

PLANNING BOARD MINUTES
PUBLIC MEETING
AUGUST 13, 2009 - 7:00 P.M.
HELD AT OAKLAND SENIOR CENTER
20 Lawlor Drive, Oakland, New Jersey

Pursuant to Chapter 231, Public Law 1975 (Open Public Meetings Act) adequate notice of this meeting has been provided by:

- ❑ Adoption of an annual schedule of meetings
- ❑ Posting copy of same at Borough Hall
- ❑ Forwarding copy of same to the Record
- ❑ Mailing a copy to any person requesting same

** MEETINGS CONCLUDE AT 10:30 P.M., THEREFORE, NO TESTIMONY WILL BE TAKEN AFTER 10:00 P.M.

PLANNING BOARD MEMBERS:

Elaine T. Rowin, Barry Colyer, Christopher Baczewski, Daniel Hagberg, John Morris, Councilwoman Marcalus, Mayor John Szabo and Chairman Thomas Potash.

FLAG SALUTE, MEETING OPENED AT 7: 15 P.M., ROLL CALL:

Present: Mrs. Rowin, Messrs. Colyer, Hagberg, Morris, Councilwoman Marcalus, Mayor Szabo and Chairman Potash.
Absent: Mr. Baczewski

Also in attendance, Joseph Russo, Esq., (Board Attorney), Kevin Tichacek, (Boswell Engineering) and Steve Lydon (Burgis Associates).

PUBLIC HEARING BEGINS:

Motioned by Mrs. Rowin and seconded by Councilwoman Marcalus, to open the meeting to the public for matters not on the agenda was voted unanimously by the Board.

No comments

Motioned by Mayor Szabo and seconded by Mrs. Rowin, to close this portion of the meeting to the public for matters not on the agenda and to continue with matters on the agenda was voted unanimously by the Board.

PUBLIC HEARING:

1. Pinnacle Communities, Ltd (Bi-County Development Corp.) - Long Hill Road Block 3001, Lot 6 (f.k.a. Block 3102, Lot 3 & 1). Public hearing for a Request for an Extension of minor subdivision approval.

Mr. David Oberlander, Esq. for Bi-County Development Corp. with Flaster Greenberg located in Cherry Hill, New Jersey was before the Board in behalf of the above Applicant.

He explained that Bi-County Development is the primary owner of the property. Pinnacle Communities, Ltd., the contract purchaser, was approved a minor subdivision of the Macarrio tract in September 2005. Since then, Pinnacle Communities, Ltd. has withdrawn with their intentions to develop the property.

Pinnacle Communities, Ltd. has received two previous extensions for approvals and would no longer be involved in the project. Bi-County Development Corp, soul owner of the property, is now requesting a third extension for the approvals.

Mr. Oberlander informed the Board that they are requesting a third extension due to an impediment of state approvals for this project. He explained that their Wastewater Management amendment for sewer connection to Wayne, New Jersey has been rejected by the Department of Environmental Protection (NJDEP) and are in the process of appealing that decision.

Mr. Oberlander assured the Board that he is confident that the project will receive the necessary approvals from NJDEP. However, the process with NJDEP is very slow.

He expressed that the project is in the Highlands and there have been questions concerning their exemption from the Highlands Act as well as the recently passed Permit Extension Act. Mr. Oberlander decided to proceed with the Borough's extension procedure instead of following the Extension Act. Mr. Russo explained the Permit Extension Act to the Board and agreed there have been questions pertaining to whether or not the property has been exempt from the Highlands.

Chairman Potash reminded the Board that the subdivision has not been finalized until the Applicant receives the appropriate approvals. Mr. Oberlander responded that the deed is being held in escrow.

The Board questioned Mr. Oberlander on the Applicant's plans for the project if it does not receive the necessary approvals from NJDEP. Mr. Oberlander believes that an error occurred in their application to Water Quality Management Planning that was amended in 2008 but is confident they will receive the needed approvals.

Mayor Szabo stated for the record that he is recused from voting or having any discussion on this matter.

Mr. Russo explained to Mr. Oberlander that the commencing period would start on June 28, 2009 expiring June 27, 2010.

Motioned by Councilwoman Marcalus and seconded by Mr. Hagberg, granting an Extension of Approval.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Colyer, Hagberg, Morris,
 Councilwoman Marcalus and Chairman Potash.
 Nays: None
 Abstain: None

Absent: Mr. Baczewski

2. New Cingular Wireless - 97 Yawpo Avenue, Block 3411, Lot 1. Public hearing for a Conditional use and Minor site plan.

Ms. Judith Babinski, Esq. with Day Pitney, LLP located in Morristown, New Jersey was before the Board to represent New Cingular Wireless.

She explained that the Applicant is seeking a conditional use and minor site plan approval for the placement of six telecommunication antennas at approximately 60-feet on an existing monopole at 100-feet. Approval was given to Omnipoint Communications by Oakland's Zoning Board of Adjustment to increase the antenna height to 110 feet at the Indian Hills High School location. The Applicant is also seeking permission to install ground level equipment cabinets at the base of the monopole within an existing fence.

Ms. Babinski introduced her first witness. Mr. Yzan Joseph a Radio Frequency Engineer with T-Mobile was sworn in and reviewed his credentials. The Board accepted his qualifications.

Mr. Joseph entered exhibits into evidence.

Exhibit A-1, Propagation maps showing existing and proposed coverage, last revised June 11, 2009.

Mr. Joseph testified the deficient coverage at the existing site located at 410 Ramapo Valley Road. He explained that the installation of six (6) antennas at the proposed site would improve and provide coverage to the areas lacking.

He assured the Board that upon approval, the current antennas at the existing site would be removed within 20 days of the installation of the six (6) antennas at the proposed site.

Ms. Babinski introduced Mr. Thomas Malavasi as a witness. Mr. Malavasi a licensed Civil Engineer in the state of New Jersey was sworn in. He reviewed his credentials and the Board accepted his qualifications.

Mr. Malavasi entered exhibits into evidence.

Exhibit A-2, Structural report prepared by Paul J. Ford and Company dated July 22, 2009.

Mr. Malavasi explained that the 100-foot monopole recently received Zoning Board of Adjustment approval to extend the existing antenna to 110-feet. Six additional antennas would be installed at approximately 60-feet on the monopole.

A structural analysis was conducted with the consideration of the six additional proposed antennas. The analysis proved that the monopole was structurally sound. Mr. Tichacek informed the Board that he has not received the structural analysis but it has been completed and does include the six additional antennas.

The Board questioned the type of security to be provided for the ground mount. Mr. Malavasi responded that in the event of an emergency, the ground equipment would include a "silent alarm" directly linked to the corporate headquarters.

A discussion ensued concerning a discrepancy in the number of antennas and Mr. Tichacek confirmed that six antennas were proposed on the structural analysis.

Ms. Babinski introduced Mr. Peter Tolishchus. Mr. Tolishchus is a Planner licensed in the state of New Jersey. He reviewed his credentials and the Board accepted his qualifications.

Mr. Tolishchus entered exhibits into evidence.

Exhibit A-3, Photographs depicting existing monopole with antennas.

Exhibit A-4, Photo key map.

Mr. Tolishchus reviewed the enhanced photos with the Board that included views of what the proposed site would look like.

He explained that trees buffer the site and the installation of six antennas at 60-feet in height would not cause any detriment to the public or impact on the surrounding neighborhood.

Ms. Babinski introduced Mr. Ronald Petersen a Health Safety Expert and Electrical Engineer licensed in New Jersey. Mr. Petersen reviewed his credentials and the Board accepted his qualifications.

Mr. Petersen testified that radio frequency and radio energy for this particular vicinity of the proposed installation of six antennas are below all applicable health and safety limits established by FCC standards.

He explained calculations of all transmitting antennas at the site. FCC safety criteria guidelines are 5.5 and at the proposed site, the safety criteria would be less than 2 ½ percent. Mr. Petersen's opinion is that even maximum levels of radio frequency energy at this site would be far below the safety standards and guidelines of the FCC.

Mr. Tichacek reviewed the existing variances that would continue to follow the application. Mr. Hagberg suggested that a key for the fences be supplied to the Fire Department so that they would have immediate access in the event of an emergency.

Chairman Potash entertained a motion.

Motioned by Mr. Morris and seconded by Mr. Colyer, to approve the New Cingular Wireless application subject to the review and approval of the Paul J. Ford Structural Report.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Colyer, Hagberg, Morris,
 Councilwoman Marcalus, Mayor Szabo and Chairman Potash.
 Nays: None
 Abstain: None
 Absent: Mr. Baczewski

Meeting recessed at 7:45 p.m.
Meeting resumed at 7:50 p.m.

3. Continued Presentation on NJ Highlands Regional Master Plan Conformance.

Mr. Steve Lydon was before the Board to update the status on Highlands Conformance Plan. He explained that Council for Affordable Housing (COAH) has granted another extension for all towns within the Highlands region. The extension is for six-months and would give the Borough until June 2010 to have their affordable housing numbers in place.

He expressed that this would also allow the Board more time to digest all the information received in their packets.

Mr. Lydon informed the Board that the Highlands Council have reviewed Module I & II and as a result the build out analysis presented to the Board last month, would allow approximately 16 more septic systems and no development in the Preservation Area.

He explained that if the Borough opts into conformance, it could bring their affordable housing numbers down into the single digits.

The Board questioned what the size of the allowable septic systems would be. Mr. Lydon responded that they are referring to single-family size septic units. The Board questioned the number of allowable septic systems in the event the Borough does not opt into conformance. Mr. Lydon responded that the numbers for septic systems are based upon nitrate models used by Highlands and NJDEP. These models measure the level of in ground nitrates which vary during rainfall or drought conditions.

He explained that the Highlands would be adopting their nitrate model standards which are lower than the Department of Environmental Protection (DEP).

The Board questioned again the benefits of opting in or out of conformance. Mr. Lydon responded that by opting into conformance would dramatically reduce the numbers for affordable housing, make available grant money for towns modifying portions of their Master Plan and disable the possibility for further development in the town. Opting out of conformance may adjust the number for septic systems from 16 to possibly 28 septic systems in total. The bottom line is, there are no definitive answers.

The Board expressed concerns with limits from the Highlands and restrictions from the NJDEP for sewers in the downtown area. The Board questioned whether opting into conformance would treat the whole town of Oakland as Preservation Area where no sewers are permitted. Mayor Szabo responded he met with the Highlands Council and they explained that the town could not be approved the export of 220,000 gallons of water (by sewer) a day without putting water back and recapturing the balance.

A discussion ensued concerning the use of Sewer Package Treatment Plants in place of sewers. Mayor Szabo responded that the problem is that NJDEP discourage Sewer Package Treatment Plants and would not allow any discharge into the river and it could be costly to the Borough.

Mayor Szabo expressed that whatever the Board decides, there are going to be problems. Any land that is left to develop is severely constrained. He advises to preserve what can be preserved and continue to try to develop downtown area. We have time to make a decision.

Chairman Potash suggested that a representative come so that the Board could share with them the Borough's goals and be able to ask questions. Mayor Szabo responded that he would reach out to Eileen Swan, Highlands Executive Director, and invite her to come to the September public hearing.

It was recommended that Mayor and Council also take part in this meeting. Mayor Szabo requested that the Environmental Inventory be sent for review by the Environmental Commission and possibly invite them to the Highlands presentation when it is scheduled.

A discussion ensued concerning certain parcels of land that have been purchased and have approvals but now are within the Preservation Area restricting sewers, septic systems and developing. Mayor Szabo discussed the possibility of hiring a firm through the Highlands Council to investigate the Transfer Development Rights program to offset cost for landowners who are constrained by the environmental obstacles linked to their properties.

Mr. Lydon expressed to the Board that they still have time to make their decision since COAH has offered a six-month extension which will be due June of 2010. In the meantime, it would benefit the Board if a representative from Highlands can come before the Board to answer question.

MEMORIALIZATION:

1. Royle Systems Group, LLC – 111 Bauer Drive, Block 3203, Lot 4. Approval for a Certificate of Occupancy.

Motioned by Mayor Szabo and seconded by Councilwoman Marcalus, to memorialize the above resolution of approval.

Roll Call Vote: Ayes: Mrs. Rowin, Mr. Colyer, Councilwoman Marcalus, Mayor Szabo and Chairman Potash.
 Nays: None
 Abstain: None
 Absent: None

APPROVAL OF PAYMENT OF BILLS:

Motioned by Mr. Colyer and seconded by Mrs. Rowin, to approve payment of bills subject to the availability of funds.

Roll Call Vote: Ayes: Mrs. Rowin, Messrs. Colyer, Hagberg, Morris, Councilwoman Marcalus, Mayor Szabo and Chairman Potash.
 Nays: None
 Abstain: None

Absent: Mr. Baczewski

APPROVAL OF MINUTES:

Motioned by Mayor Szabo and seconded by Councilwoman Marcalus, to approve the July 9, 2009 Minutes.

Roll Call Vote: Ayes: Mrs. Rowin, Mr. Colyer, Councilwoman Marcalus, Mayor Szabo and Chairman Potash.
 Nays: None
 Abstain: Messrs. Hagberg and Morris
 Absent: Mr. Baczewski

NEW BUSINESS:

Mrs. Rowin expressed her disapproval for a large banner placed across the parking area by Zeytinia at the Copper Tree Mall.

She had been informed that Zeytinia was at the Building Department inquiring about a sign permit days before the banner was erected. Zeytinia was informed that for a banner of that size, they would need permission from the Zoning Board of Adjustment. Zeytinia erected the sign without permission. She expressed that this was unacceptable especially since Zeytinia is having other issues with the Borough.

Mr. Hagberg expressed that the ordinance is liberal but would have given them the option to hang the sign on the building. He was unaware that the sign went up anyway.

Mrs. Rowin informed Mr. Hagberg that the Zoning Officer was alerted and made them take down the sign.

OLD BUSINESS:

None

PUBLIC MEETING ADJOURNED AT 8:50 P.M.

Motioned by Mayor Szabo and seconded by Mr. Colyer to adjourn the meeting by a unanimous vote by the Board.

Respectfully submitted by,

Kathlyn Gurney/Administrative Assistant