



**TOWNSHIP OF RIVER VALE
PLANNING BOARD
July 18, 2005
REGULAR MEETING
MINUTES**

ADEQUATE NOTICE STATEMENT:

A Special meeting of the River Vale Planning Board was called to order at 8:05 p.m. The following statement was read: "This is a Regular Meeting of the Planning Board of the Township of River Vale. I am informed by the Clerk that adequate public notice has been provided by mailing notice to the Pascack Valley News/Post Review and The Record, by posting notice on the bulletin board in the Municipal Building, and by filing a copy of the notice to all persons who requested the same and prepaid the cost fixed by the Board".

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The Planning Board saluted the flag.

ATTENDANCE:

Members Present:	George Shalhoub	Secretary
	George Paschalis	Mayor
	Chris Wahmann	Vice-Chairman
	Robert Menville	Council Liaison
	Norman Goldman	
	James Hanna	
	Bruce Carillo	
	Kenneth H. Koons	Chairman
	Mark Ericksen	
	Eric Anderson	Alternate #1
	Maria Sapoppo	Alternate #2

Also Present:	Paul Kaufman, Esq.	Board Attorney
	Joseph Zaniello, P.E.	Board Engineer
	Michael Hakim	Board Planner

Absent: None

The Chairman announced that Joseph Zaniello would be retiring and resigning, and a Resolution of Commendation for his dedication and work was read by Chairman Koons, seconded by Mr. Carillo.

MINUTES:

July 18, 2005 - Mr. Hanna noted a correction on the Minutes. A motion for approval of the Minutes of 7/18/05 was made by Chairman

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Koons, seconded by Mr. Hanna, as amended. On roll call vote, the motion carried unanimously.

CONCEPT REVIEW:

1. Nicolini, Block 1501.02, Lot 2 - Major Subdivision - Not reached - Carried to next meeting.

PUBLIC HEARINGS:

1. River Vale Developers, Poplar Road, Parcel 16A - Major Subdivision - Mr. Wahmann and Mr. Anderson recused themselves and stepped down from the dais. Stuart Liebman, Esq. represented the applicant and reviewed the matter was heard at the last meeting and carried to this evening for Board action. Mr. Liebman was requested to make a closing statement after the Board's final comments and questions. Mr. Kaufman advised the Board delineate the sections of the application - two parcels are involved - to make sure everyone talks about I6A first then I6B, so there is no question as to which parcel the public is addressing. Mayor Paschalis commented if the public wants to speak generally they should be allowed. Mr. Kaufman stated he wants to be sure there is no confusion. Mr. Koons stated for that purpose Parcel I6A is closest to John Street, and Parcel I6B was closest to the reservoir. The exhibit board was displayed for ease in identifying the parcels for this purpose. Mr. Liebman stated the applicant would like to move the exhibits into evidence. Mr. Kaufman said his recollection was they were already moved into evidence. The Chairman stated I6A is two buildings of 14 units each. I6B is the piece closest to the reservoir, and the exhibit board would be brought out for that parcel.

Mr. Koons asked if anyone wanted to speak at that time. A woman asked if they could give a brief overview of the exhibit, and Mr. Liebman proceeded to do so. Questions ensued about details of the project, and Mr. Liebman felt all of this was already covered in the hearing, and questions and answers on the site plan now were inappropriate. Mayor Paschalis asked for Mr. Hakim to give a brief synopsis of the project. Mr. Kaufman advised, if the Board wanted to go that route, he would have to be put under oath, and Mr. Liebman has the right to question him. Mayor Paschalis asked for Mr. Hakim to proceed, and he was sworn in by the Board Attorney. Mr. Hakim gave the background of the law suit that resulted in a settlement, per the Chairman's suggestion, then proceeded to give a brief outline of the site plans and overview of the layout of the units, using the exhibit board to illustrate. Mr. Liebman was given an opportunity to question Mr. Hakim, and he commented he concurred.

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The matter was opened to the public for questions of Mr. Hakim. Mr. Kaufman advised that when questions of Mr. Hakim were concluded, and comments were made, the person would need to be put under oath. The following persons came forward with questions:

Lorraine Holding, 797 Westwood Avenue, asked for projections of occupancy and number of school age children. Mr. Hakim stated to his knowledge, no studies were done because they would have to be entered into evidence, and there are none unless they were done privately.

Sharon Cozin, 656 Cobb Road asked if the townhouses would be for sale or rental. Mr. Hakim did not know. Mr. Liebman stated the intent was for sale, but it could go either way. She asked about affordable housing units. Mr. Liebman advised the application includes 20% set aside, 16 units, towards the town's requirement for Mt. Laurel, half on site and half by payment of a regional contribution agreement.

Mr. Epstein, 625 Poplar Road, asked how far away was the driveway going into I6A from his driveway. Mr. Hakim deferred to applicant. Mr. Liebman was not able to answer. Mayor Paschalis noted the Board asked repeatedly for the driveway distances, and he has not provided this information. Mr. Zaniello stated going by the plan, it was approximately 70'. He asked about an economic impact analysis. Mr. Hakim stated there has been none made available for review by the Township, although requested by the Board, but not required of the applicant.

Barbara Freier, 4 Pine Lake Terrace, asked how the elevation was relative to Pine Lake Village. Mr. Hakim stated it is slightly lower. Mr. Liebman identified the exhibits they were referring to, A2and S24.

Bernie Booker, 524 Bernita Drive, asked about the retaining walls. Mr. Hakim stated it is from an old driveway, and the proposal is to remove those walls.

Alice Brady, from Wyckoff, renting 41 Pine Lake Terrace, asked for prices of the units. Mr. Liebman stated no pricing structure has been set for the units.

Harriet Tulum, 48 Pine Lake Terrace, asked what is the distance to Pine Lake Terrace where she lives. Mr. Zaniello was sworn in and stated 50'. She asked if there will be a tree buffer, and Mr. Hakim responded. Also, the electricity will be under ground.

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Mr. ____ of Hasbrouck Avenue asked about impervious coverage. Mr. Zaniello stated in the reviewing process they met the requirements in the MFA zone. He asked what design storm this was designed for. Mr. Zaniello responded the storm design required by the RSIS, basically the 100-year storm. He further explained about the detention basins.

Jeanette McCready, 23 Pine Lake Terrace, asked if the developer plans on widening Poplar Road, and Mr. Hakim responded no. Mayor Paschalis commented he read documentation that the applicant offered to widen Poplar Road. Mr. Hakim stated when the application became the two northern sites, the applicant withdrew that offer. Mr. Liebman stated the current plan does not include any widening. They had revisited the issue, and the concurrence of the Board and applicant was that there was no need for same as in the earlier plan with more units. She asked about sidewalks. Mr. Hakim stated they would be in front of I6A connecting to the end of the sidewalk constructed with Pine Lake Village and would connect with eastern end of the Pine Lake Village sidewalk to the eastern entrance, and would not continue. So it would be only on the North side.

Sid Fleischer, 60 Pine Lake Village, asked about curbing and paving. This was covered in the hearings.

Barbara Freier came forward again and asked about sidewalks. Mr. Hakim clarified.

Joe Collegian, 616 John Street, asked about traffic and if a light would be installed at Rivervale Road and Piermont. Mr. Hakim said he was not qualified to answer traffic questions, but there were conclusions that there would be no light there. Mayor Paschalis asked who made the conclusions. Mr. Hakim could not comment on the traffic light. Mr. Kaufman advised it is a County road and would require the approval of the County. The County will also be looking at this as well.

Mr. Chatam, Pine Lake Terrace asked if Mr. Hakim thought the project was too dense. Mr. Hakim said the only appropriate answer is that the density proposed here meets the requirements of River Vale zoning.

Alice Brady, 41 Pine Lake Terrace, commented making a left on Rivervale Road is very difficult, and some money should be set aside for a light, and asked Mr. Hakim if he agreed with the suggestion. Mr. Hakim answered he is not the traffic expert. Annette McCready asked how the fire trucks would get in. Mr.

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Zaniello said it was reviewed at the hearings, and the fire department reviewed the plans. He explained what would be done on both parcels. Mr. Hakim added the RSIS addresses these questions, about how wide the entrance has to be, etc., and all NJ municipalities are governed by this. This has been scrutinized very carefully by the Board, professionals and applicant, and the applicant has satisfied them. The Mayor added this was a major concern. She asked why Pine Lake Terrace is not on the map, and Mr. Koons responded it is private road.

Maureen Springer, Norwood, asked if what the people of the Township wanted was addressed by this Board. Mr. Hakim said there could be a very long answer and explained this was a product of negotiation and settlement, and this is what resulted.

Sharon Cozin asked if these would be public or private roads, and the answer was private. She asked if school buses go down them and if we plow them. Mayor Paschalis stated they plow them or reimburse the condo association for the cost of plowing. They did not have the answer about school buses.

Laura Bonvicino, 48 Pine Lake Terrace, asked about snow plowing costs in her maintenance fees in Pine Lake Terrace and paving of Poplar Road. She would inquire with the condo association for snow plowing costs, and the Mayor and Council for the paving.

The matter was opened to the public for comments. Each member of the public came forward and was sworn in as follows:

Brian Johnson, 608 John Street, commenting on I6A, expressed concerned about safety, was not comfortable with the distance from any paved roadway and the possibility of a fire. Also, he was concerned about traffic and traffic safety. He was also concerned about aesthetics, stating it is toe-nailed in there and has no value for the community.

Lorraine Walding, 797 Westwood Avenue requested the Board do impact studies on school age children and tax revenues and find out how and to whom these will be rented.

Joe Valente, 46 Rivervale Road, expressed concern about the environmental impact of this development. There is impact to the water, negative impact on the land and people surrounding it. We have been degrading the area enough, and it should stop.

Fred Epstein, 625 Poplar Road, last house on the right hand side by

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the reservoir, stated when water comes onto his land it comes in hard and goes through. He never saw a more beautiful town than River Vale. He described the difficulty in trying to make a left onto Rivervale Road off Poplar, and this project will add to it. He would like to see his project not happen. Mr. Koons and Mr. Zaniello stated the project was designed to have less than 0% runoff.

Sid Fleischer, 40 Pine Lake Terrace, commented on water runoff and read from a statement against the development I6B, including, but not limited to water, maintenance of the catch basin, consistency of design, and buffering. He moved on to I6A near John Street. The people on John Street will have people looking into their back yards. He continued and concluded his statements.

Arthur Maihack, 690 Edwards Street. He directed his comments to I6B. The building is very much out of place. On the drawing you cannot see how the Pine Lake development next door has their setbacks. Kalian was gracious enough to provide an ample setback. He felt the developer should eliminate the front units to increase the setback and keep with the character of River Vale. Mr. Liebman stated the application stands as submitted. It is at the minimum number it can provide. Mr. Maihack asked the Board if it would ask developer to remove that front section of housing and replace it with trees.

Tina Schweder, Meadowlands Conservation Trust, Lyndhurst, stated their sole mission is to protect lands along the waters and preserve land, and applauded the Board for preserving the land, having open meetings and is impressed with the crowd. She is concerned about the I6B property along the Hackensack River. Right now it is undeveloped and beautiful, but that will change with the Board's direction. Before anything is done she hopes the Board will take a long hard look and in the future look towards the Meadowlands Conservation Trust as someone to preserve land with. Mr. Koons stated all that is needed is money to purchase the North piece and leave it empty like the South.

Michael Hurson, 451 Hasbrouck Boulevard, Oradell, stated he is the Chairman of the Sierra Conservation Club, and on both parcels he heard we will maintain the property under the 100-year storm. Mr. Liebman stated the applicant submitted a stormwater management plan for each, which were admitted into evidence. He asked again about impervious coverage. Mr. Zaniello had the answer - there is no requirement in the MFAH Zone. Mr. Herson commented on the 300' buffer and C1 regulations, and stated the water quality is very

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important. He described the negative impact to the water. He felt that 600' was a better buffer and to please consider that. Mr. Herson spoke on the impervious coverage which would do a disservice to the water quality and the community, and that this development will cause significant damage to the tree's root zones. He was speaking about I6A and B. He urged the Board to use its diligence. Mr. Liebman questioned Mr. Herson about his occupation and whether he reviewed the stormwater management plan.

Lori Sharkey, 162 Westwood Avenue, and Mark Becker, both of SWAN, made statements that he was pleased with the turnout of the public and thanked the Board for its diligence and efforts to make sure what goes on is correct. They also thanked the applicant. They have been saving the watershed property along the Hackensack River, and these are the last remaining parcels. He commented on both parcels that they are not right for the area and spoke against them. He would like to proceed with the maximum preservation possible. They would work together with the Board, applicant, Conservation Trust and the State to purchase I6A and/or I6B. Ms. Sharkey also extended thanks, spoke about the canoe trip up the Hackensack River, and how beautiful these parcels are, hoped for possibly a miracle, but maybe there was some way to save these parcels from development.

Burton Hall, 98 N. 5th Street, Park Ridge, as head of the group to preserve the open space and natural character, the Mayor's Advisory Committee on Open Space, and as a citizen of Bergen County. He spoke about the role of the Board and the work done by the Board and professionals. All he asks of the Board is the extraordinary level of diligence in reviewing everything that has gone before it. Mr. Hall brought up dam height and the impact on the C1 boundaries. He stated we are in a drought situation. It is an important issue.

Alice Brady, 41 Pine Lake Terrace, asked if there were ample studies to see if it was too close to the reservoir. Mr. Koons stated we had studies for eight years. They are conforming to the required boundaries. Mr. Hakim agreed, and elaborated. They have complied with the requirements of the State of NJ. As far as the State is concerned, a 300' buffer is sufficient, and no further studies are required to demonstrate suitability. This Township had to adhere to those standards. Mrs. Brady stated there should have been engineering studies done on this body of water. Mr. Kaufman advised the Council agrees with her but the Council on Affordable Housing over rules the Township and everyone. Their ruling is the law, and this Board must follow the law.

Dalia Greisbaum, River Vale, spoke about the change in the

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characters of towns due to developments like this. There are other lands here and in adjacent towns the builders can buy and build on. This will cause over-crowding, traffic, fumes, etc.

Karen Landau, Montview Place, commented most has been said already, but with respect to Mt Laurel, and the laws, they also protect the people that live here. She is not against procedure, but the law gives the Board the right to vote, and she feels it is not ready for a vote yet. There are many unanswered questions, particularly about safety and school buses, on both. The people of the community deserve answers. That could be a reason not to vote tonight, to get answers to the questions. The people deserve this and have that right. There is legal, and there is moral. She would vote no; she is not intimidated by these people. Mr. Kaufman stated no one is intimidated by the applicant. She felt River Vale should set an example and should protect this property and drinking water for future generations. Ms. Landau asked the Board to delay the vote and to do the best as they have been.

Gary Beyer, 781 Drake Lane, echoed Ms. Landau's thoughts, but he differed on delaying the vote. He felt they should vote now. Mr. Kaufman advised for the Board to deny the application on documents that COAH said is not required is the easiest way for the applicant to get a reversal of the denial. The public should not walk out and feel the Board should ignore the laws. The Board cannot violate the law.

Mr. Hurson, still under oath, spoke about COAH and felt it was not anyone's intention to have this super development next to a reservoir. Mr. Kaufman advised we inherited the Settlement agreement, and we are stuck with it. This Board also has to address the Master Plan. The hour is very late, and it is not the Board's purview to discuss COAH, but rather that is the Mayor and Council.

Burton Hall, still under oath, he noted Mr. Kaufman clarified what the Board cannot consider in the decision-making process. Based on due diligence it is not a done deal. Mr. Kaufman said he never suggested that it was a done deal, but if you vote no, you have to have reasons to vote no and put them on the record. It can't be something that the law says you can't consider. You have to make a decision based on the evidence presented. The Board can't base its decision on something it is not supposed to consider.

Audrey Maihack 690 Edwards Street, stated she would like the local newspaper to ask the people that drink this water if they want this

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project, and this should be enough for COAH to see they were wrong in their ruling. The units are going for way too much money and it does not help the poor people

There were no further statements from the public. A motion to close the hearing was made by Mr. Koons, seconded by Mr. Carillo and carried unanimously on roll call vote.

Closing Statement by Mr. Liebman:

Mr. Liebman thanked the Board for its careful and thorough attention it has given this application, and the very experienced developer recognizes this and how it is carried out. The developer is a target. The developer asks for the Board's approval to carry out this project. The Board is not intimidated, nor has the applicant intended to do so. The applicant has been with this Board for seven years for 78 units. The 11 single family homes of I7C is already approved. This developer has worked with you, your Board and professionals, has designed redesigned and modified and remodified the application to the point where it sits now. You have very skilled professionals who have reviewed these plans and there are countless numbers of comments and recommendations. The carefully considered all ordinances. Mr. Liebman reviewed the history of the site. In 1993 litigation was settled with an Order dated 1995. These have been submitted with the application. He reviewed the Settlement Order and read from it. The small excerpts and the history he described need to be considered. These parcels have been scrutinized, and their role in the protection of these lands has been scrutinized and divested in United Water for development. The Settlement Agreement in 1991 stated the applicant should be heard expeditiously within the time prescribed by the MLUL, with special meetings to expedite, and they still worked with the Board for seven years. The Agreement recognizes these parcels are earmarked for development and are to be developed to the maximum densities. Yes, it will change the look of the property, but it's not without thought and what has been considered and provided for. The property is special for the reasons he described. It is a Mt. Laurel project; 10 years of public hearings, legal battles and Mt. Laurel review. These parcels are carved out, and many acres will not be developed. It is not the Board's charge to protect the environment—that is not what the documents call for. There was a divestiture subdivision application, and these 33 acres were carved out for lots. The approval was adopted creating this I7A, I7B, I7C, I6A & I6B, with 233 single family homes on the four parcels and 11 single family homes on I7C. Many hearings and debates followed. The applicant rejected the requirement for an environmental impact statement. They went to COAH, who stated they did not have to comply with the EIS or the _____. Then came the sale of lands I7A & I7B. There was a serious discussion,

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and in late 2/02, there was a sale of the parcels to the Township. The developer relinquished its rights to purchase and was paid no money. The applicant agreed to work with the Town. The Town purchased the property and paid United Water. I7C is subject to the action of the Board on these parcels I6A & I6B. There were changes. Formerly there had been 233 multi-family units; now they have 78 on 15 units. The permitted density would be 106 units. There were many meetings with the Town on I6A. When that was completed they went on to I6B, but had to go back to I6A because of C1. They also spent a lot of time on lighting and needed a waiver from the design ordinance. Then came the signs, which were reviewed and discussed, and they comply with the zoning ordinance. Next came the sidewalks. To comply with C1 and create the buffer requirements, they had to remove 18 units, an extreme impact on I6B and a sever impact on I6A. They did not have to ask for any variances to create these units; they are permitted in the MFAH zone. They met the challenges on the property and are willing to work on a property that has been severely impacted by environmental constrains. He is asking the Board to consider the application and grant any variances. They know they are entitled to expeditious hearings and approvals, and any denial would be arbitrary and capricious. After all that, since 1983 and C1, and everything they did to address the comments and concerns of the Board, they are still standing with a variance-free application for 78 units. You may be of the mind set to protect those lands, but you'd be wrong. This piece is part of a larger property, part of which was already preserved. We are asking the Board to approve their site plan applications. The Township of River Vale already got its part of the bargain. What's left to happen is some MFAH housing on 6A and 6B, from 233 units down to 78 now. We are asking you to approve our development applications as they are submitted.

Mr. Koons thanked Mr. Liebman for his professionals, Mr. Cagiano, and Beth Calderone, the Board's professionals, Mr. Hakim, Mr. Zaniello, and the Board Members. Mr. Koons continued, at this point it is 11:40 p.m., and since he has a tremendous amount of information to absorb and consider, he is not in a position to carry out a vote tonight. Mr. Hanna stated he was just appointed in February and has not completely absorbed the documents and would like additional time. Mr. Menville also stated he has read all the documents given to him, but when he went to sign the Certification, he finds he does not have the records from October through December 2003 meetings. So, he cannot sign the Certification, and if it comes to a vote he would have to recuse himself. Mayor Paschalis stated it has been years since this application started. He did some quick research, and there were about 25 meetings, and only two people are still here from that time, Mr. Koons and Mr. Carillo,

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and he would recommend a vote be taken up at the next meeting. Mr. Kaufman asked if there were any issues the Board would like him to review. Mayor Paschalis would like the Board Attorney to give a legal background. He would also like to know if we are talking about one or two applications. Mrs. Sappopo also indicated since she is new she would like to see how it all evolved, and she also did not receive the November 2003 minutes. Mr. Kaufman asked if that was the consensus of the Board, because of the information to be absorbed and the late hour. He asked if there was anyone who could sign the Certification that he read all the transcripts. If you attended all the hearings, you would not have to sign. Mr. Kaufman stated it would appear at this time there is only one member of the Board eligible to vote. We have been here seven years, and another month would give the Board to digest everything they heard tonight and complete their review and transcripts and for him to answer the questions.

Mr. Liebman took time to review this with this client. They would not agree to extend the time to the next meeting, but would extend the time to a special meeting not later than the 27th of this month. If we come in just for a vote, it would not take too long. Mr. Kaufman advised between now and the 27th, he was not available any night. Mr. Koons said he could not begin to take into consideration everyone's vacations and schedules. Mr. Kaufman stated there is substantial information for the Board to read, and he has to prepare answers to questions. Mayor Paschalis commented his firm delivered the last transcripts the end of May, which are voluminous, and the Board still has to review the exhibits, and to say you can't wait more than a week for the Board to vote is unreasonable. Mr. Kaufman stated the public spoke for about two hours, Mr. Liebman's summation was 75 minutes, and it is almost midnight. It is up to the Board to decide on a special meeting or hold their vote until August 15th. If you disagree, you have your remedies. They should not take that into consideration in their decision. To Mr. Koons, he advised it is up to you to decide. Mr. Koons stated he doesn't think he could get the Board to commit to a special meeting tonight. Mayor Paschalis suggested ensuring the applicant is first on the agenda. A motion to carry the vote to 8/15/05 was made by Mr. Menville, seconded by Mr. Carillo and carried unanimously on roll call vote.

2. Tucci, 597 Hudson Avenue - Doll House Site Plan - (Maria Sappopo recused) - Not reached, carried to next meeting. Mr. Koons announced that the next hearing, Tucci, would not be reached, and apologized to the applicant. The matter would be rescheduled for the next hearing date, 8/15/05. Mr. Kaufman advised that plans were

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received on 7/13/05. Mr. Zaniello stated the plans do not reflect the agreement made on the record to remove the variance for impervious coverage..Mr. Kaufman advised that the plan must be submitted for a variance-free application. Mr. Botta came forward and stated the variance was removed, but would check the plans. Mr. Zaniello said he did not receive the 7/13/05 plans. He may have removed it from the plans, but he did not have them. The matter was carried to 8/15/05, provided applicant submits the appropriate plans.

PAYMENT OF INVOICES - None

NEXT MEETING DATE: August 15, 2005 - Regular Meeting

CLOSED SESSION DISCUSSION - None

ADJOURNMENT: Upon motion made, seconded and carried, the meeting was adjourned at 11:45 p.m.

Respectfully submitted,

Mary R. Verducci, Paralegal
Recording Secretary