

TOWNSHIP OF LOPATCONG  
PLANNING BOARD MEETING

May 22, 2013

The meeting of the Planning Board of the Township of Lopatcong was called to order by Chairman VanVliet at 7:00 pm. A silent prayer was offered followed by the Oath of Allegiance.

Chairman VanVliet stated “adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Gazette and The Express Times and by posting a copy on the bulletin board in the Municipal Building.”

Present: Members Belcaro, Coyle, France, Hall, McCabe, Woolf, and Chairman VanVliet.

**Old Business:**

**Resolution Sycamore Landing – Block 102, Lot 3 – Amended Preliminary & Final Site Plan.**

Motion by Member Hall, seconded by Member Belcaro to approve. Roll call vote:

AYES: Members Belcaro, Coyle, Hall, McCabe, Woolf and Chairman VanVliet.

NAYS: None

**New Business:**

**Highlands Master Plan** – Chairman VanVliet explained to the Board that at the next meeting a public hearing on the steps we have to go through including a reexamination of our existing Master Plan and also an examination of the Highlands Regional Master Plan that would be an overlay at that point but I will let George continue the explanation of this.

Planner Ritter: Stated that the Township Council passed Ordinances and Resolutions opting into the Highlands and the Highlands Planning Areas as well as Preservation Area. The next step in the process and there are several steps, is the reexamination of our Master Plan to include the Highlands Element of the Master Plan. In other words, what that is, is a document that essentially aligns the Township Master Plan with the Highlands and recognizes that the Township is committed to the goals and consistency with the Highlands Regional Master Plan. So in the documents sent out to you, the first two elements that are in there is one that is a very brief statement on the reexamination of the Township’s Master Plan putting forth our intent to opt in and also our desire to be consistent to the Highlands Master Plan. The second is the official Highlands Element that will be added to the Master Plan. In other words, the Township’s Master Plan will remain as is and there will be just like you have a Land Use Element in there now, there will be a Highlands Area Master Plan Element included and that is what this does. The Highlands Master Plan itself is made up from about twelve different sections and we can go through those with as much detail as you want to and those would be for the Boards consideration and eventual approval. In other words, you at some point will be asked to decide whether or not you feel this is appropriate and what to adopt in the reexamination of the Highlands Master Plan Element of it. Also included in your packages is what is called the

Checklist Ordinance. That is an Ordinance that's going to have to be adopted by the Township Council but I felt it was important that you have a look at it, understand the ramifications of it and then decide to recommend it to Council. That would be the next step after you adopt the Master Plan Highlands Element. You would need to consider the Checklist Ordinance and whether or not you wanted to basically indicate your support to Council. Now the Checklist Ordinance, once adopted, any application for development that is not exempt and what I mean by that is under the, Highlands Regulations, right now there is a series of exemptions, basically the law would not apply to. If you adopt the Checklist Ordinance, the people that are currently exempt, would remain exempt. They would not come under the Highlands Checklist Ordinance; they proceed as if it was not adopted. This would apply to anything that would be non-exempt or basically a major Highlands development and the way it would work, is when an applicant comes in for development, if he is a major development, he would have to fill out this Checklist. The Checklist is a very basic form, there isn't very much to it but what it is, is a consistency review that would go up to the Highlands and they would review his application in the light of the criteria in the Master Plan and determine if he was consistent with the goals and objectives of the Highlands Master Plan. If they determine he is not consistent, they will tell him how to bring his plan into consistency. Until he accomplishes that, he would basically be deemed incomplete in front of the town board and would not proceed thru the hearings for the development application. He'd have to wait until he got that consistency approval from the Highlands. Once he obtains that, he would come back and go through the system like every application does today and that is the major issue in the Checklist Ordinance. One of the reasons we are looking at doing that now, it is one of the criteria for the acceptance of the Township's Wastewater Plan. We have that Ordinance in place in order to move that process along and down the road and that is really the compelling reason why we would do that. After those three steps are taken, there is also called a Highlands Regional basically regulations which are attached to the back and you can look at them. They are not to be considered at the next hearing. Um, is essentially the actual, just like you have your Subdivision and Zoning Ordinance, these are the standards by which applications would be judged in the future as they come in, in the Preservation Area and parts of the Planning Area that are not in our Center Designation. I'll explain that. They would have to follow and it addresses everything from the clearing of trees, the wildlife habitat, density, criteria based on septic basically nitrate dilution models, karst topography, they have a whole series of eight or nine elements that are looked at. It also includes things like if you are in a prime agricultural area. It also requires that we adopt an ordinance for the Town Center. One of the things that's been accomplished and approved as far as our Highlands Master Plan is the Town Center Designation. As part of opting in, we then have to develop regulations for that Center and that still has to be done. That would also come as part of the actual regulation package which would come later. The actual standards that we want to operate within that area and the reason we have to do our ordinance, is that the Highlands Regulations, as to their zoning districts and that stuff will not apply within the Town Center Designation which means that whatever rules we approve, are the ones that were going to operate under and they can be very close to what we have. It doesn't mean we have to change them but it means we have to formally adopt a set of rules for that. So that is the process we going through. The first two things that would be addressed at the public hearing would be the reexamination of the Highlands Area Master Plan Element and to adopt it and then to review the Checklist Ordinance and if you agree, recommend that to Council for consideration. That would go through the standard process to adopt an ordinance at the Council level. It would go to Council for first

reading, come back to the Planning Board for consistency and then go back to Council for the public hearing and final adoption. After that the Board would have to review the actual regulations. The adoption of the regulations for the Highlands. They all work as overlay districts. At the bottom is the existing Township Zoning which will remain in place and will operate as it is today and going forward that will apply to all exempt properties. However it is today will continue forward on exempt properties. The layer cake that is going to be in there is going to be the Highlands Zoning Districts which apply to everything outside of the Town Center designation. That would apply both in the Planning Area and the Zoning Area and that's an overlay of all of the towns zoning so that the uses we permitted in those districts will be allowed but be evaluated under the intensity criteria. Once we adopt the district standards, the actual standards for the Highlands, the Checklist Ordinance will go away. That will be repealed and then people will move through that process just as if they were making a regular application. The town will determine whether their consistent and go through the hearing process once that takes place. This is where we are in the process. This does not change any of the existing zoning in town. It would add eventually a layer over top of that for non-exempt properties. A non-exempt project will take time and until the application is deemed consistent the Board cannot hear the application. The Highlands wants to be kept in the loop on any new ordinances, changes to the Master Plan. It doesn't necessarily mean they're going to interfere but you have one more group that will be looking into this to see essentially what is being done is compatible with their Master Plan.

Member Hall: Town Center, what's their definition of it and what's the purpose of it?

Planner Ritter: Well the Town Center was obtained months ago. There is actually a map that covers about 2/3rds of the town. It covers all the industrial area and a substantial portion of the residential.

Chairman VanVliet: Just about all the existing development from the Phillipsburg line to Strykers Road is in the center designation.

Member Hall: What is the intent?

Planner Ritter: Well what that does, the advantage of that is several. Any of the Highlands regulations, the Highlands Zoning, the Highlands Sub-Zones do not apply. So essentially it is really an area of the town that they are going to maintain essential jurisdiction over all the land uses that occur within that area and it will be governed much like it is governed today or as amended but it is essentially going to remain in the province of the town to decide how we want to develop that area, what goes into it but the biggest positive benefit to that Town Center Designation it allows you infrastructure, sewer and water to go into that area whereas in the Highlands Mater Plan, most of that area could not be sewerred cause it lays outside the current sewer service area. So one of the big positive benefits of it is it allows the extension of sewer and water service throughout that pink area.

Member Hall: It looks like most of the residential is serviced by sewer.

Planner Ritter: Most of them.

Chairman VanVliet: A good dividing line is Rt. 57 is a good dividing line from where you see the Residential Center and then the Industrial Center. We were able to preserve the Ingersoll-Rand tract for development otherwise that would have gone away and we would have never been able to extend infrastructure to it. Also the area along Strykers Road, it does not have it yet, but in the future depending on what happens with the Phillipsburg Sewer Plant and a lot of other factors, will allow us to develop that under our control.

Planner Ritter: One of the other benefits of this that is major is that one of the criteria was that the Ingersoll Rand tract had to be included in the Town Center. It was originally put in as a Preservation which would have meant cluster/residential development with no sewer service. We actually listed it also to give us more, we recognize the fact that the town has approved a redevelopment plan for that tract but it is also recognized within the Highlands Master Plan Brown Field Redevelopment site which also gives it more weight toward being redeveloped and that is one of the sites specifically called out for redevelopment in the plan as well as the actual high school is a redevelopment site and will remain that way in the plan. The other thing to look at is the area north and east of Rt. 519 is the Preservation Area. So that area, whether the town opted in or not is under the control of the Highlands.

Member Hall: So as far as the Highlands, in your opinion, what are they trying to accomplish here. Are they pro residential, pro industry or are they just trying to make sure each town has a balance.

Planner Ritter: No I'd say they are pro conservation and what I mean by that is conservation not that they want to save every bug that is out there but it is conservation of water and resources. The law that established them was basically based on the idea of preserving water flow and water resources for the State so their density criteria, the nitrate dilution bottle they use, it's all geared towards preserving water quality including the recharge so generally the trend is to reduce the intensity of development to concentrate it in areas where it would be better served like the idea of clustering and to discourage further infrastructure being pushed out into areas where there is very low density and really don't support that. They're pushing for the concentrated development in limited areas and basically preserving the remaining outlands for water recharged water quality, agriculture so more of them towards commercial towards conservation than anything else. They do recognize centers; they're not telling you how to use the land in other words, what is zoned industrial today will stay industrial. What's commercial will stay commercial.

Member Hall: What about challenging their decision with the court system as well or are they exempt from.

Planner Ritter: Well they're not exempt. It's like having a third party to negotiate with. The town still does its planning but in the end they get to comment. Next meeting will be a public hearing on the Reexamination Report and the adding the Element and the Checklist Ordinance is in here for the Board to look at and recommend it to Council. After Council reviews it and adopts on first reading then it will come back to the Planning Board for consistency with the

Master Plan. It will go back to Council for final adoption. The public hearing is for the Master Plan.

Member McCabe: Can you just clarify again; I just don't see how it is going to benefit us if it is only applying to the outer edges anyway. You know, is it worth adding another layer of approvals, is it more of a burden than it's worth.

Planner Ritter: Well there is a couple of things that are going on. If you don't opt in, let's go all the way back to the beginning of this process, the town has no choice about the Preservation Area. Obviously the other 2/3rds are in the Planning Area and we did have the option to opt in or out but the one thing that started the discussion on opting in is that the DEP had taken the position that they would follow the Highlands Regional Master Plan to the extension of all sewer and water service. In other words for the extensions which meant that they couldn't go beyond the existing sewer service and water service areas which meant the things like Ingersoll, parts of the industrial park that have no that aren't in the sewer service area could never, even though we didn't opt in, we couldn't extend sewer and water there.

Member McCabe: But weren't we not going to do that anyway.

Planner Ritter: The intent was hopefully to develop the industrial areas, to encourage industrial development by getting sewer and water in there rather than to have them on septic and it was particularly critical to places like Ingersoll. Without sewer and water out there, you basically have an open field.

Member McCabe: By having sewer and water out there then they might be dumping stuff that you don't need them dumping into sewer and water. Like if we have sewer and water available to them, it might end up causing more pollution.

Planner Ritter: Well we'd cause certain types of pollution but also be treated rather than just dumped into the ground as a septic field. That's right. I'm just giving you the history. The idea was to not have the town's long term development plans, particularly in the non-residential areas severely impacted by the Highland's regulations and if we did not choose to opt in, the sewer and water extensions, the odds are we wouldn't have gotten. The other aspect of it was to then get the center designation which also requires you to opt in which then gave the town the freedom to extend sewer and water and maintain their zoning in those areas which they would have difficulty doing without that under the Highlands. So the idea was to get permission to extend sewer and water and then get the Highlands Center Designation but still give the town reasonable control over the bulk of its properties. It also gives you protection if we adopt into the Highlands and you are approved finally they will defend the town against land use suits, sustainable zoning and such on behalf of the town. It also allows us to get a lower COAH number because in the Highlands they changed the formula by which you calculate your need number. If in the end if this does not work out, you can still opt out. The Township Council still can choose whether to opt out and with no penalty. The DEP would be determining where sewer and water extensions will go because they will follow the Highlands regulations.

Member McCabe: So you saying one benefit are to get sewer extensions. How does that play into Phillipsburg being the boss and saying you only have so much flow coming in?

Chairman VanVliet: That would be one of the things we would have to look at. Had we, if we do opt out and the DEP made it very clear to us early on in this process that they would approve any extensions. Therefore, we would not get any increased capacity. You know, they may take capacity away because there are certain designated areas like the Phillipsburg Mall and public businesses out there that might have sewer connections. The Sycamore Landing sewer connection coming in.

Member McCabe: So would Phillipsburg have the power to say you can't, how does that work, I want to add more sewer connections, can Phillipsburg, can't they up or rates or somehow.

Member Belcaro: No, no.

Member Woolf: They did up our rates.

Member Belcaro: They did already

Member McCabe: But let's say we're bringing more in.

Chairman VanVliet: We have a certain capacity that we contracted for, allocated to us. It was like 800,000.

Member McCabe: And we use what?

Chairman VanVliet: I would guess we have about 710,000.

Member McCabe: So when we expand it, we are going to need more right? Capacity?

Chairman VanVliet: Well there is already planned into, if there is an industrial site goes on Ingersoll, we have 50,000 allocated in our allocation now to there. I don't know exactly what the full numbers are. Same way with the Strykers Road area, there's 50,000 gallons within what we have here. However, if we lose those designations, those properties are open for. One of the things we were looking at when we first started also was the amount of development that is occurring in this town and we were afraid of the Builder's Remedies coming in.

Member McCabe: Which means what?

Chairman VanVliet: Well the Builder's Remedy is where the court comes in and says you have to provide so much COAH housing. We were looking for a pretty solid way we could preserve those areas. Had they gone to court and won the Builder's Remedy they would get one COAH unit for every five units or something like that and an increase density of housing instead of what we have like three houses to an acre on a 1/3 acre lots. They would be able to put five houses on an acre coming in and increasing the density that would go in there. A lot more houses, a lot more space.

Member Belcaro: So this Highlands would be in the best interest of the Township?

Planner Ritter: I think it is.

Member Belcaro: It sounds right because what it does is it would help us with the overdevelopment in this town by letting the developers have meet the requirements and it could be costly for them and could also discourage them. Also it doesn't give restrictions otherwise if we opt out.

Chairman VanVliet: Thank you for taking the time. I wanted to give you a background of what we are going to be doing, where the Highlands lies. When we first started this, we were under the pressure of development here. We had a lot of housing developments going, they were coming in left and right.

Planner Ritter: Feel free to call before the next meeting if you have questions.

**Public Comment:** No one present from the public.

Chairman VanVliet asked for a motion to adjourn the meeting. Motion by Member Hall, seconded by Member Belcaro. All in favor.

Respectfully submitted,

Margaret B. Dilts  
Secretary