

**MINUTES OF THE PARSIPPANY – TROY HILLS
PLANNING BOARD –MEETING
MONDAY FEBRUARY 8, 2010**

Chairman Parikh called the Planning Board Meeting of Monday, to order at 7:10 PM.

Members Present: Ms. Bronfman, Mr. Burns, Mr. Corcoran, Councilman dePierro, Mr. Dinsmore, Mr. Ferrara, Mr. Keller, Mr. Purzycki, Chairman Parikh

Also Present: Anne Marie Rizzuto, Planning Board Attorney
Edward Snieckus, Burgis Associates
Gordon Meth, The RBA Group

Absent: Mayor Barberio

Announcement is made that adequate notice of this meeting has been given, that it is being conducted in accordance with N. J. S. A. 10:4-6 et seq. of the New Jersey "Open Public Meetings Act".

The meeting was opened to the public on anything not on the agenda. There was no one in the public wishing to speak.

Under correspondence there is a letter from Robert Garofalo dated January 18, 2010 to the Township Clerk Judy Silver requesting an extension of the Developers Agreement for Puddingstone Ridge. The matter is referred to the Planning Board for a recommendation. A recommendation will be needed from the Township Engineer also. Ms. Rizzuto asked for copies of the Developers Agreement and the resolution so she recommends the matter be held for the next meeting. Ms. Mader will send the information. Mr. Garofalo asked if he should present testimony to the Board on the matter. Ms. Rizzuto said she will review the matter and report to the Board.

There is also a letter from Robert Garofalo dated February 4, 2010 requesting an extension of the Major Soil Moving Permit for Ivy Realty for one year to March 11, 2011. Mr. Garofalo explained that the work is on-going and they expect to finish this summer. Mr. Garofalo recommended that the Board recommend a change in the ordinance to have Soil Moving Permits run with the approval, not for one year when the permit is attached to a site plan application.

Mr. Keller made a motion to recommend extension of the Major Soil Moving Permit to December 15, 2010, or nine months. The motion was seconded by Mr. Dinsmore. Ayes: Ms. Bronfman, Mr. Burns, Mr. Corcoran, Councilman dePierro, Mr. Dinsmore, Mr. Ferrara, Mr. Keller, Mr. Purzycki, Chairman Parikh.

On the agenda is the completeness hearing for **Forge Pond Developers**, Block: 734 Lots: 2, 63, 64 & 68, Smith Road, Preliminary Major Subdivision, Application # 07:009. Robert Garofalo represented the applicant.

The Board members received the report from Burgis Associates dated January 22, 2010 and copies of the Preliminary Major Subdivision and Appendix A checklists. There is also a copy of a letter dated January 25, 2010 from Mr. Garofalo responding to the Burgis Report and a comment from Ms. Rizzuto dated January 27, 2010.

Mr. Garofalo said there are only two checklist items missing, the traffic report which was recently sent in and the Environmental Impact Report which he is filing tonight. He feels the case should be deemed complete. He had to go to court to get this completeness hearing. Many of the items called for in previous incomplete reviews are not checklist items. He said the application should now be deemed complete for hearing.

Ms. Rizzuto reviewed the other items which made the application incomplete. Some of the items are up to the Board whether they are completeness items, items required for the hearing or items that would be a condition of approval.

She listed the Environmental Assessment Report, filed tonight, a full and complete wetlands map which has been filed, the question of a Highlands Review before our hearing, payment of the outstanding escrow, and the density allowable and if the applicant is entitled to further construction on the Forge Pond Tract. Mr. Garofalo said he has seen nothing from the Township Engineer regarding the density issue. Ms. Rizzuto said this may be an issue for a hearing and not completeness.

Mr. Garofalo stated he had written to Ms. Rizzuto that the issues had been reduced and what she states are the completeness issues, and he never received a response. He said the Environmental Impact Statement is being filed tonight. The complete wetlands map has been filed. As to the Highlands, the Township has not yet opted to become a member of the Highlands and it is not a checklist completeness item. He said he does not know of any other application which has had that requirement.

As to the escrow, he has said as long as the charges are reasonable they will be paid. The density has been discussed. He has asked for the Township to give him any document that says the Township is right and he has never received one. There is a statement in Mr. Snieckus letter that sounds good but there is no documentation supporting the claim. He said he feels he has addressed the completeness items and the case should be heard.

Ms. Rizzuto said on the Highlands issue, the Township is in a consideration mode on opting in and it will be addressed this year. It was deemed a completeness issue by the Planner and it has been mentioned on several applications before the

Board this year. It has been raised with this application because this property is in an environmentally sensitive zone, the “Environmentally Constrained Sub-Zone”.

Mr. Garofalo said that the Highlands is not on any checklist. He power to enforce the checklist items is set by ordinance so the Board does not have the power to require items not on the list. Ms. Rizzuto said the MLUL requires compliance to other governmental laws as required and the Highlands is a new requirement. She agreed that many other substantial governmental items like LOI or Road Opening Permits can be required as part of an approval but she said there is a statute that says the Highlands approval is required prior to a hearing. Mr. Garofalo asked to see that statute in writing.

Mr. Garofalo asked if she is saying it is a completeness item and she said no it is up to the Board but the Board has the right to defer to other government approvals.

Chairman Parikh said he thinks the Board understands and clearly the Highlands is not a checklist item. He asked to go over the Planner report quickly. He said most of the items are either provided or are not checklist items. Mr. Garofalo asked why the Board should go over items in the Burgis report that they agree are not checklist items. Chairman Parikh said he had responded to the item and he feels the Board should go over it. He read to the Board the response to the item in Mr. Garofalo’s letter. His objection is on the record.

The Burgis report lists

1. Environmental assessment report, provided. Mr. Snieckus said the applicant had requested a waiver from the item and they withdrew that request and have provided a report and it is accepted subject to review.
2. Wetlands maps have been submitted in full.
3. Deeds for the wetlands have been submitted and are in process of being reviewed.
4. Density. This item is not on the checklists.
5. Highlands Council is not on the completeness list.
6. A timeline and report on Forge Pond Dam.
7. The scarce resource order is not on the checklist.
8. Unpaid bills, the bills have been sent to the applicant and it will be updated.

Those items have been addressed as either submitted or not on the checklists. Ms. Rizzuto said some items will be raised at a hearing.

Councilman dePierro asked if for completeness the items have to be submitted not necessarily reviewed. Ms. Rizzuto said if something is obviously missing there is a deficiency level the Planner looks at and that could be a factor. There were no other questions from the Board. Since this is a completeness hearing and no notice was required there is no requirement to open to the public.

Mr. Purzycki asked about the issue of density and is there any other comment until we hear the case. Ms. Rizzuto said it will be an issue in the hearing, not a completeness item.

Chairman Parikh asked for a motion on whether the application is complete. Mr. Burns made a motion to declare the application for Forge Pond Developers, Block: 734 Lots: 2, 63, 64 & 68, Smith Road, Preliminary Major Subdivision, Application # 07:009 complete. Motion seconded by Mr. Dinsmore. Ayes: Ms. Bronfman, Mr. Burns, Mr. Corcoran, Councilman dePierro, Mr. Dinsmore, Mr. Ferrara, Mr. Keller, Mr. Purzycki, Chairman Parikh.

Mr. Garofalo will contact the Board Secretary for scheduling. Chairman Parikh suggested the hearing be on a workshop date. It is requested that all reports be completed and submitted quickly. Ms. Mader will send out to the members the reports she would normally send out and if anyone wants to come in and read the full report, like the traffic report, they can come into the office.

Mr. Snieckus said that this year 2010 is the time when the Master Plan should be reviewed and either be re-written or re-examined so he asks the Board to authorize Burgis to prepare a proposal for the work. He recommends a re-exam as the 2010 census is in the works now so the data available is dated so he feels the completion of a new Master Plan would not be appropriate. In addition, the Housing Plan and Highlands question could factor in. Councilman dePierro made a motion to ask Burgis Associates to prepare a proposal for the work. Ms. Rizzuto noted the work can be bonded for and paid over three years if the Township needs to. Councilman dePierro said the Council anticipates this so he does not think that will be needed.

Mr. Purzycki asked if there is any leeway in the timing with all that is going on in the state with the Highlands and COAH. Mr. Snieckus said he will start preparing the background material, The motion was seconded by Mr. Keller. Ayes: Ms. Bronfman, Mr. Burns, Mr. Corcoran, Councilman dePierro, Mr. Dinsmore, Mr. Ferrara, Mr. Keller, Mr. Purzycki, Chairman Parikh.

Chairman Parikh said we should learn from the hearing we just had that the checklists should be looked at often to make sure it includes all needed items. He suggested there may be a catch-all item regarding governmental approvals.

The last item is the Highlands and Housing Plan. We still have not made a decision on the Highlands and the resulting effect on the Housing Plan so everything is still pending. There is Bill S-1 to abolish COAH which may also have an effect (COAH Lite).

The meeting was adjourned at 8:15 PM.