

A meeting of the Township of Hamilton Planning Board was conducted on the above date with Chairman David Wigglesworth presiding. Members present were Harry Bilicki, Charles Cain, Richard Cheek, Wayne Choyce, William Christman, John Kurtz, John Percy and Heather Tomasello. Alternate member present was Dave Adams.

Compliance with the Open Public Meetings Law was acknowledged.

Approval of Minutes – Mr. Christman moved, seconded by Mr. Kurtz, to approve the minutes of the meeting of May 5, 2011, as published. SAID MOTION CARRIED WITH EIGHT MEMBERS VOTING “AYE”, NO “NAY”, ONE “ABSTAIN”.

Railroad Estates, LLC, Hamilton Crossing, Phase One – Thomas Darcy, Attorney, and Richard Hollander were present.

Mr. Darcy reviewed the approval history of the Hamilton Crossing Project, and stated that the Applicant was seeking a second extension of the time period within which the conditions of final approval for Phase One had to be satisfied. He noted that the first extension had been for three hundred sixty days, and he requested that the second extension be granted for the same time period.

Mr. Darcy advised that the Applicant had received a “No Call-up Letter” from the Pinelands Commission and had satisfied the conditions of the approval, with the exception of posting the performance guarantee.

Mr. Darcy explained that the Applicant had been marketing the property, with no success, and would need more time due to the dire economic condition. He commented that the Applicant had been forced to change careers and did not, presently, have the funds to proceed with the project. It was Mr. Darcy’s opinion that the situation was an extreme economic hardship.

Mr. Darcy pointed out that there had been no zoning changes in the area where the project was located.

Mr. Filippone reported that he had worked with the Applicant to address the conditions of approval, including writing a letter to satisfy the Pinelands Commission, and he stated that all of the conditions the Board had imposed were satisfied.

Mr. Polistina concurred with Mr. Filippone, and commented that there was little activity with regard to the purchase of residential properties due to the economy. He stated he saw no problem with the Board granting the Applicant’s request for an extension.

Mr. Carey reported that the issues raised in his report had been addressed.

In response to a question of Mr. Cain, Mr. Rosenberger advised that granting the extension would not set a precedent, but he commented that would not stop an applicant who was seeking the same extension from pointing out that it had been done for this Applicant.

Mr. Rosenberger advised that the Ordinance permitted the Board to grant the extension, and doing so would raise no legal concern unless there was reason to believe that the zoning would change.

Mr. Rosenberger, also, advised that the Board could consider a shorter period of time for the extension if it felt three hundred sixty days was too long a period.

Board members asked questions, to which responses were provided.

Mr. Choyce moved, seconded by Mr. Cain, to grant a second three hundred sixty day extension of the time period within which the conditions of final approval had to be satisfied for

Phase one of the Hamilton Crossing Project, Application No. 2009-005, pursuant to Land Use Ordinance Section 203-107. E.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Adams – Aye
Mr. Bilicki – Aye
Mr. Cain – Aye, based on the comments of the Board’s professional consultants and the discussion that took place.
Mr. Choyce – Aye, He noted that the Applicant was still attempting to move forward, even in the current, difficult economic climate
Mr. Cheek – Aye
Mr. Christman – Aye
Mr. Kurtz – Aye
Mr. Percy – Not present
Ms. Tomasello – Aye
Mr. Wigglesworth – Aye, because the Applicant had not abandoned the project, the project was a good project in a good location and it would be good for the Community.

SAID MOTION CARRIED.

Bonnie Cherry (Certificate of Appropriateness to Demolish Structure Over Fifty Years Old) – Bonnie Cherry was present.

Ms. Cherry informed the Board that she was seeking a Certificate of Appropriateness to demolish a dwelling that is over fifty years in age, located on 37 in Block 209, in order to reconstruct a log home.

Ms. Cherry testified that the dwelling had originally been constructed sometime in the 1950’s; that it was originally constructed as a summer/weekend home; that it was eventually occupied as a year-round residence for her grandparents; that the dwelling would be completely removed, including the foundation; that the dwelling is presently vacant; that she would be reconstructing the dwelling in the very near future; that she consolidated Lots 36 and 37 to accommodate the new dwelling; that the septic system would be replaced; that there was no asbestos in the dwelling; that there is an existing above-ground oil tank that had replaced an oil tank years ago; that the new structure would be approximately the same size as the existing dwelling, but would have a full basement; and that she preferred not to renovate or construct an addition to the existing dwelling due to its layout, the way it was originally constructed and the foundation condition.

Ms. Cherry was advised to check with other agencies having jurisdiction over the site, with regard to reconstruction, as it was located adjacent to the Great Egg Harbor River.

Mr. Choyce moved, seconded by Mr. Cheek, to issue a Certificate of Appropriateness to Bonnie L. Cherry to permit demolition of the structure located on Lot 37 in Block 209, based on the testimony provided by Ms. Cherry and the information provided with the application.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Adams – Not eligible to vote
Mr. Bilicki – Aye. He said he visited the site and felt it was a good idea what the Applicant was trying to do.
Mr. Cain – Aye
Mr. Cheek – Aye
Mr. Choyce – Aye
Mr. Christman – Aye
Mr. Kurtz – Aye
Mr. Percy – Aye
Ms. Tomasello – Aye
Mr. Wigglesworth – Aye

SAID MOTION CARRIED.

Charlo, LLC, River's Edge – Mr. Wigglesworth announced that the completeness hearing scheduled for Charlo, LLC, River's Edge, has been withdrawn from the agenda at the Applicant's request and will be rescheduled at a later date.

Designation of Historic Preservation Commission to Review Applications – Mr. Cain moved, seconded by Mr. Cheek, to delegate the authority to the Township of Hamilton Historic Preservation Commission, pursuant to Land Use Ordinance Section 203-209 B. (2) (c), to issue Certificates of Appropriateness for those development applications within the Township of Hamilton Historic District that are not associated with applications for site plan approval.

Mr. Adams – Not eligible to vote

Mr. Bilicki – Aye

Mr. Cain – Aye

Mr. Cheek – Aye

Mr. Choyce – aye

Mr. Christman – Aye

Mr. Kurtz – Aye

Mr. Percy – Aye

Ms. Tomasello – Aye

Mr. Wigglesworth – Aye

SAID MOTION CARRIED.

Authorization to Proceed with Proposal for Work to Comply with Amendments to Pinelands CMP – Mr. Polistina referred to the proposal he had prepared to re-examine and amend the Master plan to comply with the amendments to the Pinelands Comprehensive Management Plan which provides for clustering in the Forest Area and the Rural Development Area.

In response to a question of Mr. Bilicki, Mr. Polistina stated that this re-examination would be separate from the requirement to re-examine the master plan ever ten years, which had been every six years until recently, and he pointed out that the last re-examination report the Board had adopted was in 2006.

Mr. Polistina explained that, if the Board amends the Master Plan to provide for the clustering, the Township would not be required to provide notice to property owners within the affected area and within two hundred feet of the affected area, and it could proceed with amending the Land Use Ordinance by providing the notice that is normally required for adopting ordinances. He noted that there would be considerable savings with regard to expense and employee time.

Mr. Bilicki questioned whether the proposed re-examination would address the requirement to re-examine the master plan and result in the ten year period beginning on the date it would be adopted. Mr. Polistina stated that if there would be a finding that the Master Plan was evaluated, and that the Township would not be making any changes except for those involving the clustering in the Forest Area and Rural Development Area, then it would probably satisfy the requirement for re-examination; but he had been under the impression that the Board was interested in making other changes.

In response to a question of Mr. Cain, Mr. Polistina stated he anticipated that it would take approximately ninety days to complete the process. He advised that the Pinelands Commission had provided a model ordinance, and the Pinelands Staff would be working with his office throughout the process, but he wasn't sure that the Board would want to do everything that was contained within that model ordinance.

Mr. Polistina stated that there was no deadline imposed by the Pinelands Commission, at this point in time, but the problem that would be encountered was that any subdivision approval granted by the Board creating lots that were consistent with the zoning would be "called up" by the Pinelands Commission because the approval would be inconsistent with the CMP standards.

Mr. Cheek asked what the additional cost would be and whether it would be to the Board's advantage to do both the re-examination for the clustering provision and the periodic

re-examination at the same time. Mr. Polistina acknowledged that it would be cheaper to do both at the same time, but the time frame would have to be considered. He pointed out that it would take a considerable amount of time to do a periodic re-examination of the Master Plan, which involves actually evaluating potential changes and meeting with subcommittees,

Mr. Cain advised that the Smart Growth Committee would be making a presentation to Township Committee at its second meeting in June, and there would be some recommended changes, after which they were hoping to see a subcommittee of Township Committee members and Planning Board members formed to pursue those recommendations.

Mr. Polistina advised that the Board could wait and do both together, but he noted that there were people waiting to go forward with projects, and there were letters written pointing out that developers were being held up from submitting an application to the Planning Board for subdivision approval because the Township's Ordinance was in conflict with the Pinelands CMP.

Mr. Rosenberger stated he had just received a copy of a letter from Steven Nehmad related to lands owned by Bears Head Partners, LLC, and Hope Animal, LLC, advising that they were seeking residential development approvals and were being hamstrung in their efforts due to the issue. Mr. Rosenberger stated that it appeared there was a need to move more quickly, than slowly, to bring the Ordinance into compliance with the Pinelands CMP, based on Mr. Polistina's comments and the copy of the letter he had been given by the Board Secretary,.

Mr. Bilicki expressed the opinion that the Board should move forward with Mr. Polistina's proposal, as it would take more than ninety days to complete the periodic re-examination report, even with the Smart Growth Committee's recommendations.

Mr. Cain commented that he agreed with Mr. Bilicki, but somewhat disagreed, because he didn't believe the Board was so busy that it wouldn't have time to accommodate the re-examination report review. He further commented that it may be more appropriate if the Board moves forward and applies for a grant to cover the cost of a portion of it and incorporates it into the periodic review of the Master Plan. He stated that he didn't think the Board would need to make the decision at this meeting, and that the decision that would need to be made was whether to authorize Mr. Polistina to proceed with what needs to be done to comply with the amendments to the Pinelands CMP. He further stated that, whether or not the Board chooses to do it within that time frame, could be a decision made at a future meeting, after the recommendations of the Smart Growth Subcommittee are known.

In response to a question of Mr. Choyce, Mr. Polistina advised that the amendments to the Pinelands CMP that the Board was presently considering were adopted in 2009, and the time period for municipal compliance was extended. It was his understanding that no municipality had yet complied, and the Township would be the first one to do so.

Mr. Polistina advised that the Township may have some concern with regard to the density bonus that would be available to developers, based on the size of the property and the zoning district, as it would increase the permitted density.

Mr. Choyce questioned what would happen if the Township chooses not to comply with the amendments to the CMP, and Mr. Rosenberger advised that the Pinelands Commission would then take some action that would, in effect, control development in those areas until the Township brought itself into compliance.

Mr. Percy recalled that the Township was able to get the Pinelands Commission to modify certain things, including allowing creation of a reserve growth area, as a result of the Township agreeing to comply with the original Comprehensive Management Plan that was implemented as a result of the passage of the Pinelands Protection Act. He commented that other municipalities that resisted compliance did not fare as well, and the Pinelands had controlled their development until they came into compliance. Mr. Percy suggested that Pinelands may be willing to make some compromise if the Township willingly agrees to go forward with compliance.

It was pointed out that the Pinelands Commission has offered a grant up to \$10,000.00 to pay for the costs associated with bringing the Ordinance into compliance.

Mr. Rosenberger described the process that would take place, starting with authorizing Mr. Polistina to do the work and ending with adoption of the ordinance amendment necessary to come into compliance with the changes to the CMP.

Mr. Wigglesworth questioned whether authorizing Mr. Polistina to proceed with the work outlined in his proposal would prevent the Board from doing the periodic re-examination report at the same time. Mr. Polistina said that it probably would, because he would be moving forward under a fairly quick time frame to bring the Township into compliance, and it would take considerably more time to look at the zoning and the Master Plan, to meet with subcommittees and to consider the recommendations of the Smart Growth Committee..

Mr. Polistina stated that he would do an analysis of how many units would be added as a result of the density bonus, and consideration could then be given to negotiating with Pinelands a reduction of the assigned density in other areas. Mr. Polistina agreed that the Pinelands Commission may be more willing to negotiate certain issues if the Township makes a good faith effort to move forward.

Mr. Percy pointed out that the Township has been successful in reducing the assigned density over the years, and he commented that he wouldn't want to see the density increased.

Mr. Rosenberger clarified the discussion by stating that the Board would be authorizing Mr. Polistina to go forward with re-examination of the Master Plan for the purpose of complying with the amendments to the Pinelands Comprehensive Management Plan, and it was conceivable that the Board would be conducting a second re-examination of the Master Plan within the year (which would be the subject of a different proposal yet to be submitted by Mr. Polistina) even though it could be perceived that the re-examination of the Master Plan had just conducted.

Mr. Percy moved, seconded by Mr. Bilicki, to authorize the proposal for Professional Planning Services, submitted by Vincent Polistina, PP, dated May 26, 2011, to undertake a re-examination of the Master Plan and to incorporate into that process those changes necessitated by the amendments to the Pinelands Comprehensive Management Plan that were enacted in 2009, at a cost not to exceed \$8,850.00.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Adams – Not eligible to vote	Mr. Christman - Aye
Mr. Bilicki – Aye	Mr. Kurtz - Aye
Mr. Cain – Aye	Mr. Percy - Aye
Mr. Cheek – Aye	Ms. Tomasello - Aye
Mr. Choyce – Aye	Mr. Wigglesworth – Aye

SAID MOTION CARRIED.

CCP&Q, Inc – Mr. Cain moved, seconded by Mr. Christman, to adopt the resolution prepared by the Solicitor for CCP&Q, Application No. SP07-05. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Alicia K. Scelso – Mr. Choyce moved, seconded by Mr. Bilicki, to adopt the resolution prepared by Alicia K. Scelso, Application No. 2011-004. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

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

Mr. Percy moved, seconded by Mr. Cain, to close the public portion of the meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

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

Respectfully submitted

Nancy Rainbow,
Planning Board Administrator