

PLUMSTED TOWNSHIP LAND USE BOARD

September 1, 2015

The regular meeting of the Plumsted Township Land Use Board was held on Tuesday, September 3, 2015 at 7:30 p.m. in the Municipal Building with the following members present:

<u>X</u> Walter Bronson, Chairman	<u>X</u> Eric Sorchik
<u>X</u> James Dowd	<u>X</u> Jack Trotta, Mayor
<u>AB</u> Wendy Galloway	<u>AB</u> Dominick Cuzzo, Alt #1
<u>AB</u> Ronald Dancer	<u>X</u> David Leutwyler, Alt #2
<u>AB</u> Douglas Hallock, Vice Chairman	<u>X</u> Robert Bowen, Alt #3
<u>AB</u> Robert Hardy	<u>X</u> John Neyenhouse, Alt #4
<u>AB</u> Vincent Lotito (Designee)	<u>X</u> John Mallon, Engineer
<u>X</u> Glenn Riccardi	<u>X</u> Gregory McGuckin, Attorney

Attorney McGuckin read the Open Public Meetings Act. A motion to approve the minutes of the regular meeting of May 5, 2015, Special Meeting of May 19, 2015, regular meetings of June 16, 2015 and July 7th, 2015, as mailed/e-mailed was made by Mr. Riccardi and seconded by Mr. Leutwyler. Carried by roll call vote with Mr. Sorchik and Chairman Bronson abstaining.

RESOLUTIONS: None

AGENDA: New Business

Block 79, Lot 11 Reina-Ruggiero, Final Major Subdivision:

Buckalew Lane and Holmes Road

Mr. John DeVincens, from DeVincens and Associates representing Lisa Reina-Ruggiero introduced himself to the Board. Mr. Mallon read his review letter, dated August 4, 2015, of the application received for the preliminary and Final Major Subdivision approval for Block 79, Lot 11, Buckalew Lane and Holmes Road, New Egypt, NJ. Applicant has a certificate of filing on record from the Pinelands Commission. Not in the letter is a notation that the applicant was at the Township in 2011, presenting a conceptual plan to the Board. The Board at that time elected for the applicant to go with a cluster of housing rather than using large lots. But informed the applicant that Pineland approval was needed to proceed. The applicant is proposing to subdivide the property into 5 lots, dedicating rights-of-way to Plumsted Township to accommodate Buckalew Lane and Holmes Road. The existing paved roadways will remain the same to minimize tree clearing. Of the proposed building lots, three will be one acre of land facing Buckalew Lane while the fourth located at the intersection of Buckalew and Holmes will comprise a total area of 7.218 acres with 1.033 acres of buildable land and subject to an 8,936 sf roadway easement and a 5.98 acre conservation easement. Shade trees will be provided along the frontage of the building lots. The fifth lot will be the entire remaining area of the site located east of the proposed Holmes Road right-of-way and will be deeded to the State of New Jersey for conservation purposes.

The applicant asked for numerous variances and waivers listed in Mr. Mallon's letter under section "B". Mr. Mallon stated that it should be noted that the applicant did submit the environmental questionnaire. Curbs and sidewalks are required for all lots. The applicant may elect to voluntarily contribute to the Township Curb and Sidewalk fund in lieu of installing curbs and sidewalks. Numerous design waivers should be provided and requested.

Mr DeVincens stated this is a complicated design development scheme considering the property is over 14 acres and can only be 4 residential lots. Even though the fifth lot is designated to be a conservation zone. Mr. Bruce Jacobs was sworn in as plan engineer for the applicant. Sheet 2 and 3 of six from the plan set was displayed and discussed by Mr. Jacobs. They show the different easements and right-of-ways that are on the property. The property is located in the RD-1 zone. The parcel is one large parcel. Buckalew Lane meanders through the property. There is no right of way for the property and the same goes for Holmes Road. There is no defined right-of-way on private land. No dedicated right of way and the roadway has been paved. The property is vacant and wooded with a little area on corner of Holmes road and Buckalew that was cleared at one time. The property is bounded to the west by single family dwellings, across the street there and to the south are single family dwellings. On the east we have Colliers Mills wildlife management area. Again going to the north we have more single family dwellings on one acre lots. And immediately to the north there is the residential trailer park as well. The roadways of Holmes Road and Buckalew create a unique situation. Part of the discussions we've had with both the Township and Pinelands Commission, the right of ways can be configured so as not to have adverse effect on the adjoining property owners that front on that road. As well as the area on the Colliers Mill reserve side, lot 11.05 that's isolated. We proposed a 40' foot wide right of way along the southerly property line and then straddling the same thing on Holmes going in Northerly direction. A dedicated roadway conforming to Ordinance and RSIS of 40' wide. Because the way the roadway meanders and would cut into one of the proposed building lots, we propose a roadway easement. Reasoning to propose the easement instead of relocating the road down to where it would be if it were to be straight, there is a lot of steep terrain and is heavily wooded with large trees which we do not want to disturb them by relocating the road. So the road will be left in the same position with some improvements and widening.

Part of the conversations with the Township and Pinelands discussed how many developable lots can be created. Part of the reason for the variance, proposing four buildable lots, a fifth lot across the street which is isolated, the wetlands line is along the easterly property line and is part of the Warden's Mill brook and is wetlands associated. Pineland's requires a 300' buffer which extends a little bit into the Holmes road area. In discussions with the Pineland's looking at their requirements, they look at it from a point of view of the tract is 14.08 acres divide that by 3.75, which is the area required by the municipality per lot, you get four units. The ordinance goes a bit further than that. The pinelands allows four, the Ordinance goes in and you would have to subtract out the right of way areas. Because of the unique shape of the road and how it meanders through the property, you would have to take away quite a bit of property and hence we request that there's some relief in granting the density to be four units. We are proposing four units of approximately one acre each. That would be the developable area. The remaining acreage would be placed in a conservation easement. Pinelands has requirements that you can't exceed 1.1 acres with the average between all of them. Our average is 1.02 acres. The conservation easement will be 5.98 acres. The reason why the conservation area is configured the way it is for lot 11.04, is because Pinelands wanted one of the lots to include the conservation area in development. They also wanted the conservation area to be as contiguous as possible to the lot which will be deeded to the state. Lot 11.04 received all the extra land which has frontage along Holmes Road and will be basically contiguous.

Storm water will be handled by dry wells. Pinelands ruled that the applicant didn't need to do an elaborate storm drainage system in this particular development because of the number of houses.

Consequently dry wells will be adequate to handle storm water runoff. Mr. Mallon commented for a concrete drywell to be used as opposed to a stone dry well to allow for more volume.

The difference of permitted density of housing within the pinelands versus Plumsted Township, the cluster provision of the pinelands requires houses to be built on one acre and leave the remainder in conservation. The township under its Ordinance permits 3.7 units per the tract and the applicant is requesting a variance for the fourth unit. A recreation amenities are required for cluster development, whereas no recreation amenities have been proposed. However, the project adjoins the Colliers Mill Wildlife management area which has recreational facilities associated with it. We believe by deeding this that it could be considered to be part of the contribution of recreational facility.

The aerial shot is numbered as A-2. Gives us an idea of the wooded area on the site. Design waivers are listed in the letter. This particular type of development does not warrant to the same extent as a larger subdivision would. Buckalew Lane dips to where it meets Holmes Road. What we propose to do is to put an inlet on the low side of the intersection and connect it to the existing storm drain that flows towards the conservation area. The applicant is amenable to contributing to the Township curb and sidewalk fund in lieu of installing them on location.

Mr. Jacobs stated that being there is a lot of space in between the roadway pavement and the right of way. They will submit they can plant the shade trees in that area and in other areas leave the trees that are there. We request they would not need to provide a shade tree easement. Mr. Mallon's letter suggests that General Note #24 should be expanded to state that the planting of proposed shade trees is permitted in the wetland buffer. The applicant requests a waiver to providing a wetlands map. Being that a good part of Colliers Mill is wet and we delineate the wetlands on the property and there's no other wetlands other than the Colliers Mill area. The applicant agrees to put the spot elevations, ask for waiver to provide a site context map, a woodlands preservation map. The plan shows basically all that information on there. Along with the waiver from providing fire protection water storage. Mr. Mallon is requesting a street light on the utility pole at the intersection of Holmes and Buckalew Lane.

A short break was called so Mr. McGuckin could to speak with Mr. DeVincens about a legal matter. Chairman Bronson noted that Mr. Cuozzo joined the meeting at the beginning of discussion of this application. Mr. McGuckin stated being this is a major subdivision with a density variance for four lots is technically a "D" variance. Under the municipal land use law a "D" variance, certain members of the Board are not permitted to sit in on the applications hearing. All elected officials or the class II appointee would not be able to participate. The applicant needs 5 affirmative votes in order to receive an approval. Before those Board members were asked to leave, Chairman Bronson asked a question on the calculation on the variance. The overall property area divided by the number of lots would yield four as an allowable density. Are we required removal of proposed right of way before the calculation is made. Mr. Mallon stated that was correct and clarified that is what brought it down to the 3.7. The ordinance looks at the calculation that way, not the pinelands. Being this is a density situation only 7 members can sit to hear the application. Mr. DeVincens asked if there was 6 members available to hear the application tonight. Mr. DeVincens needs at least 5 members to vote of 7. Mr. DeVincens asked

if one of the qualifying members that is not in attendance could listen to the tape before the next meeting so his client is not at a disadvantage to obtain a vote of 5 out of 6. Four qualifying members were not in attendance that would be eligible to listen to the tapes. The members in attendance that did not qualify were dismissed and all agreed to ask the qualifying members not in attendance to come in to listen to the tape. (The Board secretary has signed statements from Mr. Hallock and Ms. Galloway on file as to when they listened to the tape.) Mr. DeVincens asked to continue with the hearing.

Mr. Jacobs said they will comply with additional drywells for the drainage and use concrete instead of stone beds to allow for more volume. Concern about driveways and the drainage was brought up by Mr. Mallon. Mr. Jacobs said they propose stone trenches along both sides of the driveways. Plat details C. #1, 3, 4, 5 and 6 are inseparable. Clarification of #2, "ordinance", should be orders regarding noise and odors pertaining to fort dix, farms, and the speedway. This clarification should be listed in the deed and in the contract at point of sale. It will also be listed on the map.

On the maps, another type of marker will be used instead of a monument as listed on page 4 of Mr. Mallon's letter (sheet 3) #1. In #2, the conservation easement marker should not be positioned on lot 11.05 as it is being dedicated to the State of New Jersey. Moving on with page four. Mr. Jacobs was asked if where it says Final Map if #1, 2, 3, 5, 6, 7 and 8 were acceptable and would be filed, approved by plat. On #4 of the Final Map details, Mr. Jacobs agreed to identify the acreage on each individual lot. Discussion of the close proximity of the lots to the New Egypt Speedway would be in full disclosure on the map and note 11 should be amended to include the word odors.

Outside agencies such as the New Jersey Pinelands Commission certificate of filing which was issued on May 5, 2014 would be marked in as exhibit A-3. Ocean County Planning Board approved the application subject to a condition of an LOI. A letter from Soil Conservation was received a letter with some minor comments on it. The Ocean County Board of Health for the wells and septic's was approved for the general subdivision. Plumsted prior approvals concerning the MUA, Environmental Commission and Fire Commissioner the applicant has not received any comment to date.

Everything that was in Mr. Mallon's letter to the applicant all were issues were addressed. For the record Mr. Jacobs wanted to mention in regards to the density variance, Believes that it's an appropriate use of the site and an appropriate density. That there is adequate provisions under the R-40 requirements. That there will be adequate light air and open space, there will be no detriment of the public good with the granting of the density variance. This is consistent with the surrounding area in the one acre size.

Chairman Bronson wanted to know if there was any objections to the comments made by Mr. Mallon. The applicants stated no they agreed to do all that was asked. Mr. Mallon wanted to know the composition of the driveways. He would like to see 2" of blacktop on top of 4" of stone for each driveway.

Mr. Neyenhouse asked a question that the environmental commission had about the waiver having to abide by the rules of the woodlands protection ordinance. Mr. Neyenhouse stated that the applicant did not provide enough detail to see if what they are providing is acceptable. One item in particular is the clearing of any trees or woodlands should be limited to a maximum of a

25' clearance around the structures unless there's approval due to specific circumstances such as septic systems, well installation, driveway parking lots etc. There's a number of locations that the clearing exceeds the 25'. Such as in lot 11.02 to the rear of the property, and lot 11.04 to the left of the proposed dwelling. Is there any substantial reason for clearing 40 feet? Mr. Jacob's responded that they can reduce the area down to 25' but was leaving the area on lot 11.02 open for the well. Mr. Jacob's said that in the Pinelands he also looks at fire safety. Mr. Jacobs stated that he will reduce it down to 25' feet is that's what the Board wishes but he needs to leave the area clearing in the area for the well and provide for the spacing of the drywells and septic system. Lot 11.04, the area on the south side the slopes are a bit steeper and the aerials show that this area is partially wooded and the successional forest coming back. To the south of the building the clearing is only at 30 feet. Mr. Jacobs thinks that this plan generally follows the ordinance. He reminded that the plans are a general layout as he does not know the size of the houses to be built. They are general grading plans as to how he thinks it will work. Chairman Bronson disagreed, he feels the plan shows almost universally to exceed 25 feet of every side of every house. Chairman Bronson asked Jack Mallon if he agrees with Mr. Jacobs that it's needed for fire safety. Mr. Mallon says it's a matter of opinion. Some of the Southern townships look at 40 feet. Jack says the standard he always uses is 25'. He has seen on other Pinelands areas to use the 40 feet for the fire problem. Mr. Neyenhouse commended the applicant to conserve the natural wooded areas. Since the applicant is requesting a waiver from the other requirements of the woodlands ordinance, than he would like to see that the plan follows the idea behind the woodlands ordinance. Mr. Jacobs said the clearing areas will be reduced down as much as they can and still provide the separation required by the health department. Mr. Mallon said they will put this into the resolution therefore when the plot plan comes they follow the resolution.

Requirement for environmental impact statement. Being this is a Major subdivision and Pinelands is controlling much more than the township is. They are conserving eight acres of the fourteen which is being preserved. The environmental commission's concern was the amount of woodlands being removed. Mr. Mallon said the amount of clearing is needed per home for driveway, well, septic and groundwater discharge area. That's what happens when you develop. The existing road is being left alone and not being changed because more trees would have to be cleared to do so.

Mr. Mallon suggested at plot plan time, the individual lots will be required to do tree location and save specimen trees. The requirement on the grading plan will have to locate the trees of 10" in diameter and every effort should be made to preserve any specimen trees that are found.

Chairman Bronson said they are going to mark the Conservation easement that is on Lot 11.04 all the way around, 100' on center in each change in direction. On Lot 11.05 the recommendation to waive the requirement and post one sign out front to let people know the area is state conservation and preserved land instead of the conservation markers used on lot 11.04. A drainage easement will be established to take the road run-off. The existing course of drainage will be established as the drainage easement.

Open to the public for discussion:

Linda Hughes, of 32 Holmes Road was sworn in to discuss the drainage easement encroaching on the south side of the project which affects her farm. She was informed by attorney McGuckin that the applicant is required to ensure, maintain and control any drainage per lot and not to add to the

existing roadway. Mr. Mallon stated that along the driveways that come out along the roadways a stone trench on both sides will be in place to collect the driveway runoff.

Louisa Erich-Carr of Holmes Road was sworn in. She asked why the roadway was going to be 50' wide. Mr. Mallon corrected that it is the right-of-way will be 50' on Holmes and 40' on Buckalew. The roadway will stay the same pavement width.

Mr. Larry Toth was sworn in and asked if the proposed dwellings will be consistent with the area? His other concern is the driveway from lot 11.02 is directly in front of his house. Mr. Mallon asked if Mr. Jacobs would make a requirement for that lot to have the driveway be on the east side of the property. Mr. Jacobs concern is that the east side is steeper and other environmental considerations will have to be met with a steeper driveway. Mr. Jacobs said they also tried to leave woods in front along the street. Mr. Toth's concern that the lots should be larger to be consistent with the area. Chairman Bronson said the Board would prefer to have this type of small cluster of houses and more land be preserved and undisturbed. The number of homes would not change.

Area residents, Carl Mohr, Michael Seiler, Donna Dey and all previous that spoke oppose the subdivision. They want the area to remain as it is or for the lots created to be larger. Ms. Dey questioned what's to stop a lot owner from clearing all the trees even though the plan is to only clear 25%? It was explained that the clustering of housing on the one acre lots will prevent the remaining back piece accessible for it to be cleared by turning into a conservation area designated to one of the building lots. Her concern is that a possibility of the four buildable acres have the potential to be cleared. The plan shows a modest area to be cleared for the homes with the same as any other lot on Buckalew as well as any setbacks for these lots in the Pinelands. Mr. DeVincens said that out of the 5 various conceptual plans discussed with the Board and Pinelands Commission, this is the best suitable option.

Linda Hughes had a final question for the Board. If this is such an appropriate use within the township, why are there so many waivers and variances being sought? Linda feels that the application for one acre lots with homes, isn't common to the area. Louisa Erich-Carr commented that these four homes with the possibility average of three children per household will cost the Township approximately \$45,000 per child to send to the schools. Mr. McGuckin said that the Board could not consider that when making its decision. The Board can only do what's permitted by ordinance, and this is a permitted use in the zone. If the Board were to consider that, it would be inappropriate and a violation of the law to consider how many children would be coming from a permitted residential development.

Chairman Bronson closed to the public.

Mr. DeVincens asked Mr. Mallon what the present status of Buckalew Lane is. Mr. Mallon answered it is partially a public right-of-way in the area of the application, there's no dedicated right-of-way. Chairman Bronson asked Mr. DeVincens if his client looked into woodland preservation. Mr. De Vincens said they were trying to follow the directions for what the Board wanted the applicant to follow back in 2011. Nothing at that time was decided, and out of all the

proposed options, the Board thought that this plan was the best attractive one, however the Board did not decide on the application without public comment. Mr. Mallon asked if when they went to the Pinelands, did they show them multiple varying options? Mr. Jacobs said the plan they presented to the Pinelands was very similar to the one proposed at tonight's meeting with a few minor corrections on the plan. The Pineland's has only been shown the small cluster situation. None with the larger proposed lots. Being that in the conversations with Ms. Montgomery from the Pinelands Commission she indicated to stick close with the one acre clustering plan.

Mr. Neyenhouse asked if a condition of no impervious surface for the driveways such as gravel so to help with the runoff and drainage onto Buckalew Lane.

Mr. DeVincens asked if the hearing could be continued to the October 6th meeting with no further notice is required. Due to the number of voting members present tonight, an attempt to have other members of the Board listen to the testimony that was provided so we have a full complement when the board makes its final decision.

INFORMALS:

Mr. Cuozzo recused himself as he is involved with the informal. Mr. DeSai and Dr. Mooni Shaw, local dentists from Pyramid Plaza on Maple Ave. are inquiring about the former Bible Baptist Church on Magnolia Ave. could be converted into a dental office? Being that the reassessment of the Master Plan to include the extension of the C-4 zone in some areas would possibly extend and include that property. The main floor would be reception and operatory, the basement staff lounge and private use. The upper floor at some point could be rented out as an apartment space. Mr. Mallon said that the C-4 Zone permits business/commercial on the main floor and living space above is a permitted use. There is already dedicated parking spaces for 30 vehicles. At this time unless the Ordinance changes to include that property as part of the C-4 zone, a Use Variance would have to be obtained. Five votes from the Board with established proofs that this Use is needed. If the town doesn't change the zoning then the applicant would need a Planner, and an attorney at minimum to present the application. Mr. McGuckin stated that depending on how soon the applicant would be ready to present and also if the Board decided to change the zoning, they would still have to come back to the board but with the zoning change it would be an easier sell. The process for the zoning changes is still 2-3 months away because we have had to change Planners. In all likelihood the changes wouldn't be in effect till next year. Mr. Bronson said that if the applicant wanted to proceed immediately they would have to apply for the Use Variance. Chairman advised them to talk to professionals and to make the sale contingent on getting the Board's approval. The Use Variance can be applied for without getting a full site plan. Mr. Mallon advised that if they go for a change of use of this site then the septic system would have to be certified for that new use.

ANNOUNCEMENTS:

Chairman Bronson made the announcement that the township's Planner does business with the redeveloper who is working with the Township on the PRRC and they have a conflict of interest. The township is going to appoint a conflict Planner from T&M. Chairman also said that he would like to have a Planner on the Board for Major applications and for questions the Board might have. Mr. McGuckin said that the Board can hire a planner provided at the beginning of the year

one is appointed along with the other professionals and to charge the escrows is one way to do it. The other option is to name the engineer and the planner from the same firm and have the planner available for particular applications. Mr. McGuckin said a planner was not advertised for at the beginning of this year so the Engineer's office Planner may not be used. Under not fair and open process, where we would not have to do an RFP, the possibility for the balance of the year for the Township to retain the interim Planner. The Ordinance has to permit the escrows to be charged for these services. Chairman stated that unless there was no urgency to any applications, the need for the Planner can be pushed off to 2016.

Chairman Bronson asked if there was any further business to be brought before the board. Being none, a motion to adjourn was made and seconded. Carried by all ayes.

Respectfully Submitted,


Joan Gruca

