

**MINUTES OF THE PARSIPPANY – TROY HILLS
PLANNING BOARD –MEETING
MONDAY MAY 17, 2010**

Chairman Parikh called the Planning Board Meeting of Monday, to order at 6:05 PM.

Members Present: Mayor Barberio, Ms. Bronfman (6:07 PM), Mr. Burns, Mr. Ferrara, Mr. Keller (6:07 PM), Mr. Mele, Chairman Parikh

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

Absent: Mr. Corcoran, Councilman dePierro, Mr. Dinsmore, Mr. Purzycki

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.

The meeting was called early to discuss the Housing and Fair Share Plan. Mr. Snieckus said he had addressed the Council regarding the Highlands and the option of opting in or not. He is looking for authorization from the Planning Board to prepare a Housing Plan that conforms to the Highlands Regional Master Plan and the 274 units they estimate instead of the 1700 units estimated by COAH. The Highlands Plan is a number we can create a plan for. There is a deadline of June 8, 2010 for submitting a plan to COAH to stay in conformance.

There is a great deal of uncertainty regarding COAH between the Governor and the State Legislature, but it appears nothing will happen before the June 8 deadline. We have to file to protect against Builders Remedy lawsuits or the loss of control of the funds in our Affordable Housing Trust Fund which is from the Developers fees collected.

Mr. Snieckus was authorized by the Council to prepare a Housing Plan in conformance with the Highlands Master Plan and at their meeting tomorrow they will be passing a resolution to opt in to the Highlands plan. There is still the ability to opt out at any time if we find too much regulation or transfer of development, since we are in the Planning Area.

The next step is to file a Third Round Housing Plan with COAH to stay in compliance and avoid the possibility of lawsuits. Many other towns are in the

same situation. After we file we can wait to see what happens with COAH and the Highlands with all of the changes in Trenton. The Council considered the matter on May 11 and tomorrow 5/18 the council will act on a resolution to continue to pursue conformance with the Highlands Master Plan. The June 8 deadline is a COAH Deadline and we will meet that deadline.

Mr. Snieckus reviewed the plan for inclusionary housing. Inclusionary housing is where you zone a specific piece of land for a multi-family type of development. You then require a certain percentage of that development to be affordable, and that is 20%.

He went through the obligations under the Highlands plan. COAH has estimated 242 units in need of rehabilitation and Highlands agrees with that number. There are income levels within the community to qualify for this type of help.

We currently have 77 credits for rehabilitation units. Gabe Yaccorino has been working on this number. This leaves 165 units left based on COAH's recommendations. We anticipate still participating in the HUD funding program but COAH says we also have to look at the Housing Trust Fund and allocate a certain amount of that fund for the use in rehabilitation of at least half of the 165 remaining units. That equals \$825,000 for a \$10,000 payment on half of the units. Our Housing Trust Fund has about \$5.2 million. If we don't use the funds we could lose control of the monies. The 165 units is not a major issue to Mr. Snieckus.

The prior second round plan components and status. We have about 816 units of credit from previous rounds to apply to the next round. The report shows how the credits are being applied. 664 units were applied in the second round leaving 152 surplus credits. These credits are at the Brookside Senior Housing facility. Since these units are senior age restricted there are qualifications within COAH on how they are used. Mr. Snieckus said under current round 3 rules there are no regional contribution agreements allowed where a town sends money to another community for development there.

Under the current third round rules there are maximum numbers by types of housing required. So we may have a requirement of 274 units, 50% has to have family requirements. 25% are rental for 69 units and of that 50% have to be family and 50% are senior restricted. The senior age restricted maximum is 25% or 68 units and very low income requirement is 13% or 36 units.

The proposed third round obligation components and status show a breakdown of how we will meet our obligation. 68 units at Brookside can be included. WE have 20 units credits for a completed group homes times a multiplier of 1.25 for 25 unit credits.

Proposed affordable developments include 20 units at group homes for a credit if 24 units. Those sites include the JSDD home on 5 Peasant Terrace and three

group homes on Ruth Davis Drive on the Greystone tract. There are three sites that have been identified as possible inclusionary sites for the balance of the obligation.

The first site is Parsippany Partners, the site that came before the Board for a concept plan on Edwards Road. That would provide 21 units. The density would be close to 14 units to the acre so if they are rental you get bonus credits. A municipality can not require rental vs. owned units but if you provide more than 12 units per acre you can assume rental units and get the extra credits.

The second site is NORDA/ADRON site on Fanny Road. This is a grey field possibly contaminated site to be developed which is something COAH likes to see, The site would require remediation but the town has been approached with that possibility. This too would qualify for the bonus credits based on the density.

The third site is the Loman Ford car dealership property. This property is adjacent to the Intervale Gardens so it would be appropriate for housing. All of this combined with the credits comes to 275 units, or a surplus of 1 unit over the obligation of 274. The property owner of this site also has approached the town about the possibility.

There is a spending plan for the Development Fee Trust Fund. This shows expenditures for Group Homes, rehabilitation and spending for affordability assistance leaving approximately \$2.5 million dollars.

The report gives more detail on the sites listed in the calculations. The Highlands requires that you do a consistency review for each site proposed. Site 1 (Edwards Road) currently have an environmentally constrained problem on the site with the adjacent wetlands and the required buffers. That could affect the property and the level of density on the site.

Site 2 (NORDA) has some environmentally constrained buffers but the goals of the Highlands goals including remediation outweigh that issue. The third site (Loman) does have some wetlands that separate the site from the apartments which may have some impact. In Mr. Snieckus opinion we should submit these sites and they we can go forward and make changes as we get to the questions. Also there may be regulation changes due to the Governor's plans and the pending litigation.

Chairman Parikh asked if they had looked at any sites that may not have the issues. Mr. Snieckus said there is a site on Rt. 53, the Andican site, where we could consider residential on the second floor. That is the sort of infill development that would be appropriate for housing. The Waterview site is a bit more controversial and Mr. Snieckus tried to avoid it, but it could be another site for mixed use.

The next step is to come back with a plan. We will have a special joint meeting on June 3 with the Council to present the plan and have public comment and hopefully adopt the plan and send it to COAH to meet the June 8 filing deadline. The plan will be filed with the Township and the County by May 24 and notice made to adjoining municipalities and the papers. Ms. Mader will send the plan out to the members when it is available.

Chairman Parikh asked for the Board to act on the resolutions on the agenda before taking a break. Mr. Keller made a motion to approve Non-Fair and Open Professional Services contracts for Burgis Associates and The RBA Group. Motion seconded by Mr. Burns. Ayes: Mayor Barberio, Ms. Bronfman, Mr. Burns, Mr. Keller, Mr. Mele, Chairman Parikh.

Mr. Keller made a motion to approve the minutes of the Meeting of April 12, 2010. Motion seconded by Mr. Burns, Ayes: Mr. Burns, Mr. Keller, Mr. Mele, Chairman Parikh.

Chairman Parikh called a recess until 7:30.

The meeting was reconvened at 7:33 PM. Roll Call: Mayor Barberio, Ms. Bronfman, Mr. Burns, Mr. Ferrara, Mr. Keller, Mr. Mele, Chairman Parikh. Also present; Ms. Rizzuto, Mr. Meth, Mr. Snieckus.

There was no one in the public wishing to speak.

The first item on the agenda is Maurice Sousa / Crossroads, Block: 770 Lot: 3, 181 New Road, Minor Site Plan / "C" Variance, Application # 10:505. Robert Garofalo represented the applicant.

Reports for the record;

Burgis Associates dated March 24, 2010

The RBA Group dated May 3, 2010.

Mr. Garofalo explained that the application is for three accessory structures in the parking lot for installation of solar panels. They will be canopies over sections of the parking lot of an existing office building.

Chairman Parikh interrupted to ask if anyone was present for the application for ADP on Waterview Blvd.

Mr. Garofalo called Patrick McClellan who was sworn and qualified as engineer. Chairman Parikh asked if there are any completeness issues and Mr. Snieckus said there are no waivers required as the applicant had responded to all items.

Mr. McClellan referred to sheet 1 of 2 as submitted. The property is a two story office building over one story of parking. There are a total of 151 spaces on the site. There are wetlands and buffer to the rear of the site. The building currently has 721 solar panels on the roof and the applicant want to extend that by three

arrays. The variances required are for the accessory structures and include the side yard setback for #1 and #3, 25 feet is required and 1 foot is proposed, and height with 15 feet permitted and 16.5 feet proposed. They propose the canopies over existing parking on the north side (panel #1), to the east in the rear (panel #2), and on the south side (panel #3).

The plan will leave the circulation around the building as it currently is and maintains the number of spaces. They have selected the locations to meet those goals. There will be an increase of 1023 panels. Panels one and two are on an angle directed towards the sun which allows for better light capture and rain and snow to drain. Panel 3 is flat at a height of 15 feet.

The Board Engineer asked about drainage and run-off. The drainage without the panels is to a storm sewer system on the site, so the plan is to provide small gaps between the panels themselves so run-off will go through to the pavement and that existing system.

The height of panel 1 is 16.5 feet to 15 feet. They are trying to maximize the efficiency of the panels. Array #2 matches the height of 15 feet and is 12.5 feet on the low side. That panel is not blocked as much by the building. Panel #3 is not blocked at all by the building so it can be flat at 15 feet. None will increase the impervious coverage of the site.

Chairman Parikh asked about adjoining lot 4. It has an existing dwelling and garage with landscaping along the line, being one tree and lower shrubs. The canopy of the tree is more than 15 feet.

Chairman Parikh asked how the panels are mounted. Mr. McClellan said the solar expert will answer that but they meet code.

Mr. Mele asked about the flat panel (#3) and Mr. McClellan said it is in the open and works better that way. Mr. Keller noted there is parking under panels 1 & 2, what about three. Panel 3 also has parking. Mr. McClellan said to get to any of the parking the driver has to drive under the building which has 8 ½ feet clearance so the lowest height of the canopies will be no problem.

Currently the dumpster area is on the east at the end of the access aisle and they will relocate that to an area closer to the building but still more than 15 feet from it. They are not proposing to fence the dumpster but they will discuss that question.

Mr. Snieckus noted the canopies are one foot from the property line. What about existing light poles. Mr. McClellan said they would be doing a detail; construction plan and that will cover that question but they do not intend to move any light poles. Mr. Snieckus asked if the panels have to be as large as they are. Mr. McClellan said the plan deals with a specific size panel. Mr. Garofalo said they will address that.

Mr. Meth asked if there would be lighting on the bottom of the canopies because the panels could interfere with the lighting patterns on the sight. Mr. McClellan said there is none proposed.

There were no questions from the public.

Mr. Garofalo called Samuel Paglianite who was sworn in and qualified as the solar consultant. Mr. Garofalo asked why the panels are so close to the lot lines. Mr. Paglianite distributed Exhibit A-1, a 2 page description by Peaq Solar Canopy. These are units like the ones to be installed. The reason for the overhang is there is a structure cantilever which is tipped to best collect the sunlight and allow cars to drive under the higher side.

Benefits of this type installation include incentives from the state and Federal Government. They currently use 400 kilowatt hours per year. The current system provides about 30% of that power. The new units will provide another 50 – 55%, so all of the arrays will not provide all of the need so all will be used on site.

Chairman Parikh asked if the canopy covers most of the parking spaces. Mr. Paglianite pointed out on the plan where the canopy is. The canopy is about 18 feet in length and the parking spaces are about 19 feet. The exhibit shows how the canopies can be lit at night. Chairman Parikh said he thinks they will need the additional lighting for safety and Mr. Sousa will comply.

Mr. Meth asked about the number of columns will be needed. It depends on the structure built. The two canopies 1 & 2 will connect so there will be columns on the sides.

Mayor Barberio asked about maintenance. They have to be cleaned three to four times per year and have regular checking of the connections and the converter. Mr. Keller said the plan shown shows lighting under the canopy so could they eliminate the light poles. They will study that idea.

Mr. Snieckus confirmed that the minimum height of all canopies will be 15 feet with 1 & 2 going to 16.5 feet. He asked if #3 will still meet the 15 feet minimum since it was said that it will have a slight tilt. Mr. Paglianite said it would. Mr. Snieckus asked about clearance for emergency vehicles since some of the overhangs seem to hang over the drive aisle. Mr. Paglianite said one of their primary concerns is just that so they maintain the aisles for emergency and maintenance vehicles and when the final construction plan is done they will check for that. Mr. Snieckus suggested clearance signs on the canopies. He also said the landscaping on the north side may have to be adjusted for the amount of light due to the overhang.

The purpose of the structure being so close to the property line is for the placement of the column to avoid the circulation areas. The cantilever is balanced. They could be made shorter if necessary.

Mr. Garofalo called Peter Steck who was sworn and qualified as planner. **Exhibit A-** is two pages of site photos. **Exhibit A-3** is a copy from the MLUL.

The excerpt from the MLUL is 40:55D-2 items j & n which cover the inherent benefits of energy resources. The photos are of the building and the area. One of the photos shows the neighbor to the north which is a warehouse with no windows on that side.

Mr. Steck said this is an existing developed property. The application is to retrofit for more solar panels, there are already panels on the roof. He said the canopies meet the definition of a structure but not a building which is defined as for occupancy. The office building conforms to the zone. This is an accessory use intended to support the primary use.

The State of New Jersey considers this type installation beneficial to conserve energy. A recent amendment defines beneficial uses and specifically names solar structures among other uses.

Mr. Steck said this case has both C-1 and C-2 components. The C-1 is the existing site so the locations have to meet the site for exposure and to avoid circulation. The C-2 is where the benefits outweigh the detriments. This is an industrial zone and the structures are not large visible constructions. They are already over impervious coverage, the parking lot, so there is no change there.

There were no questions from the public.

Mr. Keller made a motion to approve the Minor Site Plan / "C" Variance for Maurice Sousa / Crossroads, Application # 10:505, subject to the reports of Burgis Associates dated March 24, 2010 and The RBA Group dated May 3, 2010 and subject to the question of lighting being addressed with our planner and engineer. Also subject to a condition of requiring fully engineered structural plan with any changes to the site plan, and landscaping plan for review, specifically if changes have to be made on the north side due to exposure. Items to be covered include lighting, height of the structures and columns, location and screening of the dumpster. Motion seconded by Ms. Bronfman. Ayes: Mayor Barberio, Ms. Bronfman, Mr. Burns, Mr. Ferrara, Mr. Keller, Mr. Mele, Chairman Parikh.

Chairman Parikh announced that the Shawnee Homes, Puddingstone Ridge Developers Agreement discussion will be carried to June 14, 2010. The Forge Pond Subdivision has been affected by an ordinance we found that limits the number of units that can be built on the entire tract so the application is now a density variance and the Planning Board does not have jurisdiction. The case would have to be heard by the Zoning Board.

The Application for ADP, Application # 10:503 will be carried to June 28, 2010 with no further notice at the request of the applicant.

The other case on the agenda is **9 Entin Road Investors, LLC**, Block: 202 Lot: 9, Minor Site Plan / "C" Variance, Application # 09:523, Motion to re-open and Amend. Theodore Einhorn representing the applicant.

Reports for the record;

Burgis Associates dated May 11, 2010

The RBA Group dated May 12, 2010

Morris County Planning Board dated December 22, 2009 and May 7, 2010.

Also attached a letter from Theodore Einhorn dated April 1, 2010.

Mr. Einhorn gave background on the matter. The building received an approval three years ago to do some renovations. Since then the Real Estate market has been difficult and the managers of this building have found the type of tenants that the building was designed for, large tenants who would take whole floors, require more parking than allowed by our ordinances. Much of these changes have come about due to changes in space usage by companies who have more open space with cubicles etc. allowing more people per square floor of building space.

The application for more parking originally received a denial on December 21, 2009. In addition to asking for more spaces than allowed by ordinance, the property has a problem with wetlands so the only place to put additional parking is in the front along Entin Road. There was a report from the Morris County Planning Board dated December 23, 2009. His position is that the Board should hear his motion to re-consider based on plans that have been revised to comply with that report. His letter of April 1 cites cases to back up his request.

His position is that since the decision by the Board in December, even if it was an approval, would have been nullified by the requirements of the Morris County Planning Board and the changes they would have required. He said under such conditions the Board does have the power to re-open the hearing and review the application with the changes and possible amend their decision.

Mr. Einhorn requests that the Board grant his request and re-opens the case. They have provided notice to anyone who would have originally been given notice.

Ms. Rizzuto said we did have full hearings in December 2009. A motion was made and seconded and the vote was three to three which was a denial. She agrees that a motion can be made to re-opened and all members present are eligible to vote. There are three new members who did not hear the original case however the motion is based on change of circumstances and new information and revised plans, so they can sit on the motion to re-open and they the case if the motion is approved. She noted that the resolution of denial was not prepared and has not been presented to the Board because the applicant was in contact with her almost immediately with their intent to file for this motion.

There are several sections of the MLUL and cases stating this procedure is permitted.

Mr. Keller said he had voted for the application, but he asked if this meant there was anything wrong with the first vote and Mr. Einhorn and Ms. Rizzuto both said no there was not. Mr. Keller asked if there were substantial changes and Mr. Einhorn said there were quite a few changes and there are changes required by the county. They still need a variance as to the number of parking spaces, the parking in front and the sign variance for the sign placement.

There were no further questions from the Board or the public. Mr. Keller made a motion to re-hear the application for 9 Entin Road Associates, LLC, Application # 09:523. Motion seconded by Mr. Burns. Ayes: Mayor Barberio, Ms. Bronfman, Mr. Burns, Mr. Ferrara, Mr. Keller, Mr. Mele, Chairman Parikh.

Mr. Einhorn called Michael Taylor who was sworn in. Mr. Taylor is the property manager and partial owner of the building. He has been at that site since 2006.

The building is approximately 200,000 sq. ft. with three stories. Three years ago they got an approval to move the entrance to the “back” of the building so it does not face Entin Road. The building is a triangle with the longest side facing Entin Road.

They have been marketing the building for about two years since they received notice that the last tenant would be moving. They have not been able to rent and the former tenant has now left. One problem they found in renting the space is parking. It is not adequate for larger tenants. They have large floor plates which accommodate larger tenants since you really can't cut the floor into less than half which is still 45,000 sq. ft.

There is also a variance for signage. The proposal is for a sign on the third floor level facing Rt. 287 for visibility. The height is 35 feet due to the distance from the highway due to the wetlands. That is the location of previous signs. He does not know what the sign would be, it would be for the major tenant and conform is all aspects except height and location.

There were no questions for Mr. Taylor from the Board or the public.

Mr. Einhorn called Gregory Polyniak from Neglia Engineering who was sworn in and qualified as engineer and planner.

Starting with the engineering, the proposal is for an additional 207 spaces through out the site. There will be 110 spaces along Entin Road, Lot A has 44 spaces, Lot B has 35 spaces and Lot C will have 31 spaces. They eliminated Lot D of 49 spaces from the plan. The landscaping remains.

The changes due to the MCPB report include lot D is gone, there will be no structural Stormwater management but rather non-structural methods within the detention basin. The area in the basin is to be planted to remove sediments prior to run-off going into the wetlands. There are concrete channels in the existing basin which will be removed and replaced by a stabilized lawn surface low flow channel. Along the Entin Road frontage they will add a meandering walkway. The neighborhood does not have sidewalks but this could be a start.

Mr. Polyniak said the reason for the parking along Entin Road is the location the wetlands to the east and west sides of the property. That only leaves the front yard setback.

The RBA report of May 12, 2010 includes questions on the Stormwater management and cites site deficiencies. Mr. Polyniak said they can supply all the information requested and they can comply. He also reviewed the May 7, 2010 MCPB report. The two comments are typos on the plans and will be corrected.

Mr. Taylor came back. When they came in for the previous application there was discussion with the then Fire Chief. At that time the Board wanted to delete the driveway that comes to the front of the building because it would be confusing to have the entrance in the rear. The Fire Chief wanted the drive to remain because the café is in the front of the building and he wanted clear access to that area.

Mr. Meth suggested a “loop” road through the lots in front to avoid dead end islands in the lots. They have striped areas in the lots for turns. They agree it would be great but the fire chief wants the driveway to remain as shown on the plans.

To address the visibility of the lots from Entin Road they have provided extensive landscaping and a berm system to block visibility. In front of each lot and on the sides there are plantings to block the view from the sides. There is a landscape buffer along the detention basin also. Mr. Polyniak prepared cross sections for each lot to verify that the headlights in the lot will be lower than the berm so with the plantings you won't even see the cars.

Across the driveway is Township Property with homes on Jacksonville Road backing up to it. The applicant will do plantings on the Township property. They will pay for the planting and put them in and the Township will then maintain them.

Mr. Einhorn said there is a traffic report which has been submitted but his traffic engineer could not be here tonight. Mr. Meth, who reviewed the report, said there is no square footage being added but more parking. This is an intensification of the site. The amount of additional parking has been reduced from the original submission. He said the main area of impact will be Sylvan and Entin Roads. There is an easy solution, giving people on Entin their own right turn lane onto

Sylvan. That will open up the back-up. He said the 40 to 50 new trips do not require a traffic expert.

As an Engineer Mr. Polyniak said this is a less intensive proposal and it is necessary to re-tenant the building. They will have one space per 221 sq. ft. of net office space.

As a Planner he discussed the variances. The parking in the front is a C-1 variance due to the wetlands on the site. They present a hardship. The lots to the north on Entin have parking that appears to be in the front with no buffer. He sees no negative impact.

The number of spaces is a C-2 variance. Currently they have one space per 292 sq. ft. and they propose one space per 221 sq. ft. This building is geared for large tenants who require more parking so for the building to function as intended the variance should be approved. He said there is no precedent set as this site is individual with criteria that do not affect other sites. There is no negative impact.

The sign location variance is for the third floor façade which is over the height maximum and is located on the rear of the building. The site location is for visibility from Route 287, which helps people locate the site, and it will not be visible from the residential adjoining the area. The height is for visibility across the wetlands between the building and the roadway.

Mr. Keller asked for confirmation that the sign itself would conform and Mr. Polyniak said the sign itself would except for the location and height. The net addition of parking spaces is 207 spaces, 97 in the front three lots and 110 in the rear existing lots. That is 98 above the amount allowed by code.

Mr. Meth asked if the concern of the Fire Chief was for vehicle access to the front and Mr. Polyniak said he believed so and to insure there was a free traffic pattern to that area. Mr. Meth asked if the lots were connected and as long as the drive aisle was wide enough for an emergency vehicle would that be enough. Mr. Polyniak said that would permit vehicle access and could park in areas that would impede the emergency access. Mr. Burns added that it will give them room to set-up aerial equipment.

Mr. Snieckus asked if there is a grade differential between the front lots. Mr. Polyniak said that could deal with that but the Fire Chief wanted the set-up they have on the plans. There is room at the end of the lots to permit turns for exiting the lot. Mr. Snieckus also asked if there would be designated visitor parking near the entrance in back which would avoid more traffic in the front lots. Mr. Einhorn said they agree with the recommendation.

Mayor Barberio said his concern is for the residents on Jacksonville Road and Mr. Polyniak agreed they are addressing that with their own buffers on the site and the planting that are willing to do on the Township owner property.

There were no further questions from the Board or the public.

Ms. Bronfman made a motion to approve the Minor Site Plan / "C" Variance for 9 Entin Road Associates., LLC, Application # 09:523 subject to the reports of Burgis Associates dated May 11, 2010, The RBA Group dated May 12, 2010 and the Morris County Planning Board dated December 22, 2009 and May 7, 2010. Also subject to the signage to comply with the code except for height and location. Motion seconded by Mr. Burns. Ayes: Mayor Barberio, Ms. Bronfman, Mr. Burns, Mr. Ferrara, Mr. Keller, Mr. Mele, Chairman Parikh.

For the next case, Patricia Campbell, Douglas Kinz the attorney came forward and explained that neither his planner nor engineer were available. He asked for the case to be carried to the next meeting. Chairman Parikh said the case will be postponed to June 14, 2010 with no notice required. Mr. Kinz said they agree to any extension required.

The meeting was adjourned at 9:45 PM.