study and not knowing if the extension of New York Avenue to Cologne Avenue would be permitted, as the project doesn't work without it. He noted that some level of traffic study was undertaken, as the Master Plan provides for the extension of New York Avenue, and some level of traffic study would have to be completed for NJDOT. Mr. Mazur expressed the opinion that public safety is a critical consideration, and that the New York Avenue extension would provide for safer circulation. Mr. Mazur stated that the Township and the Applicant would work together to make it work, and there would be some level of study completed.

Mr. Rosenberger advised that the Township is required to abide by the Settlement Agreement, which provides that a traffic study would not be submitted to the Board as part of the application, and the Township may have to fund the traffic study to the extent that it is necessary. He noted that the Board is considering conceptual approval at this point, and the details of the project would be worked out at a later date. \*\*\*\*\*Entitled to copy of County's traffic study if County requires one.

Mr. Menas stated that the plan before the Board was based on the information that was presently available, and the issues raised in the Board's consultants' reports would be addressed at a later date as the site plan is developed. He commented that they would work with the Township consultants at workshops, and it appeared there would be nothing within the consultants' reports that could not be addressed.

In response to Mr. Dahl's concern with regard to the length of the approval that would be in effect if granted by the Board and the limited information presented upon which to make the decision, Mr. Menas stated that the Applicant would be working with the Township to develop the plan.

John Canuso stated that the extension of New York Avenue is a critical component that they would like to do, and are committed to doing, but they need the assistance of the Township. He stated that the Pinelands Commission staff indicated that the wetlands crossing issue could probably be overcome with the Township's involvement, but certain steps needed to be taken. It was noted that the Pinelands Commission Certificate of Filing indicates the issue involving locating sidewalks, an entrance road and a sanitary sewer main along Harding Highway and Cologne Avenue within required wetlands buffers is potentially resolvable if the Board reaches the conclusion there is no feasible alternative to the improvement locations.

Mr. Menas stated that a recommendation to Township Committee to address the issue would be needed, and the Applicant would be willing to participate by explaining the status of the process and what was done to acquire the property and providing an update with regard to the meetings with the Pinelands Commission.

Mr. Menas clarified a comment of the Planner, and stated that the Applicant was not waiving his right to the density that was approved as part of the Settlement Agreement. Mr. Rosenberger stated that the Applicant would not need approval to decrease the density by fifteen percent, but they would need approval to increase the density from that which was approved by the Board as part of the General Development Plan. Mr. Menas stated that the Applicant would seek amended GDP approval if a decision was made to increase the density up to amount contained within the Settlement Agreement.

In response to a question with regard to clearing the site, Mr. Dixon advised that some of the open space would be left undisturbed and some would be cleared. Mr. Bower advised that most of the site interior would be cleared due to the size of the lots and the density.

Mr. Means referred to certain comments and recommendations contained within the Board's Consultants report, and stated that they were no issues to be addressed as part of the application for General Development Plan approval, but the issues raised would be addressed during the site plan review process.

A discussion took place with regard to how Section 40:55D-45 relates to the Applicant's application for General Development Plan approval as it would be difficult to make the findings set forth with the information presented. Mr. Menas advised that the Settlement Agreement would control, and that Section 40:55D-45 was not applicable to the Applicant's application. He expressed the opinion that the proofs needed had been established and the Applicant was entitled to General Development Plan approval for a period of twenty years. Mr. Menas commented that the application was essentially a consistency review to let the Board know that the Applicant is moving forward and where he is with the planning process; that the next step is to address the New York Avenue issue; and that the findings were part of the process involved with that Settlement Agreement.

Mr. Rosenberger advised that he had reviewed both the State Statute and the Settlement Agreement, and he was in accord with Mr. Menas that the findings set forth in 40:55D-45 are

incorporated into the Settlement Agreement as a preliminary basis. He further stated that the Board would have a better opportunity to focus the findings when the applications for site plan and subdivision are submitted.

In response to a question asked as to when the Applicant would go back to the Special Master, Mr. Rosenberger advised that that would be the first step the Applicant would take if he were unhappy with the approval granted by the Board.

Board members asked questions with regard to open space, recreation, number of units and affordable housing to which responses were provided.

Mr. Dahl opened the hearing to public comment.

John Percy questioned the purpose of the public hearing and a response was provided.

Mr. Pritchard moved, seconded by Mr. Christman, to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

A discussion took place with regard to certain improvements proposed within wetlands and/or wetlands buffers and the findings that would need to be set forth in the resolution to address Pinelands' issues, and with regard to recognition of the need within the resolution for the Township to become involved with assisting the Applicant in acquiring the property necessary to extend New York Avenue to Cologne Avenue.. Mr. Rosenberger advised that he would provide the necessary language, including reference to the Settlement Agreement.

Mr. Rosenberger noted that the Board would be approving the concept plan before it, but drawing the conclusion that it would be in everyone's best interest for New York Avenue to be extended.

In response to a question as to whether the roadway system could be reconfigured and another access established in the event the New York Avenue extension cannot be accommodated, Mr. Rosenberger stated that the Board is not considering anything but the concept plan presented, and the Applicant does not have to change the plan unless he finds he needs to do so.

Mr. Wigglesworth moved, seconded by Mr. Kurtz, to grant General Development Plan approval to Harding Highway, LLC, for the Woods Edge Project, Block 1134, Lot 1, Application No.2009-10, (Set of plans: Title Sheet, latest revision date of 10/02/09; Existing Conditions plan, latest revision date of 5/27/09; General Land Use Plan, latest revision date of 10/8/09, Storm Water Management plan, latest revision date of 10/2/09; and Utility Plan, latest revision date of 10/02/09), conditioned upon compliance with the relevant comments within the reports of Kevin Dixon, dated November 12, 2009, and Vincent Polistina, dated November 9, 2009.

#### ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Cheek – Aye  
Mr. Christman – Aye  
Mr. Choyce – Aye  
Mr. Gaskill – Aye

Mr. Kurtz - Aye  
Mr. Pritchard- Aye  
Mr. Wigglesworth - Aye  
Mr. Dahl – Aye

SAID MOTION CARRIED.

Public Comment – Mr. Dahl opened the meeting to public comment and there was no response.

Mr. Pritchard moved, seconded by Mr. Christman, to close the public portion of the meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Adjournment – Mr. Choyce moved, seconded by Mr. Wigglesworth, to adjourn the meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Respectfully submitted,

Nancy Rainbow,  
Planning Board Administrator