

MINUTES OF CLINTON TOWNSHIP PLANNING BOARD

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PUBLIC MEETING

DATE: March 16, 2015

*PRESENT:* Kevin Cimei, John Higgins, Chris D'Alleinne, Richard Scheick, Suzanne Kleinhans, Brian Mullay, Sam Mardini, John Kilduff and Sandra Butcher.

*PROFESSIONALS:* Jon Drill, Attorney, Joseph Burgis, Planner, Tom Behrens, Planner, Rebecca D'Alleinne, Administrator and Denise Filardo, Trainee.

*ABSENT:* None.

*CALL TO ORDER*

Chairman Cimei called the meeting to order at 7:05P.M.

*PUBLIC NOTICE*

This is a public meeting of the Planning Board of the Township of Clinton, County of Hunterdon and State of New Jersey. Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act in that an Annual Notice was published in the Hunterdon County Democrat and the notice of and agenda for this meeting was posted on the bulletin boards in the Municipal Building and faxed to the Hunterdon County Democrat, the Express Times, the Courier News, the Hunterdon Review, and the Star Ledger, no later than the Friday prior to the meeting.

Jay Thatcher, Esq. introduced himself on behalf of Clinton Agricultural Associates and noted that his client was not in attendance, so the Board determined to address the agenda items in a different order.

*REPORTS & ASSIGNMENTS*

1. Report from Council: Brian Mullay reported that the Council had a first hearing on a change in the ordinance that clarified staff positions. Mayor Higgins discussed a proposed change in the Sunday alcoholic beverage ordinance.
2. Report from Ordinance Committee: There was no report.
3. Report from Open Space: There was no report.
4. Report from Environmental Commission: Mayor Higgins stated that the EC proposed to construct boxes for an endangered species of bird on the Windy Acres property.

*PUBLIC HEARINGS*

AREA IN NEED OF REDEVELOPMENT

**FOX-SEALS/ FORMER MUNICIPAL BUILDING, Block 53, Lot 3**

Joe Burgis and Tom Behrens introduced themselves as the Board's affordable housing planners. Jon Drill stated that the Planning Board had directed the planner to perform a study to determine whether the area of the former municipal building was in need of redevelopment. Mr. Burgis was sworn. Chairman Cimei noted that the Planning Board had held a meeting to discuss the matter and that a "town hall" meeting had been held on Saturday, Feb. 21<sup>st</sup> to introduce the plan to the public. Mr. Burgis described the statute that governed redevelopment, noting that it defined the roles and responsibilities of the Governing Body and the Planning Board, and established the criteria for redevelopment. He indicated that the municipality had determined that it was a "non-condemnation" procedure. There were 8 statutory criteria and Mr. Burgis expressed the opinion that the township only needed to satisfy one, but noted that the building would qualify under Criteria A, C, D, E and H. He discussed how the process for the designation would proceed, noting that the next step would be that the Planning Board would decide whether to make a recommendation to the governing body and subsequently, Council would adopt a resolution to designate the area as in need of redevelopment and authorize the Planning Board to develop a redevelopment plan. He estimated that the improvements could take place in a year and a half. He recommended that the Planning Board make a favorable recommendation to the Council. Chairman Cimei opened the floor for questions and comments from the public.

Carolyn Neighbor, 1 Maple Avenue was sworn, stating that she was a professional planner and expressed the opinion that the site complied with the requirements for redevelopment. She stated that there had been a prior plan and discussed the fact that it had received no response from developers. Jon Drill noted that the Council needed to either make a plan or ask for guidance in designing a plan. She expressed concern that a developer would not be interested and that sewer and water might not be available. Chairman Cimei discussed the process and Brian Mullay expressed the opinion that the designation would provide more flexibility.

Nick Corcodilis, 73 Old Mountain Road, was sworn and expressed the opinion that the site was in need of development. He asked whether the building and the land were owned by the township and Mr. Burgis responded that they were. He asked why the township was going through this designation process and Joseph Burgis expressed the opinion that it would make the building more attractive to a developer.

Mr. Burgis discussed PILOT (payment in lieu of taxes). Chairman Cimei noted that there was no third party involved and pointed out that the township owned the property. Brian Mullay asked whether the Township would have more control over the development process and Mr. Burgis responded that it would. Mr. Burgis discussed input from the residents at the "town hall" meeting. Mr. Drill stated that the only thing that the Board would be deciding that night was to determine whether or not the area was in need of redevelopment and that the number of affordable housing units could be determined later. Mr. Corcodilis asked whether the Planning Board had the power to determine the number of affordable housing units. Mr. Drill responded that the Council could decide, but they may decide to send it to the Planning Board. Mr. Burgis noted that the Planning

Board only had advisory power. The next step would be for Council to either agree or disagree with the recommendation. Mr. Corcodilis suggested that the Planning Board include more affordable housing units. He stated that he would like to see redeveloped, but cautioned that adding affordable housing would make it difficult to develop the property. John Higgins expressed the opinion that in this plan, the burden was lower as there were only three affordable units and that the proposal had to be financially viable. Mr. Corcodilis stated that the main objective was to get the site redeveloped.

Art Dunn, 6 Daniel Lane, was sworn and asked why there was electrical service in the building when it was in such a deteriorated condition. Chairman Cimei stated that the issue would be pursued.

Chairman Cimei closed the public hearing. Jon Drill read a proposed resolution into the record. Chris D'Alleinne moved and Suzanne Kleinhans seconded a motion to recommend the former municipal building as an area in need of redevelopment. Members in favor: Cimei, D'Alleinne, Mardini, Scheick, Higgins, Mullay and Kleinhans. The administrator was asked to send a copy of the resolution to the mayor and council.

#### PROPOSED DRAFT 2015 HOUSING PLAN ELEMENT & FAIR SHARE PLAN

Chairman Cimei opened the public hearing. John Higgins noted that the court had stayed the affordable housing decision for 90 days and that now the township had time to make a determination. He suggested that the plan be reviewed in a public hearing and then carried to a future date for a decision, at which time an additional notice will be given. The Board expressed general agreement. Joe Burgis was sworn as the affordable housing planner. Chairman Cimei expressed the opinion that Jon Drill had done a good job on behalf of the municipalities before the Supreme Court.

Joseph Burgis gave a presentation concerning the March 5, 2015 copy of the Housing Element and Fair Share Plan. He explained how the Supreme Court ruling had changed the affordable housing situation and that the courts would be making the decisions concerning the municipalities' low and moderate housing obligations in the future. He commented that the 90 days would give the township time to fine tune the plan. Mr. Drill expressed the opinion that the five month time frame would begin on the effective date of the opinion. Mr. Burgis stated that the third round rules did not apply anymore and that his office had prepared a plan based on the second round rules. He indicated that the prior round obligation was a total of 335 units. He noted that the "prospective need" obligation would be for an additional 131 units and a "rehabilitation" obligation of 27 units.

Mr. Burgis discussed an overview of the prospective sites, noting that there were two alternative plans. He presented Plan A and broke down the numbers of obligations, Regional Contribution Agreements and credits. He discussed the second round rules and the rental bonus. Mr. Burgis discussed the layout of units on the Marookian site. He stated that Plan B would also utilize the Windy Acres site. He noted that there would be rental bonuses for the built units on the Marookian and Windy Acres site. Chairman Cimei noted that the difference between the plans was that about half would be on Marookian and half on the Windy Acres site. He opened the floor for questions and comments from the public.

Steve Balzano, Old Mountain Road, was sworn. He discussed the long history of the Windy Acres site and the potential cost of a sewer treatment plant. He noted that the stream had been designated as a C-1 stream, which increased the potential cost of the sewerage treatment plant. Mr. Balzano discussed the feasibility of obtaining sewer capacity versus building a plant. He expressed the opinion that there was no way to obtain sewerage for affordable housing development on the Windy Acres site. He noted that the township did not have a will-serve letter from any sewerage authority. Mr. Balzano objected to including the Windy Acres site in the plan because the town did not have capacity. He suggested that the Board take a long look at Plan B because Windy Acres had a long-term history of a lack of capacity. He stated that the Marookian site had challenges, but that they could be addressed. Mr. Balzano expressed the opinion that the township was taking a big risk in including Windy Acres in the housing plan.

Carolyn Neighbor, 1 Maple Avenue, was sworn. She pointed out that Windy Acres had been in the affordable plan from the beginning and asked how the Marookian site was to be seweraged. John Higgins stated that the plan for the Marookian site was to attach to the existing infrastructure. He indicated that the town did have a will-serve letter for water and reported that the CTSA was planning to conduct an unused capacity study. Joseph Burgis stated that the plan consisted of all affordable units and that there would be no market rate units.

Nick Corcodilis, 73 Old Mountain Road, was sworn. He thanked the Planning Board for a viable plan under Plan A. John Higgins expressed optimism that the township would receive sewer capacity, after the study had been conducted. He noted that Plan B should state that offsite treatment from the Readington-Lebanon Sewerage Authority was the preferred option. Jon Drill noted that the RLSA case was before the Supreme Court. Mr. Corcodilis expressed the opinion that the township did not have capacity and discussed risk to the township. Mr. Burgis answered that Plan A was less risky. Mr. Corcodilis discussed the benefits and risks of both plans and commented on the past plans for the Old Allerton site. He expressed the opinion that the township was taking a clear risk in including the site at Windy Acres and stated that Option B was not viable if the township could not prove that it had sewer and water. Mr. Corcodilis commented that the township had a long record of avoiding its obligation and expressed the opinion that the township had a target on its back. John Higgins stated that the current plan was night and day different from the previous plan when Windy Acres was the only selected affordable housing site. Kevin Cimei pointed out that both parcels were owned by the township, so there was no third party involved. Joseph Burgis stated that under the prior rules that the towns did not have to have all approvals in place. He noted that there was risk in submitting a plan with only one option and expressed the opinion that submitting a plan with different options was not unusual.

Arne Olsen, Beaver Brook, was sworn and expressed the opinion that Windy Acres should be included to keep all options open. Chairman Cimei commented that the township would have time to pursue the capacity options.

Steven Balzano, Old Mountain Road, commented that he agreed that multiple options reduced risk. He indicated that the issue was that one of the options had a long history of a lack of sewer capacity which would invite attack.

Chairman Cimei closed the public hearing. It was determined that there would be no action taken that evening. Mr. Burgis discussed the length of time within which the

units must be built and indicated that his office would be editing the document. Brian Mullay moved and Rich Scheick seconded a motion to close the public hearing. A new, duly noticed hearing will be scheduled. Members in favor: Cimei, D'Alleinne, Mardini, Scheick, Higgins, Mullay and Kleinhans.

Chairman Cimei called a recess at 9:00PM. The meeting was called to order at 9:06PM.

### *PUBLIC HEARINGS*

#### **CLINTON AGRICULTURAL/OLD MOUNTAIN FARM, Block 7, Lot 3 Minor Subdivision**

Jay Thatcher, Esq. introduced himself on behalf of the applicant. He noted that the Board had previously approved the minor subdivision in 2013, noting that the resolution was corrected as #2013-15C and adopted in 2014. He indicated that the deeds had not been filed to the county and therefore the deed was considered "stale". He stated that he had provided public notice and that he had requested the identical relief. He characterized the application as an instant replay.

Gaetano DeSapio, Esq. introduced himself on behalf of the neighboring property owner. Chris Nusser was sworn as the applicant's engineer and stated that he had prepared the subdivision plan. Mr. DeSapio stated he would read the corrected resolution. Chairman Cimei called a recess at 9:12PM. The meeting was called to order at 9:17PM.

Mr. DeSapio stated that if the Board were to impose the same conditions as it had in the prior resolution, it would be acceptable to the neighbor. Sam Mardini moved and Brian Mullay seconded a motion to re-grant the same approval. Members in favor: Cimei, D'Alleinne, Mardini, Scheick, Higgins, Mullay and Kleinhans. Mr. Drill noted that the revised resolution would have new dates.

#### **CLINTON AGRICULTURAL/OLD MOUNTAIN FARM, Block 7, Lot 3 Preliminary and Final Site Plan**

Jon Drill stated for the record that the following hearing was not a re-approval. John Thatcher, Esq. reintroduced himself on behalf of the applicant, who was seeking to amend the Resolution #2014-14 in certain respects. Chris Nusser was sworn as the applicant's engineer. Mr. DeSapio, the objector's attorney, reviewed the current site plan. Exhibit A-1 (Preliminary & Final Site Plan, 1/5/15) was marked into the record. Mr. Nusser explained what had been approved in Resolution #2014-14, noting that the original resolution #2013-29 had granted variances, exceptions, and preliminary and a final site plan for a farm market and that #2014-14 granted a modification of a condition. Mr. Nusser stated that for the farm market that there was a design exception granted, but no variances. Mr. Drill noted that C1 and C2 variances had been granted for the small farm stand.

Mr. Nusser listed the changes to the resolution that the applicant was seeking. First: to add a note to the plan that the greenhouse would be open to the public. He discussed the amount of parking that would be required for the farm stand, farm market and greenhouse, noting that what had been supplied was sufficient. He read from Cathy

Marcelli's review which indicated that her office had no objection. Second: to change for consistency another section of the resolution to include the use of the greenhouse by the public. Third: the applicant asked that he be able to pull seeking building permits before entering into a developer's agreement. Mr. Drill stated that he did not have the authority to change the condition and noting that it was the Board's decision. Mr. Nusser noted that their argument was based on the Hionis Farms development. It was decided to extend the time frame. Fourth: for modification of the performance and maintenance guarantee be posted prior to installation. Cathy Marcelli's report suggested phasing the site improvements to reduce performance guarantees. The applicant determined to withdraw the request. Fifth: to withdraw the request that a DOT approval be a condition of occupancy, because the approval had been received in the interim. The condition for a timeframe within which to sign the site plans had expired January 12, 2015. The Board determined to extend the time within which to obtain the signatures for 180 days to July 15, 2015.

The objector had no objections to the conditions as discussed. Jon Drill stated that the proposed development had received setback variances to allow the existing farm stand to remain. He explained that the applicant would like to rebuild the farm stand, indicating that if he wished to rebuild, he must ask the Board. He expressed the opinion that a new stand should be in a compliant location. Mr. Drill stated that it was a commercial site approval, noting that the applicant also wished to build a pole barn. He stated that he had told the applicant that, in his opinion, he would need approval from the Board to rebuild the farm stand and erect a pole barn.

Applicant Harold Wilbert was sworn. He discussed the farm stand and expressed the opinion that he had the right to fix the building to make it safe. Jon Drill noted that there was no note on the plans that rebuilding would be allowed and discussed pre-existing, non-conforming buildings. It was determined that the building should be the same color and size, Mr. Wilbert reported that the building currently had plumbing and electric. It was discussed that he could repair up to 50% of the building, using the same materials and color. Mr. Wilbert commented that he would use modern building materials. Mr. DeSapio expressed the opinion that if the work needed a building permit, the applicant should come back for a site plan approval. Mr. Drill read from the ordinance concerning a waiver of site plan provision. Chris Nusser noted that the repair and replacement using the same materials would not change the aesthetics of the building. Mr. DeSapio reiterated his position concerning the need for site plan approval. John Higgins stated that the Board was considering modifying the approval, and not changing the look of the building, limiting the repair up to 50%.

Mr. DeSapio discussed the parking on the adjoining lot and the applicant agreed to the same condition as previously approved. He read the condition concerning the permitted location for the plant material display. He expressed the opinion that the Board had contemplated that the stand not remain a permanent building. Chairman Cimei discussed the intent of the Board at the time. Mr. Nusser discussed repair of the building. John Higgins commented that the building was going to be permanent and if it was damaged, it would be repaired and maintained. Sandra Butcher and John Kilduff agreed that the building should be allowed to be repaired and maintained. Jon Drill reviewed the condition revisions and withdrawals. Chris D'Alleinne suggested that photo documentation was important. The applicant proposed to supply pictures to the Building

Official for his approval. Brian Mullay moved and Sam Mardini seconded a motion to approve the application as discussed. Members in favor: Cimei, D'Alleinne, Mardini, Scheick, Higgins, Mullay and Kleinhans.

*ADJOURNMENT*

Sandra Butcher moved and Brian Mullay seconded a motion to adjourn. The motion passed unanimously, and the meeting was adjourned at 10:30PM.

These minutes were approved on May 4, 2015.

Rebecca E. D'Alleinne  
Administrator