

REGULAR MEETING

**Lebanon Township Planning Board
Municipal Bldg 530 West Hill Road Glen Gardner, N.J.**

March 6, 2007

The 796th Regular Meeting of the Lebanon Township Planning Board was called to order at 7:05 p.m. by Vice Chairwoman Doreen Bleck. Present were: Mr. Weeks, Mr. Schmidt, Mr. Piasecki, Mr. Rich, Mr. Piazza, Attorney Gallina, Planner Bolan and Engineer Risse.

Notice of this meeting was provided for in the "Annual Meeting Notice Schedule" adopted by this board on January 16, 2007, mailed to the Hunterdon Review, Hunterdon County Democrat, Express Times, Courier News, Star Ledger and posted on the bulletin board in the Municipal Building on February 28, 2007.

PRESENTATION OF MINUTES: February 20, 2007 Regular Meeting

Motion by Mr. Piazza and seconded by Mr. Schmidt to approve the minutes as presented. Unanimously approved.

RESOLUTION:

- a. Davara Industrial Center Block #6 Lot #1
Amend Site Plan with conditions Route 31 B2

After review of the resolution, motion by Mr. Piasecki and seconded by Mr. Piazza to approve the Resolution to amend the Site Plan with conditions.

ROLL CALL	Yes:	Ms. Bleck	No: None	Abstain: Mr. Weeks	Absent: Mr. MacQueen
		Mr. Schmidt		Mr. Rich	Mr. Gerlich
		Mr. Piasecki			Mr. Weiler
		Mr. Piazza			

Ms. Glashoff asked to address an issue regarding an Escrow bill for Davara at this time. Ms. Glashoff stated that when Mr. English came in to submit all the notices for the public hearing, he informed Ms. Glashoff that he was not bringing his attorney because he is an LLC and that he did not need to have his attorney present. Ms. Glashoff told him she thought he did need his attorney but would contact Attorney Gallina and get a legal opinion. Ms. Glashoff was concerned because if Mr. English did not bring his attorney when one was needed, Attorney Gallina would have informed the board and Mr. English that they could not proceed with the public hearing. When Attorney Gallina informed her that Mr. English did need to bring his attorney, Ms. Glashoff contacted Mr. English and informed him. Mr. English faxed a memo stating that he did not authorize her to contact Attorney Gallina and is not paying the charges for Attorney Gallina's legal research on this issue.

The board was informed by Attorney Gallina that Ms. Glashoff does not have to get authorization from the applicant. The board agreed. After discussion by the board, Ms. Glashoff will contact Mr. English and inform him that the charge of \$197.40 will be charged to his escrow account. Per Attorney Gallina, if Mr. English wants to pursue this, there is a procedure under the MLUL that he can appeal to the Township Committee.

REQUEST FOR A WAIVER FROM CONDITION #8 IN RESOLUTION:

- a. C&C Homes Block #34 Lot #2
Minor Subdivision/Variance/Design West Hill Rd & Spruce Run Road RC 7½
Waivers with conditions
(Enclosed pages 13 & 14 of Resolution)

Attorney Guliet Hirsch and the applicant Bob Cassavell were present to discuss the request. Attorney Hirsch stated they were informed by there Engineer Eric Rupnerian that the grass pavers are considered impervious cover by the NJDEP under the Highlands Rules and they are requesting the right to eliminate the two foot grass paver along the cul-de-sac bulb in order to minimize impervious coverage.

Engineer Risse informed the board that the applicant request was reasonable and made sense and recommended the waiver request. Attorney Gallina referred to Engineer Risse's letter dated March 1, 2007; regarding the bioretention swales if they changed then they would need to be checked out prior to the construction of a home and asked if the applicant was willing to agree to it. Attorney Hirsch stated yes. Attorney Hirsch said that it was added to the deeds and to have it as a condition in the resolution would be appropriate. Attorney Gallina asked the language in Engineer Risse's letter would be acceptable. Attorney Hirsch answered yes. Mr. Schmidt asked what was in the 24' inner circle of the cul-de-sac. The response was landscaping. After a brief discussion by the board, motion by Mr. Rich and seconded by Mr.

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Piasecki to grant the request for a waiver from condition #8 in the Resolution dated February 15, 2005 with the following conditions:

- a. Approval from Hunterdon County Planning Board before deeds are stamped and signed.
- b. Condition #8 is amended to read that the Cul-de-sac bulb will have a radius of 42 feet. The full width of the bulb will be paved with asphalt.
- c. The construction code official shall require a sign off from the Township Engineer for each lot's bio-retention swale prior to issuance of a C.O. for that lot. Should a lot's actual development plan result in the construction of the bio-retention swale in an area other than as depicted on Sheet 4 of 11 of the approved Subdivision Plan, a revised bio-retention swale easement metes and bounds description shall be reviewed and approved by the Township Engineer and recorded as an amended Exhibit B2 in that lot's deed prior to the issuance of a C.O. for that lot.

ROLL CALL	Yes: Mr. Weeks Mr. Schmidt Mr. Piasecki	Mr. Rich Ms. Bleck Mr. Piazza	No: None
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Attorney Gallina will prepare the Resolution for the next Planning Board Meeting on March 20, 2007.

ITEMS FOR DISCUSSION:

a. Highlands Master Plan

Planner Bolan reviewed for the board his memo dated March 1, 2007. Planner Bolan also had an ex-large vision of the Land Use Map of Lebanon Township purposed by the Highlands new Master Plan. The map shows three zones, 1) Protection Zone, 2) Conservation Zone and 3) Planned Community/Specially Planned Area Zone. The following are some of the comments from Planner Bolan's Report: The acreage for the Protection Zone is 17,607 or 87% of the Township. The Conservation Zone is 2,474 acres or 12% of the Township and last is the Planned Community Zone of 178 acres or 1% of the Township. In reviewing the map, the board can decide whether they want to seek any changes. The Protection Zone does not include a Development Intensity indicator/criterion. There are over 50 indicators and the Draft Plan does not identify how they are applied. It doesn't say how many indicators are needed to qualify as a Protection Zone. The 1,000 buffer to a Vernal Pool which could be man-made involves a minimum of 72 acres which is excessive.

Approximately 90-95% of the Township is within a High Integrity Forest Area and the entire Township is within the Critical resource habitat Area. 85-90% of the Township is within the Agricultural resource Area. If there is a conflict, which standard will apply? In referring to Wellhead Protection, schools are a public non-community water

supply and fall in a wellhead protection area. This standard prohibits the expansion of schools. Does this mean that expansion of any school is prohibited if served by well-water?

The Highlands is using a median nitrate concentration of 0.83mg/l which translates to a 12 acre lot. The Highlands Open Waters and Riparian areas contains a zone that indicates a prohibition on new land uses or the alternation of existing land uses in the protection zone that would alter or be detrimental to the water quality and habitat value. This appears highly subjective. This section also includes a standard that establishes a minimum 300' buffer from any Highlands Open Waters and states that an expansion of the 300' buffer may be provided should the Highlands determines that a larger area is required to protect the habitat of rare, threatened or endangered species. The Steep Slope section contains a standard that prohibits disturbance of soils or vegetation on severe (20%) or greater grade, 10% within a Riparian Area or moderately severe grades between 15-20% that are not within the Riparian area but are forested. The Township is within a High Integrity Forest Area and this section includes a standard for the Protection and Conservation Zones that prohibits clearing of woody vegetation that result in land use change within the Forest Area. Approximately 90-95% of the Township is within this area.

The entire Township is within the Critical Resource Habitat Area. This section prohibits new land uses or modifications to existing land uses with this area unless approved by the Highlands Council. How does the Highlands Council intend to compensate landowners for this prohibition. 85-90% of the Township is within the Agricultural Resource Area. The standards are specific to the Conservation Zone which is 12% of the Township. One of the zones standards limits permissible uses within an Agricultural Resource Area to those uses of land that support the preservation of farmland and the continued viability of the agricultural industry. One of the standards which applies throughout the Agricultural resource Area in the Township prohibits non-agricultural land development or alternation that is incompatible with the protection an enhancement of agricultural production. Another standard requires open space design methods for development other than agricultural development. These standards are contradictory.

Attorney Hirsch was present for the presentation by Planner Bolan. Planner Bolan asked Attorney Hirsch for her input. Since Attorney Hirsch was not by a microphone, not all of her comments could not be picked up.

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During the discussion, Mr. Rich stated that he first thought the Highlands would be a good thing, but it has gotten so out of hand, so regulated, burdensome and has taken home rule completely away. Mr. Rich wanted to know if we can get out of the Highlands. Planner Bolan answered no. Mr. Rich asked if not, is having no building is really healthy or reasonable or is it what we want? Planner Bolan stated no and agreed with Mr. Rich. Per Planner Bolan as the legislation took shape, he and Attorney Hirsch did a seminar on the flaws in the legislation and highlighted some of those problems. The flaws have only become compounded in this planning process. The legislators have interpreted the law in the most restrictive manor. For some reason the Governor doesn't like the legislation. Mr. Rich stated by this board looking at the Highlands Master Plan and tweaking their suggestions, we are really giving a signal that we passively approve it Mr. Rich suggested, but wanting to hear from other board members, that he has personally become so negative on the Highlands, we should be trying to get out of it. Our own regulations are 100% better. Planner Bolan agreed with Mr. Rich. During Planner Bolan's comments, it was suggested that an overall statement that the vision that the Township anticipated coming out of the Highlands Act and the actuality of it greatly varies and it doesn't seem to be a benefit to our municipality.

Mr. Piazza questioned the difference between the preservation area, protection and planning areas considering in a nearby municipality they are building near a stream by the Hess Station on Route 31 and right by the river along Dead Man's Curve and wanted to know how this can happen. Planner Bolan stated that the difference is that in the preservation area things are mandatory and in the protection area they are not mandatory. Mr. Piazza stated that he thought water was the big issue and down the road they are polluting it which doesn't make sense. Planner Bolan stated that we have to revise our Master Plan and any municipality that is totally or partially in the preservation area

has to revise their Master Plans to the extent of the preservation area. The protection area they can op into. Mr. Schmidt noted that they are condemning land and not paying for it and if you own woods (forested) it's worthless. Mr. Schmidt suggested this could have been made simple, have 15 acre zoning per house/septic and leave the planning to the local planning board. Mr. Rich stated this is a land grab and it is all about control and power with corruption soon to follow. The first thing they should have worked on if they are going to take land is compensation. Mr. Rich noted that all Planner Bolan's points are very valid and good but they are minor tweaks and what we should really be focusing on is the bigger picture and asked if this is really beneficial to Lebanon Township. Should we be participating because at this time we don't know if it will affect the home owner or just the land owners. Mr. Rich reiterated that this whole Plan is so flawed. Mr. Rich asked if we are responsible for supplying water down stream without getting fairly compensated for it. It was noted that someone is profiting from the water and it isn't us. Why should we be supplying water down stream and not being compensated? Mr. Weeks said if our land isn't worth anything, why should we be paying taxes.

Vice Chair Ms. Bleck asked Planner Bolan in talking with colleagues are people coming up with the same frustrations but noting how drastic our situation is. Planner Bolan stated the Highlands staff is non-committal and they are not going to make changes. They will say you can send in a map change stating why it should be changed, but since you can not understand why the map was created to begin with, how can say it is wrong in a particular area. The staffing is a disaster. The time period was unrealistic to begin with to create the Plan, but when you compound the flaws for the preservation area with the protection area which was the first thing we focused on. Planner Bolan felt there will be an overwhelming amount of comments and someone has to listen. Ms. Bleck stated that this has been moving in a different direction and for us to send in these comments of tweaking when a broader statement needs to be said.

Attorney Hirsch (from the public) suggested our Planner and Attorney put together a position paper explaining why there are so many things missing from the Plan that even if a town wants to they can't bring themselves into compliance because you don't know what the standards are, state all the things that are missing and state with all the things that are missing how can a municipality possibly be required to have conforming zoning when you don't know what's required. Mr. Rich stated that we should take an aggressive stand on this issue and if we do, then we have done our job. Mr. Rich agreed about putting a position paper together and that Attorney Hirsch's suggestion is a good one, but would go further to say that we object to being in this as it has now developed. Mr. Schmidt asked how are we to redo our Master Plan when we don't know what they are doing. Can we put it off so not to waste money? Vice Chair Ms. Bleck noted that Planner Bolan's comments and questions are very good ones. Mr. Schmidt also agreed to have the Planner & Attorney along with the help of the Engineer put the position letter together. Mr. Piasecki suggested to our professionals to look at the Act itself and try and get the parameters of the Act and what came out of it and attack it that way. If the Plan does not comport with what the Act requires then that's the best attack. Planner Bolan agreed. Mr. Piasecki stated they have been so hap-hazard with the way they put this together that they have forgotten the Act and what it requires and have gone off on their own. Planner Bolan noted that when this Plan came out none of the technical reports were out, none of the maps were out. A GIS person could not go online and get the shape files that would show what these maps were. The maps are inconsistent on whether you are identifying municipality boundaries or county boundaries. Mr. Rich stated that we need to go on record to at least establish an overall big picture. Then as this unfolds we will probably have more ammunition. Planner Bolan purposed the following opening statement to be in the position paper and read it to the board. Mr. Schmidt also mentioned septic density to be included in the letter.

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Planner Bolan will have the position letter ready for the next Planning Board meeting. At the conclusion of the board's discussion, motion by Mr. Rich and seconded by Mr. Schmidt to have Planner Bolan, Attorney Gallina along with help from Engineer Risse if needed prepare a position letter with the board's comments on the Highlands Master Plan.

ROLL CALL

Yes: Mr. Weeks	Mr. Rich	No: None
Mr. Schmidt	Ms. Bleck	
Mr. Piasecki	Mr. Piazza	

Planner Bolan will have this letter ready for the March 20th Meeting. Deadline for comments is April 2nd.

b. Master Plan to be updated

Vice Chair Ms. Bleck questioned how can we do a reexamine on the Master Plan when we don't know what's happening with the Highlands Master Plan? Planner Bolan agreed but referred to the MLUL stating that it is a statutory requirement. Mr. Rich stated that our Master Plan which is a compromise of many people and thoughts actually hits the mark. We have had creative subdivisions which have come from the Master Plan and all the great ordinances we have put into place. Planner Bolan referred to the major subdivision up on Mountain Top Road and how well planned it was. How do we know how things are going to work when Home Rule has been taken away? Planner Bolan noted that the questions asked when doing a re-examination are a) has anything changed and b) any ongoing issues. For now, the only thing that has changed is the Highlands. Planner Bolan noted that we have to do something. We should be able to make it very minimal. The board reviewed all the things we have done and accomplished over the past several years. Ms. Glashoff asked Planner Bolan about the comments he made at the last meeting regarding the 1978 and 1991 Master Plan regarding items that need to be brought up to date. Planner Bolan stated that the only two items from the 1978 Master Plan that haven't been updated are the circulation plan and the utilities plan. Regarding the circulation plan, the Township is not looking to change the character of the Township. In the 1991 Master Plan we did the Communities Facilities. Planner Bolan stated that in a discussion with Ms. Glashoff, they talked about having a one volume Master Plan with everything in one note book instead of having 6 different documents that are actually our Master Plan. Ms. Glashoff asked what it would entail to bring all these documents into one since all the other documents are separate. It would make sense to have all the documents in one binder. Ms. Glashoff asked what the cost would be. Planner Bolan stated he will check into it and get back to the board.

Mr. Schmidt changing the subject asked about the three islands along Musconetcong River Road that the County put in. One is by the New Hampton Inn, the Museum and one in between. No one seemed to know why it was done by the County.

c. COAH

Vice Chair Ms. Bleck asked what we need to be doing at this time regarding COAH. Planner Bolan referred to the Superior Court decision back the end January and at this time COAH doesn't know what to tell us. COAH is to come out with new rules that respond to that decision in 6 months (end of July). COAH reviewed our plan and sent us an initial letter, we responded last October. The ball is in their court at this point in time. Planner Bolan noted there are two parts that the State is appealing. One was having the towns have growth share ordinances and wanted clarification from the court and the other part which is being appealed to the Supreme Court is the density incentive.

d. Fences – to be placed on the March 20, 2007 agenda.

Vice Chair Ms. Bleck asked if there were any comments from the board. Mr. Piazza stated he wanted input from the board on a Board Health agenda item for tomorrow evening. There is an applicant requesting a septic waiver. The property is located on Anthony Road down from Diamond Aerosol property. It is a small house on the same side of

road as Diamond. The building sits on cinder blocks and was purchased after the Highlands Act went into affect. It is a small piece of property with a stream going through it. The board briefly discussed this issue and in conclusion suggested that the Committee should have the Township Attorney present for the discussion at tomorrow night's meeting.

Ms. Glashoff informed the board she spoke with Mark Salisbury from Mohawk Oil and was informed that JCP&L should be finishing up their work this coming week and by the week of March 19th work should begin which includes installing of the fire tank and all of the on site work.

PRESENTATION OF BILLS & REPORT:

a. John Gallina, Esq.	\$280.00 – Attend Mtg 2/20/07
	\$477.40 - Escrow (Davara Industrial Ctr)
Total:	\$757.40

Motion by Mr. Piazza and seconded by Mr. Rich to approve the bills for payment. Unanimously approved.

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Ms. Glashoff reminded the board that Omnipoint will be on the Agenda for March 20, 2007. Being no further business to come before the board, nor comments from the public, motion by Mr. Piasecki and seconded by Mr. Rich to adjourn the meeting at 8:30 p.m. Unanimously approved.

VICE CHAIRWOMAN DOREEN BLECK

GAIL W. GLASHOFF, PLANNING BOARD CLERK