

A meeting of the Township of Hamilton Planning Board was held on the above date with Chairman Gordon Dahl presiding. Members present were Harry Bilicki, Charles Cain, Richard Cheek, William Christman, Wayne Choyce, Adam Greco, John Kurtz and David Wigglesworth. Alternate members present were Jack Carson and Harry Rogers. Also present were John Rosenberger, Solicitor, Charles Endicott, representing Vincent Polistina, Planner Consultant; Steve Filippone, Engineer Consultant; Christopher Carey, Landscape Architect Consultant; Arnold Garonzik, representing Alexander Litwornia, Traffic Engineer Consultant; and Robert Watkins, Alternate Engineer Consultant.

Compliance with the Open Public Meetings Law was acknowledged.

Oath of Office – Mr. Rosenberger administered the oath of office to Jack Carson, newly appointed alternate members of the Board.

Approval of Minutes – Mr. Christman moved, seconded by Mr. Cheek, to approve the minutes of the meeting of December 3, 2009, as published. SAID MOTION CARRIED WITH FIVE ELIGIBLE MEMBERS VOTING “AYE”, NO ELIGIBLE MEMBERS VOTING “NAY”, AND TWO ELIGIBLE MEMBERS VOTING “ABSTAIN”.

Mr. Kurtz moved, seconded by Mr. Choyce, to approve the minutes of the meeting of December 17, 2009, as published. SAID MOTION CARRIED WITH SIX ELIGIBLE MEMBERS VOTING “AYE”, NO ELIGIBLE MEMBER VOTING “NAY”, AND ONE ELIGIBLE MEMBER VOTING “ABSTAIN”.

Mr. Christman moved, seconded by Mr. Choyce, to approve the minutes of the meeting of January 7, 2010, as published. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”. SAID MOTION CARRIED WITH EIGHT MEMBERS VOTING “AYE”, NO “NAY”, ONE “ABSTAIN”.

Barbara Aiken – Mr. Christman moved, seconded by Mr. Choyce, to adopt the resolution prepared by the Solicitor for Application No. 2009-015, submitted by Barbara Aiken.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Carson – Aye
Mr. Cheek – Aye
Mr. Choyce – Aye

Mr. Christman - Aye
Mr. Wigglesworth - Aye
Mr. Dahl – Aye

SAID MOTION CARRIED.

Annika Bruggeworth – Mr. Christman moved, seconded by Mr. Carson, to adopt the resolution prepared by the Solicitor for Application No.2009-016, submitted by Annika Bruggeworth.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Carson – Aye
Mr. Cheek – Aye

Mr. Christman - Aye
Mr. Choyce – Aye
Mr. Wigglesworth – Aye

SAID MOTION CARRIED.

MetroPCS Pennsylvania, LLC – Mr. Christman moved, seconded by Mr. Cheek, to adopt the resolution prepared by the Solicitor for Application No. 2009-17, submitted by MetroPCS Pennsylvania, LLC.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Cheek – Aye

Mr. Wigglesworth - Aye

Mr. Choyce – Aye
Mr. Christman – Aye

Mr. Dahl - Aye

SAID MOTION CARRIED.

C. Richard Tunney, Inc. (Request of Extension of Period of Protection) – Keith Davis, Attorney, and Guy Tunney were present.

Mr. Davis informed the Board that C. Richard Tunney, Inc., was requesting a one year, retroactive extension of the period of protection associated with the approval granted for a four lot major subdivision on Oslo Avenue, which would extend the protection until March 1, 2010, and an additional one year extension of the period of protection, which would extend the protection until March 1, 2011.

Mr. Davis stated that, since the approval was granted, the Applicant had been diligently addressing issues raised by the Pinelands Commission, which had sent approximately fifteen letters requesting additional information related to wetlands and endangered species studies. He noted that the approved plan may need to be amended in order to address some Pinelands Commission's concerns, and the Applicant would then seek administrative review of the changes.

Mr. Rosenberger explained the effect of granting the extension request, and noted that the request is one that is commonly before the Board.

Mr. Tunney stated that the lots were oversized and the reason the subdivision was classified as a major subdivision was because it involved extension of a municipal street. He commented that this was his first experience where the Pinelands Commission requested additional information after the Certificate of Filing was issued.

Mr. Greco asked for an explanation of the nature of the issues raised by the Pinelands Commission and Mr. Tunney responded.

Mr. Choyce moved, seconded by Mr. Cain, to grant a one year extension of the period of protection, pursuant to N.J.S.A. 40:55D-54.a, associated with the final approval granted for Application No.SD 4-05, submitted by C. Richard Tunney, Inc., to expire on March 1, 2010, and an additional extension of the period of protection, pursuant to N.J.S.A. 40:55D-52a, to expire on March 1, 2011.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Bilicki – Aye
Mr. Cain – Aye
Mr. Cheek – Aye
Mr. Christman – Aye

Mr. Choyce - Aye
Mr. Greco - Aye
Mr. Kurtz - Aye
Mr. Wigglesworth – Aye
Mr. Dahl – Aye

SAID MOTION CARRIED.

Railroad Estates, LLC (Final Major Subdivision Hearing, Phase One) – Thomas Darcy, Attorney; Rami Nassar, P.E., and Richard Hollander were present.

Mr. Dahl recused himself and Mr. Wigglesworth replaced him as chairman for the duration of the hearing related to Railroad Estates, LLC. Mr. Rosenberger explained that Mr. Dahl had participated in the preliminary approval granted to the Applicant, but, subsequent to that approval, Mr. Dahl's employer had entered into a business relationship with Mr. Nassar.

Mr. Darcy informed those present that Railroad Estates, LLC, was seeking final major subdivision approval for Phase One of the proposed Hamilton Crossing Project. He stated that Phase One consisted of three lots that would have frontage on an existing, improved street.

Mr. Darcy reviewed the issues that had been raised during the preliminary hearing for the project, and noted what the Applicant had agreed to do to address them.

Pointing to a map of the subdivision, Mr. Nassar described the subdivision configuration and the location of the proposed emergency access road to Railroad Boulevard, which he stated would be shown as an easement on the filed plat. The easement and related issues were discussed, and Mr. Nassar stated that the Homeowners Association would be responsible for reconstruction of the surface in the event it became necessary.

Mr. Nassar described the improvements involving Railroad Boulevard that would be undertaken as part of Phase One, and he explained the issue raised by the Pinelands Commission involving the location of the boundary between the Agriculture Production District and the Mizpah Village District.

Mr. Nassar stated that the Applicant would comply with the comments contained within Mr. Filippone's report

Board members asked questions related to the emergency access easement, the fire suppression system and an issue involving storm water runoff related to Railroad Boulevard, to which responses were provided. Mr. Darcy stated that the Homeowners Association documents would contain language to provide for maintenance and control.

Mr. Endicott, Mr. Filippone and Mr. Garonzik referred to their reports and expressed no objection to the Board deeming the application complete.

Mr. Carson moved, seconded by Mr. Christman, to deem complete for review Application No. 2009-2005, submitted by Railroad Estates, LLC, conditioned upon compliance with the comments contained within the reports of Vincent Polistina, dated January 13, 2010 ; Steven Filippone, dated January 15, 2010; and Alexander Litwornia, dated January 12, 2010. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "NAY", NO "ABSTAIN".

Mr. Filippone described the proposal for final approval for Phase One and reviewed his report. Mr. Darcy stated that the Applicant would comply with the recommendations contained therein.

Mr. Endicott reviewed the issues contained within his report, and noted that, as a result of information provided subsequent to the granting of preliminary approval, it was determined that certain lots within Phase Two do not meet the requirement for lot disturbance.. He advised that the non-conforming lots would need to be revised prior to final approval for Phase II.

Mr. Garonzik referred to Mr. Litwornia's report and stated that he was satisfied the issues involving the emergency access easement would be addressed, based on the testimony provided.

Mr. Carey referred to a notation on the typical lot landscaping plan that indicated that a twenty foot, natural wooded buffer would be maintained, and he recommended that the buffer be established on certain lots, due to limited wooded areas. A discussion ensued, and it was decided that Mr. Carey would work with Mr. Nassar to develop a landscape plan that would provide some type of screening, but something less than the required twenty feet.

In response to questions regarding the emergency access road, Mr. Nassar advised that there would be a gate in front of it; that the Homeowners documents would restrict its use; and that the surface would eventually become compacted.

In response to a question regarding the impact of the improvement proposed involving Railroad Boulevard, Mr. Nassar stated that there would be no increase in the amount of storm water runoff.

Mr. Darcy questioned the time period within which the Applicant would have to satisfy the conditions of approval, and Mr. Rosenberger referred him to a certain Ordinance section which provided for a period of one hundred twenty days from the date of final approval.

Mr. Choyce moved, seconded by Mr. Christman, to grant final major subdivision approval to Railroad Estates, LLC, for the Hamilton Crossing Project, Phase One, conditioned

upon compliance with the recommendations contained within the reports of Alexander Litwornia, dated January 12, 2010, Vincent Polistina, dated January 13, 2010, and Steven Filippone, dated January 15, 2010; and providing a landscape plan, to include a buffer at the rear of the lots, to the satisfaction of the Board's Landscape Consultant; and providing restrictions within the deeds addressing the emergency access road and the landscape buffer, to the satisfaction of the Board's Solicitor.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Bilicki – Aye	Mr. Choyce - Aye
Mr. Cain – Aye	Mr. Greco - Aye
Mr. Carson – Aye	Mr. Kurtz - Aye
Mr. Cheek – Aye	Mr. Rogers – Not eligible to vote
Mr. Christman – Aye	Mr. Wigglesworth – Aye
	Mr. Dahl – Recused

SAID MOTION CARRIED.

Mr. Dahl resumed his place as chairman of the Board.

William Merlino, II (Site Plan Hearing) – Drew Merlino and Dante Guzzi, P.E., were present.

Mr. Merlino informed those present that he operates an independent retail pharmacy on the subject property and that he, also, delivers to group homes, assisted living facilities, and similar facilities.

Mr. Merlino stated that the proposed additions would provide much-needed storage area and allow him to reconfigure his work area to promote efficiency and eliminate the potential for errors.

Mr. Endicott, Mr. Watkins and Mr. Garonzik reviewed their reports and expressed no objection to deeming the application complete, conditioned upon providing the deficient information set forth within their reports.

Mr. Christman moved, seconded by Mr. Wigglesworth, to deem complete for review Application No.2009-018, submitted by William Merlino, II, conditioned upon compliance with the recommendations contained within the reports of Vincent Polistina, dated December 10, 2009; Robert Watkins, dated January 15, 2010; and Alexander Litwornia, dated January 12, 2010.

Pointing to a colored rendering of the site, Mr. Guzzi described existing conditions, the proposed additions, the additional parking and the proposed improvements.

Mr. Guzzi stated that a variance would be necessary for number of parking spaces, and he pointed out that an additional parking space would be lost if the Applicant agrees with Mr. Watkins' recommendation to preserve a certain tree.

Mr. Guzzi requested that a partial waiver be granted for installation of curb and sidewalk on Route 40, due to wetlands and wetlands' buffer. Pointing to an aerial photograph of the project, he indicated where the Applicant would like the sidewalk to end. A discussion ensued, during which Board members offered suggestions and expressed concern for public safety, particularly related to the location of a public bus stop.

A discussion took place with regard to whether a certain setback would be considered from a side lot line or a rear lot line, and Mr. Endicott expressed the opinion that it would be considered a rear lot line in accordance with a particular definition contained within the Land Use Ordinance.

Mr. Endicott advised that the Ordinance would require sixteen parking spaces and the Applicant was proposing fourteen parking spaces, and he recommended that the parking spaces within the garage not be counted due to the nature of the proposed development.

Mr. Endicott advised that a waiver would be required from the requirement to place a solid, wood fence between a commercial use and a residential use, as the Applicant was proposing to just provide landscaping only. Mr. Guzzi pointed out that the neighboring property contained a six foot high, solid wood fence in a certain area, and, if the Applicant were to erect the fence as required, it would be located in the neighbor's front yard area. In addition, concern was expressed with regard to aesthetics. The issue was discussed, and a suggestion was made to provide landscape material of a certain height, species and configuration to provide an appropriate buffer. Mr. Guzzi agreed to work with the Board's consultants to address the issue.

In response to comments and questions, Mr. Guzzi stated that the applicant would be removing a lean-to shed; that the loading area would not impact the number of parking spaces; that there would be just small vehicle deliveries and UPS vehicle deliveries; that the loading space would be adequate for existing and proposed; that the building area would be increased between forty and fifty percent; and that two of the three bays within the garage would be reserved for vehicle parking and the third would be used for loading and recycling.

Mr. Watkins displayed a photograph of the site, marked into evidence as Exhibit Watkins No. One. He described a certain shade tree on site and explained why he felt that one proposed parking space should be eliminated to preserve the tree. It was Mr. Watkins' opinion that parking would still be adequate. A discussion ensued, during which concern was expressed that someone would try to park in front of the tree, and a suggestion was made to place the bicycle rack in front of the tree.

Mr. Merlino requested that he be permitted to remove the tree, as he has very elderly patrons that drive and may try to park in front of the tree.

Mr. Christman expressed the opinion that a problem may be created by removing the tree, as its roots absorb a lot of water, and Mr. Choyce stated he was in favor of preserving it. Mr. Guzzi proposed to leave the area unpaved and landscaped.

Mr. Watkins made recommendations with regard to storm water management involving bioretention swales to address water quality, the parking lot overlay and lot consolidation as set forth within his report. Mr. Guzzi agreed to comply with Mr. Watkins recommendations with regard to the swales; to consolidate the lots; and to overlay the asphalt.

Mr. Garonzik referred to Alexander Litwornia's report, within which recommendations were made regarding parking lot related issues, sidewalk and lighting.

Mr. Merlino testified that he currently had seven to eight employees on site in an effort to reduce wait time for customers; that he would not be increasing the number of employees; that the pharmacy operates between the hours of 9:00 AM and 8:00 PM, Monday through Friday and between 9:00 AM and 4:00 PM on Saturday; that his retail merchandise space is limited and he was not proposing to expand the retail sales area; that only one delivery vehicle would be parked on site, as he contracts with a private delivery service; that the additional parking spaces would help the parking situation; that no additional signage was being proposed; that security had not been a problem; that foot traffic was minimal; and that the expansion would allow him to relocate his files and office from the basement.

Mr. Dahl opened the hearing to public comment.

Aline Dix asked questions, made comments, expressed concern and offered suggestions with regard to pedestrian law; sidewalk placement; storm water management; and potential tripping hazard, to which responses were provided.

Mr. Cain 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 lengthy discussion took place with regard to Mr. Watkins' recommendation involving the construction of a bioretention swale between the sidewalk and curb and the Ordinance provision. Mr. Guzzi described how storm water flowed from the site, the proposed swale and

how it would work. Concern was expressed with regard to public safety, and Mr. Guzzi offered to work with the Board's consultants to eliminate the swale in that particular area.

Mr. Wigglesworth moved, seconded by Mr. Choyce, to grant a variance from the Land Use Ordinance requirement for number of parking spaces to permit thirteen parking spaces, when sixteen spaces were required, associated with Application Number 2009-018, submitted by William Merlino, II, Block 740, Lots 3, 4, 5 and 6.01.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Bilicki – Aye	Mr. Choyce - Aye
Mr. Cain – Aye	Mr. Greco - Aye
Mr. Cheek – Aye	Mr. Kurtz - Aye
Mr. Christman – Aye	Mr. Wigglesworth – Aye
	Mr. Dahl – Aye

SAID MOTION CARRIED.

Mr. Kurtz moved, seconded by Mr. Choyce, to grant preliminary and final site plan approval to William Merlino, II, Block 740, Lots 3, 4, 5 and 6.01, Application Number 2009-018, with a waiver granted from the requirement for installation of a solid wood fence between residential and non-residential uses; from the requirement for installation of additional curb along Route 40; and from the requirement to install a swale along Central Avenue between the curb and sidewalk, conditioned upon compliance with the recommendations contained within the reports of Robert Watkins, dated January 15, 2010; Alexander Litwornia, dated January 13, 2010; and Vincent Polistina, dated December 10, 2009; providing landscaping to the satisfaction of the Board's consultants in the area where the fence separating non-residential uses from residential uses was to be provided; providing sidewalk along Route 40 to the rear of the proposed building line, provided the installation does not conflict with the provisions of the Pinelands Comprehensive Management Plan, in which case the sidewalk would be provided to the extent permitted; providing an overlay of the existing asphalt; reconstruction of the existing sidewalk if a determination is made that it needs to be replaced; extension of the front entranceway sidewalk to meet the sidewalk along Central Avenue; removing the proposed bioretention swale from the area between the sidewalk and the curb and addressing the effect of its removal to the satisfaction of the Board's engineer consultant; preserving a certain tree that had been proposed to be removed, and creating a landscaped island around the tree in the area that had been previously designated as a parking space, to the satisfaction of the Board's consultants; and consolidation of all of the lots into one lot.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Bilicki – Aye	Mr. Choyce - Aye
Mr. Cain – Aye	Mr. Greco - Aye
Mr. Cheek – Aye	Mr. Kurtz - Aye
Mr. Christman – Aye	Mr. Wigglesworth – Aye
	Mr. Dahl – Aye

SAID MOTION CARRIED.

Subcommittee Appointments – The following members volunteered to serve on the following subcommittees: Site Plan Review Subcommittee – Wayne Choyce
Richard Cheek
Harry Rogers

Green Development Subcommittee – Jack Carson
Transportation Subcommittee – Harry Bilicki
Adam Greco

Historic Preservation Subcommittee – John Kurtz

Mr. Dahl asked members to contact Ms. Rainbow if there was a particular subcommittee on which they would like to serve.

Public Comment – Mr. Dahl opened the meeting to public comment.

Aline Dix questioned the Ordinance provision for storm water management as it relates to swales between the curb and sidewalk, and expressed concern with regard to public safety.

Mr. Cain 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".

Wal-Mart – Mr. Rosenberger reported that he was still waiting for Judge Armstrong's decisions with regard to the litigation involving Wal-Mart Stores, Inc., and he noted that she had recently asked for additional information.

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

Respectfully submitted,

Nancy Rainbow,
Planning Board Administrator