

**MINUTES OF THE HARDYSTON TOWNSHIP PLANNING BOARD MEETING
HELD SEPTEMBER 22, 2005**

CALL THE MEETING TO ORDER: Chairman Miller called the meeting to order at 7:00 p.m. and read the Statement of Compliance.

STATEMENT OF COMPLIANCE: Pursuant to the Open Public Meetings Act, Chapter 23 1, P.L. 1975, adequate notice as defined in section 3D of Chapter 21 P.L. 1975, has been made to the New Jersey Herald and is also posted on the bulletin board at the Hardyston Township Municipal Building.

ROLL CALL:

Leslie G. Hamilton – Present
Jim Armstrong – Present
Randy Roof – Excused
Robert Neubig – Excused
Ed Zinck – Excused
John Monell – Present
James Homa (Alternate No. 1) – Present
Brian Kaminski (Alternate No. 2) – Present
Carl Miller – Present

OTHERS PRESENT: Robert P. Guerin, P.E., P.P., Thomas F. Collins, Esq., and Anne-Marie Wilhelm, Land Use Administrator

APPROVAL OF MINUTES:

Minutes of the Hardyston Township Planning Board Meeting Held August 25, 2005: A motion to approve was made by James Homa and seconded by Brian Kaminski. Roll Call: John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried.

Minutes of the Joint Special Meeting of the Hardyston Township Planning Board and the Hardyston Township Council Held September 8, 2005: A motion to approve was made by Jim Armstrong and seconded by Leslie Hamilton. Roll Call: Leslie Hamilton – yes, James Homa – yes, John Monell – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried.

RESOLUTIONS:

PB-5-05-5, Crystal Springs Builders, L.L.C., Preliminary and Final Subdivision, Preliminary Construction Plan and Final Site Plan, Ardleigh, Block 16, Lot 6.01: A motion to adopt the memorializing resolution was made by Leslie Hamilton and seconded by John Monell. The motion was amended to add the following provision to the resolution: The Applicant shall comply with the Township's amended Growth Share Ordinance adopted on July 12, 2005, and all other ordinances. The Applicant shall enter into a Developer's Agreement with this amendment to address said obligation and to ensure that it is phased with the construction of the *Ardleigh* section. Mr. Collins noted that the Applicant's attorney understood that the amendment to the resolution was appropriate. Roll Call: John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried.

PB-8-05-1, Crystal Springs Development, L.L.C., Amended Preliminary and Final Site Plan/Construction Plan, Phase I, Grand Cascades Hotel and Conference Center, Block 16, Lot 1.09, 1.10, 1, & 6.02: A motion to adopt the memorializing resolution was made by Leslie Hamilton and seconded by Brian Kaminski. Chairman Miller noted that the Board required that the Applicant return to the Board if the landscaping was not completed and the resolution was amended accordingly. Roll Call: John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried.

Mr. Collins noted that Crystal Springs submitted a Hold Harmless Indemnity Agreement signed by the Applicant that was acceptable and that the agreement was forwarded to the governing body. He confirmed that DOT approval was received via e-mail.

APPLICATIONS:

PB-11-01-1, Wild Turkey, L.L.C., Minor Subdivision, Request for Reapproval, Block 17, Lot 12.15:

Board members reviewed a request for a reapproval dated September 1, 2005.

Mr. Guerin stated that this minor subdivision was previously approved by the Board as part of the final site plan for Wild Turkey where there was a side property line encroachment of the tee for the fifth hole. He stated a small piece of the adjoining lot was to be added to Wild Turkey Golf Course. During the course of preparing the survey and the subsequent minor subdivision, a number of issues developed with regard to overlapping property boundaries. Mr. Guerin stated that all of the golf course property line issues have been addressed and there is one minor correction to be made to the plans, which are ready to be filed. He stated this reapproval will provide the time necessary to file the deeds. Thomas F. Collins, Esq., recommended the reapproval. A motion to reapprove the Minor Subdivision was made by Leslie Hamilton and seconded by John Monell. Roll Call: Leslie Hamilton – yes, Jim Armstrong – yes, John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried.

PB-7-95-1a, HFH Development Corporation, Extension of the Statutory Protection Period for the Preliminary Major Subdivision and Site Plan, Block 67, Lot 16.01:

The matter was carried without further notice to the meeting of October 27, 2005, at 7:30 p.m.

Mr. Collins noted that the Board did not have a quorum to vote on the Phase IV matter. He recommended that the Board continue the public hearing and carry the decision to a date certain. Mr. Goldshore agreed.

PB-2-05-3, HFH Dev. Corp. c/o Signature Properties, LLC, Indian Field Phase 4, Amended Preliminary and Final Subdivision, Amended Preliminary and Final Site Plan, Master Plan Update, Block 67.30 Lot 1:

Lewis Goldshore, Esq., appeared on behalf of the Applicant. Pat McClellan, P.E., and Joseph Barbieri, L.S., were previously sworn. Mr. McClellan submitted Exhibit A-4, revised site plan sheets 2,4,5,6, and 9, dated 9/20/05. He stated the sheets were revised in accordance with the recommendations and comments previously made by Mr. Guerin.

Board members reviewed the attached report dated September 15, 2005, and submitted by Robert P. Guerin, P.E., P.P. Discussion was noted as follows:

Report Comment #1- Mr. McClellan stated that the Post Road right-of-way was mostly 50' wide with one area reduced to approximately 45'. He stated that in all cases, the road was wider than 40'.

Report Comment #2- Mr. McClellan stated that the geometrical alignment of Grey Fox Lane was modified. He stated the alignment of Grey Fox Lane, which is the loop road, was moved south because of the realignment of the right-of-way for Post Road. He acknowledged that the proposed lots conform with the R-4 Zone requirements.

Report Comment #3- Mr. McClellan stated that the drafting error was corrected.

Report Comment #4- Mr. McClellan stated that notes would be added to the plan confirming that further development of Blue Hill Crossing beyond the intersection would not take place until Phase VI of the project was approved by the Board.

- Report Comment #5- Mr. McClellan stated that the Applicant would amend the plan as noted.
- Report Comment #6- Mr. McClellan stated that a notation would be added to sheet 9.
- Report Comment #7- Mr. McClellan stated that Inlet No.410 was changed to an "E" inlet until Blue Hill Crossing is extended.
- Report Comment #8- Mr. McClellan stated that the plan would be corrected to reflect that the profile for Grey Fox Lane will indicate intersections with Blue Hill Crossing.
- Report Comments #9-16: Mr. Lipari, Jr., stated that Lots 12 and 13 were removed from the plat as recommended by Mr. Guerin. He stated that this area was incorporated into Lot 14. He stated the plat conforms with Mr. Guerin's recommendations, contains 30 lots, and was retitled: *Phase IV Section I*. Mr. Lipari, Jr., stated that a lot line was added to the west end of Blue Hill Crossing where it meets the Post Road right-of-way. He stated the format corrections were made and that the mathematical length of Blue Hill Crossing was adjusted as required. Mr. Lipari, Jr., presented that the bearing of the common line between Lot 2 and 3 in Block 67.31 and the length of the common line between Lots 4 and 5 in Block 67.30 were corrected as requested. He stated that the necessary approvals would be obtained and Mr. Guerin's recommendations would be followed. Mr. McClellan requested that revised bond estimates be submitted at the time when the plan is ready to be finalized. Mr. Guerin stated that the estimates must be submitted prior to the filing of the final plat.

With reference to the Applicant's COAH obligation, Mr. Goldshore stated that a condition requiring the Applicant to comply with the growth share ordinance as well as the items noted in report comment #16 would be acceptable. Thomas F. Collins, Jr., Esq., confirmed that the application is subject to the growth share ordinance and the Township intends to comply with COAH requirements.

Chairman Miller opened the meeting to the public.

Mr. Frank Cicerale was sworn. He stated that comments concerning Post Road made by Mr. Guerin at the last meeting were inaccurate. He stated that HFH surveyors used the northern pavement of Post Road and they assumed it was part of the Township's right-of-way. He stated Post Road was an old farm lane turned over to the town and it does not meet modern standards. He stated that the property paved on the north side of Post Road is partly private property. He stated the developer measured from private property. He stated that the developer should use correct boundaries.

Mr. Guerin stated that the plan does show a portion of the north side of the road being outside the right-of-way. He stated this is why the Applicant was asked to dedicate 40' from the far side of the road, which would give enough room to build a road entirely within the right-of-way if need be. He stated that this is why additional right-of-way beyond what the Ordinance requests is provided. Mr. Guerin stated the road needed to be 20' to comply with RSIS.

Thomas F. Collins, Esq., stated that generally, the travelled way is the Township's possession even if it is on private property. Mr. Collins noted that the right-of-way is not a requirement to be constructed in this section of development. He clarified that the requirement is to make sure there is land if in fact a road widening is required for a subsequent section of the development because it is related and it is in this section that the land exists. He stated that this section does not require the widening of Post Road and there is no proposal to widen Post Road at this time. Mr. Collins stated that if it were required at some point in time, all government approvals would need to be obtained prior to the completion of the widening of the road. He stated that Post Road is an existing two-way public street in the Township of Hardyston.

Mr. Frank Cicerale stated that he did not think that the DEP would allow Post Road to be widened because it crosses a sensitive wetland area for more than 100'. He stated that he believed that the Applicant should be required to obtain DEP approval prior to proceeding.

Mr. Goldshore stated that there is an *Isolated Wetlands Freshwater General Permit* process offered by the DEP. He stated that when you talk about linear development, which includes roads and utility crossings, and there is a question of public health, safety, and welfare, roads get widened.

Mr. Peter Leone was sworn. He inquired about the identity of HFH Development Corporation's officers. He stated that HFH owes the Indian Field Homeowner's Association money. He stated that the developer is not going to pay it and wanted to know who the developers are.

Mr. Goldshore stated that he would provide Mr. Leone with information concerning the corporation. He stated that the Applicant has filed the information in the application packet in accordance with the MLUL. Mr. Goldshore stated that he would respond to a letter inquiry if one were to be forwarded by Mr. Leone.

Mr. Michael Cicerale was sworn. He stated that if the application is denied, there is no additional traffic on Post Road and the widening would be a moot issue. Mr. Collins noted that the application did not propose any access to Post Road. Mr. M. Cicerale stated that the public does not want the application or any of HFH applications approved. He stated that they have problems with them and no one wants it.

Ms. Chris Siedwic was sworn. She stated that the majority of residents are very unhappy with HFH and that she does not think that Phase IV or Phase V should go forward.

Chairman Miller stated that the hearing was about technical issues and that he would like to hear comments or questions about the issues and testimony. He informed the public that there would be no Board action this date.

Mr. Bill Lohrfink was sworn. He stated that the developer has nothing but contempt and arrogance for the residents of the development. He stated the developer wants to come into the community, take the land, build, make money, and blow town.

Mr. Goldshore acknowledged disputes between the residents and the developer and stated that the development does not always satisfy all of its residents. He stated that the application meets the standards of the MLUL and requested that additional testimony be limited to land use issues. With reference to road widening, Mr. Goldshore stated that roads get widened when there is a public health, safety, and welfare issue.

Ms. Joanne Matozzi was sworn. She stated that she had a list of names of persons wanting to hire a lawyer to fight what HFH is doing in the development.

Chairman Miller stated that the hearing was about land use issues. He stated that other issues are not within the Board's jurisdiction. Mr. Armstrong stated that the Board does what it can do.

Mr. Goldshore stated that he would try to help with the resolution of the complaints. He asked that a list of complaints be made. Mr. Miller reiterated that a list of concerns could be forwarded to Mr. Goldshore. Mr. Goldshore requested a list of particulars and stated he would attempt to get answers.

Mr. Frank Cicerale asked who controls the Board. Chairman Miller stated that Board members are appointed by the Township Council.

Mr. Bill Lohrfink stated that the developer does not answer letters and there is no sense to write letters.

Mr. Peter Leone stated that the residents would like to meet with the developer. He stated that the developer controls three of five seats on the Executive Board and does not show up at the meetings. He stated that the developer is not operating in good faith. Mr. Goldshore suggested that Mr. Leone provide a letter to him noting the concerns and that he would attempt to get answers.

Ms. Nilsa Pagan, previously sworn, confirmed that she had received a letter from Mr. Goldshore that contained a response to a question she previously forwarded concerning the blaster. She asked why

the developer would get an approval if they had not provided a plan for the approved commercial portion of the development.

Chairman Miller stated that the HFH master plan issues could be heard after the conclusion of Phase IV.

Mr. Goldshore stated that the MLUL provides that the Applicant has the right to apply for thirty homes in connection with the extension request. He stated that the Applicant would bring in a planner to address the commercial issue.

Ms. Judy Coomes, previously sworn, asked what the developer was going to do about the water supply. She stated that she was put on a water restriction this summer. She also asked about impact on taxes and services.

Mr. Guerin stated that the application would be subject to a permit from the DEP, i.e., a water main extension permit, which would include the information concerning water issues. He stated the application could be approved subject to the Applicant's obtaining the permit.

Mr. Collins stated that the Board must focus on each section of development and review the land use and zoning issues in each section. He stated that this is what the Board can do something about. He stated the application is a permitted use and a reduction in the density previously applied for. Mr. Guerin noted that the original application requested 50 units and the revised application requests 30.

Chairman Miller stated that the Board does not make laws. He stated the Township Council has the authority to pass ordinances with input from the public.

Mr. Collins stated that the RSIS is applicable and that particular questions about the plans and the Applicants can be asked.

Ms. Judy Coomes asked what costs are being added to the town. Ms. Coomes was referred to contact the Township Council.

Mr. Goldshore stated that the Applicant requests 30 units and no variances. He stated that the Applicant has met every concern and gone over and above what is required. He stated that the application complies with the law.

Chairman Miller suggested that the developer make an effort to make the people happy.

The matter was carried without further notice to the meeting of October 27, 2005, at 7:30 p.m.

PB-3-05-3, HFH Dev. Corp. c/o Signature Properties, LLC, Indian Field Phase 5, Preliminary and Final Subdivision, Preliminary and Final Site Plan, Block 67.29 Lot 1: The matter was carried without further notice to the meeting of October 27, 2005, at 7:30 p.m.

BILLS: A motion to recommend that the Council pay the bills cited below was made by Jim Armstrong and seconded by James Homa. Roll Call: Leslie Hamilton – yes, Jim Armstrong – yes, John Monell – yes, James Homa – yes, Brian Kaminski – yes, Carl Miller – yes. The motion carried.

Vogel, Chait, Collins AND Schneider

Invoice #36622	Planning OE	\$	887.50
Invoice #36623	HFHJL-01, Indian Fields General Escrow		625.00
Invoice #36625	SND-01-General Account – Sussex Nat. Dev.		125.00
Invoice #36629	WV-02, Govel, Polizzi, Walden: General Escrow		162.50
Invoice #36631	PB-4-05-3, Crystal Springs Development, L.L.C.,		1690.20

Invoice #36633	PB-4-04-1, Beazer Homes	150.00
Invoice #36634	MCS-01, Crystal Springs Builders, L.L.C.,	187.50
Invoice #36635	PB-3-05-1, CJS, Inc.	62.50
Invoice #36637	PBC-10-04-8, Crystal Springs Builders, L.L.C., [Town Center Concept]	437.50
Invoice #36644	PB-5-05-5, Crystal Springs Builders, L.L.C.,	250.00
Invoice #36645	PB-7-05-1, Siegel, R.	287.50

Heyer, Gruel & Associates

Invoice #24385	PBC-10-04-08, Crystal Springs Builders, L.L.C.,	500.00
Invoice #24384	Planning OE	1100.00
Invoice #24383	Planning OE	1725.00

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Invoice #65329	Planning OE: Legal Notice	18.00
Invoice #66123	Planning OE: Legal Notice	26.75

Guerin & Vreeland Engineering, Inc.

Invoice #WO489D	PB-1-05-3, Crystal Springs Builders, L.L.C., [Wild Turkey Way]	617.50
Invoice #W0440jj	WV-02, Govel, Polizzi, Walden: General Escrow	1015.00
Invoice #WO624F	PB-9-04-3, Crystal Springs Builders, L.L.C., [The Shotmeyer]	522.50
Invoice #WO482T	HFHJL-01, Indian Fields: General Escrow [Indian Field – Phase 3]	192.50
Invoice #WO483G	HFHJL-01, Indian Fields: General Escrow [Indian Field - Phase 4]	427.50
Invoice #W0665D	PBC-4-05-1, Grecco Landscaping	190.00
Invoice #WO604L	PB-4-05-3, Crystal Springs Development, L.L.C.,	285.00
Invoice #WO399J	PB-5-02-1, Estelle Manor, L.L.C.,	760.00
Invoice #WO379Z	MCS-01, Crystal Springs Builders, L.L.C.,	332.50
Invoice #WO525U	PB-1-03-2, Toll Bros. [The Briars]	265.00
Invoice #WO607D	PB-4-04-2, Billups, J.	332.50
Invoice #W0664B	PB-5-05-5, Crystal Springs Builders, L.L.C., [The Ardleigh]	1377.50
Invoice #WO641H	Planning OE	950.00

Chairman Miller called recess at 8:40 p.m. The meeting resumed at 8:45 p.m.

DISCUSSION: Hardyston Township School – Long-range Facilities Plan, Master Plan Consistency Review. The matter was carried to a tentative meeting date of November 10, 2005.

Board members discussed potential quorum issues and elected to cancel the regular meeting of November 17, 2005. An alternative meeting date of November 10, 2005, was agreed upon.

CORRESPONDENCE: Board members reviewed correspondence dated September 15, 2005, from Thomas F. Collins, Esq., regarding Crystal Springs Development, L.L.C. Board members discussed a Hold Harmless and Indemnification Agreement regarding the parking garage at the Grand Cascades Hotel and Conference Center and concurred with Mr. Collins that the agreement was acceptable.

Board members reviewed correspondence dated September 13, 2005, from Michael S. Garofalo, Esq, in the matter of Christian Faith Fellowship Church. Noting that the application was determined to be administratively incomplete, the Board denied the Applicant's request to carry without further notice.

Board members reviewed correspondence dated September 9, 2005, from Robert P. Guerin, P.E., P.P., in the matter of Crystal Springs Builders, LLC. Mr. Guerin informed the Board that he had spoken with Mr. Wunschuh and was told that the area around the maintenance building would be cleaned up and that trailers would be removed.

PUBLIC PARTICIPATION: No members of the public addressed the Board.

ADJOURNMENT: Having no further business to conduct, a motion to adjourn was made by Leslie Hamilton and seconded by Jim Armstrong. All were in favor. The meeting was adjourned at 8:55 p.m.

Respectfully submitted by:

Anne-Marie Wilhelm