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PUBLIC MEETING

June 2, 2001

Patrick McGaheran School

*PRESENT:* Jim Imbriaco, Pat Papa, Chris D'Alleinne Marc Melloy, Gerry Teeney, Dan Fennell, Sue Dziamara, Tom Borkowski, Tom Kacedon, Bill Barr  
Professionals: John Thonet and Blaine Rothauser, Environmental Consultants; Al Litwornia, Traffic Consultant; Dan Bernstein, Board Attorney; Alice Oldford, Board Secretary

*ABSENT:* None

*CALL TO ORDER*

Mr. Imbriaco called the meeting to order at 9:00 a.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 on January 11, 2001, and the notice of and agenda for this meeting was posted on the bulletin boards in the vestibule of the Municipal Building and outside the Planning and Zoning Office on the 2<sup>nd</sup> Floor of the building and faxed to the Hunterdon County Democrat, the Express Times, the Courier News, the Hunterdon Review, the Star Ledger and the North County Branch of the Hunterdon County Library the Friday prior to the meeting.

*MINUTES*

The minutes of the meetings of May 8 and May 21 were approved.

*PUBLIC HEARING*

WINDY ACRES, Block 7, Lots 18 and 31 (292 acres, AH-1)

Applicant seeks preliminary subdivision and site plan approval for residential development of 958 dwelling units consistent with previous general development plan approval. Recently submitted revised plans show 911 units.

This hearing is continued from 5/1, 6/5, 7/11, 9/5, 10/2, 10/21, 11/4, 11/6, 11/18, 11/20, 12/2, 12/11, 1/16, 2/20, 4/2, 4/30, 5/7, 5/14.

The Chairman opened the public hearing and noted that public testimony would be taken. He affirmed that, due to time constraints, comments should not be redundant. The Chairman introduced Mark Ciarlariello, representing Annandale Hose Co. No. 1.

Ms. Tubman introduced herself on behalf of the applicant. She said revised landscape plans and general plans had been delivered. Further, she pointed out that applicant plans to deliver comments to Bogart's and Litwornia's reports.

Mark Ciarlariello was sworn. He testified that there had been communications with the Fire Department Committee and applicant. Mr. Ciarlariello said applicant had responded favorably to approx. 90% of the concerns. An area of concern that remains is RSIS as to street widths and turning radius. Mr. Ciarlariello explained that the National Fire Protections Association recommends standards, including 24' roads with no parking, 30' roads with parking on one side, and 36' roads with parking on both sides.

In addition, Mr. Ciarlariello questioned the fire flow. Mr. Mullen said an Elizabethtown representative would review the current plans and give a revised statement. He noted Ken Nelson, who had been involved in the GDP process is no longer with the company. Applicant said 1700 gallons per minute could be provided according to the size of the mains. Mr. Ciarlariello confirmed that the Fire Dept. recommends 1700 gpm flow.

Asked for a recommendation as to street widths, Mr. Ciarlariello said fire-fighting apparatus is only getting larger, and 28' cartways without parking are the minimum. Mr. Ciarlariello emphasized that regardless of the main widths, the provider, Elizabethtown, must have adequate pressure to maintain the flows. Mr. Mullen confirmed that E'town has committed to provide water, and he expressed confidence that the flows would be adequate.

Ms. Tubman asked whether Mr. Ciarlariello was aware of where parking was not provided. Mr. Mullen asked how fire fighting was handled in areas where country roads do not meet the standards, to which Mr. Ciarlariello responded that the Fire Dept. had to improvise. He pointed out the department had learned from these situations and therefore recommends more generous standards where possible.

The Chairman recognized Varlerie Bolhemier, Esq., from Readington Township. She revealed that she brought 2 witnesses, Andrew Holt, P.E., of Suburban Consulting Engineers, and Stephen Souza, PhD, of Princeton Hydro.

Ms. Bolheimer pointed out that Readington Township adjoins Clinton Township and that the South Branch Rockaway Creek runs through Readington Township. Ms. Bolheimer disclosed that Readington Township is concerned as to the impact to the water quality. She said she

would rely in part on the provisions of the Clinton Township ordinance, 40-116 C as to environmental concerns.

Her witnesses were qualified and their credentials accepted. Andrew Holt prepared a report dated 11/2/00, which was marked as P-10. Mr. Holt addressed wastewater management plans. He noted that applicant had not presented testimony from Applied Wastewater. Holt contended that South Branch Rockaway had a limited capacity to accept pollutants without degradation.

Mr. Holt further testified that there had been no presentation by applicant to address the ordinance standards. He introduced exhibit P-12 with his evaluation of the impacts resulting from the Clinton East treatment plant. He reviewed the history. Mr. Holt contended that documents quantifying the flows have changed over the years. He noted that applicant had not provided the information to the Board. Mr. Holt disagreed with applicant's position that this is not within the Planning Board's purview to consider the wastewater treatment facilities. Mr. Holt represented that the evidence provided did not demonstrate that the wastewater could be adequately treated to avoid degradation to the existing water quality.

Mr. Holt referenced the Township wastewater management plan. His exhibit showed the areas that likely would be precluded from sewer treatment. He noted that the environmental constraints had not been defined by the plan. Mr. Holt contended that the wastewater management plans for the project and the municipality are not consistent.

Mr. Kacedon confirmed that in his experience with Clinton Township Sewerage Authority, the areas identified as being outside the treatment area have always been considered as part of the Clinton East treatment area. Ms. Tubman elicited confirmation that with fewer units, there is less demand for treatment. She asked whether Windy Acres and the franchise area are within the limit of the Township plan, which Mr. Holt confirmed. Further, she noted that the Township is mandated to provide sewer treatment to the AH zone, which Mr. Holt confirmed. She also elicited confirmation that wastewater management could be undertaken in phases.

Stephen Souza, Ph.D., of Princeton Hydro, was sworn and his credentials accepted. He referenced his reports of 11/00 and 5/01. The May report was marked P-10. Mr. Souza contended that applicant had not addressed all environmental impacts. He indicated that he concurred wholeheartedly with Thonet's reports and testimony. Mr. Souza also pointed out that no verification of applicant's analysis had been provided.

He suggested that applicant's calculations overestimated the capacity of the detention basins and Stormceptors to remove pollutants. He referenced NJDEP Best Management Practices manual. He further noted that according to manufacturer's data, Stormceptors are effectively used as a pre-treatment for wastewater rather than as proposed by applicant as a polishing technique. He addressed whether the basins would in actuality be wet or dry and indicated that

wet basins would require different planning. Although applicant has planned dry basins, some seepage has been noted. Applicant contends that underdrains have been planned.

Mr. Souza also addressed the capacity for filtering of the smaller tributaries on site. He noted some revisions to Omni Environmental's reports. He questioned the validity of the stormwater pollutant removal projections. Mr. Souza also questioned the sensitivity analysis, indicating that it appeared to be primarily a mathematical exercise. He emphasized the lesser dilution capabilities of the tributaries.

Mr. Souza also addressed specific pollutants, including phosphorous loading. Mr. Souza contended that the alternative analysis had not been conducted. Mr. Souza indicated that some issues could be avoided by scaling down the project as suggested by Mr. Thonet.

He summarized that there would be excessive demands on the natural resources and that the existing resources would not be protected.

Responding to questions as to the computer analysis vs. on-site sampling, Mr. Souza indicated that both the modeling analysis and sampling have their function. He contended the technique used was not in conformance with NJDEP Best Management Practices. Further, he noted that in his opinions the co-efficients were not consistent with pre and post development conditions.

Testimony has been reduced to a written memorandum marked as P-11.

Dr. Ferrara, principal of TRC Omni Environmental, was introduced.

Tom Borden, Esq., introduced himself. He said he represents Clinton Township Concerned Citizens and Kullman Industries. He said he would not present witnesses but would offer legal opinion. Mr. Hill objected saying that applicant wanted to know who is CTCC. He noted that applicant understood that the group does fundraising and has circulated flyers. Mr. Hill said the law provides that a group raising funds must be registered with the State of New Jersey. Mr. Borden said the CTCC had registered with the State this week.

Mr. Borden introduced a package of exhibits, marked K 1-6. Mr. Borden said K-1 represents the testimony he would give today.

He initially addressed the State requirement that applicant have NJDEP certifications for water and sewerage. He contended that the Planning Board is precluded from acting until the certifications are in place. He noted that statute and case law confirm his position. Mr. Borden noted that applicant is hiding behind separate applications for water and sewerage treatment.

Mr. Borden spoke to the anti-degradation requirements. He indicated that siting the wastewater facility must meet NJDEP standards. He noted that CTCC has made application to NJDEP to re-classify the stream, affording more significant protection.

Mr. Borden also addressed EIS requirements. He disclosed that the applicant's Letter of Interpretation expired and has yet to be submitted. He said he could not understand why the LOI had not been up-dated. He speculated that an up-dated LOI would likely require additional buffering, which might result in a reduction in the number of units. Mr. Borden suggested that a 15% reduction in units would trigger an amended GDP, which applicant has consistently declined to do.

Mr. Borden further cited a condition of GDP requiring NJDOT approval.

Ms. Tubman contended that his initial position is incorrect wherein he contended that developments of more than 50 units must be denied without provisions for sewerage and water. Mr. Hill said MLUL provides that the Planning Board must act within the time prescribed regardless of sewer and water facilities. Mr. Hill said he would provide a Hunterdon County case confirming his position.

Members of the public were invited to speak. Mr. Hill sought to eliminate comment from members of CTCC and Kullman Industries since Mr. Borden had spoken. Mr. Bernstein said Borden had not given testimony but only legal opinion.

John Lefkus, 14 Whitetail Way, was sworn. Mr. Lefkus referenced a letter from Assemblyman Leonard Lance to NJDEP supporting the re-classification of South Branch Rockaway Creek to Class 1. Mr. Lefkus read a statement initially citing the changes that have evolved since the AH-1 ordinance was adopted in 1987. He further referenced the approved General Development Plan. Mr. Lefkus contended the GDP must be revised with appropriate facts submitted.

William Honachefsky, 8 Echo Lane, was sworn. He said he is an environmental planner among other certifications. In addition, he is the author of three books. He has served as an environmental expert for State entities. Mr. Honachefsky said he supports affordable housing in a proper ecological setting. Further, he noted that he had reviewed the Environmental Impact Statement.

Mr. Honachefsky said the statement that there would be no impact on the stream quality is impossible, and no development in the history of man has had no impact. He referenced the increase in temperature in the stream. He emphasized that post development impact would, in fact, occur. Mr. Honachefsky also referenced wild-life impacts and air quality concerns. He said scientific data is available in quantity to support his conclusions. In addition, he testified that he believed that the master plan should be up-dated taking advantage of the scientific data.

Laurie Gneiding, 46 Old Mountain Road, and John DeMarrais, 79 Quakertown Road, introduced themselves as witnesses and introduced Exhibit P-13. Mr. DeMarrais is a member of the National Audubon Society, South Branch Watershed Association, and Sierra Club. He said he is not a scientist. Mr. De Marrais said he had observed the birds from the railroad trail. In addition, he said Hunterdon County annually conducts Christmas bird counts. Mr. DeMarrais testified that there are birds on the endangered and threatened species list, which maintain habitat at the project site. He revealed that a bald eagle nests at Round Valley, and he suggested that eagles forage at the Windy Acres site. He described other endangered and threatened species.

Laurie Gneiding gave her credentials as an environmental expert. She confirmed that she concurs with Thonet's report. She challenged the findings as to surface water data. She indicated that grasslands and freshwater wetlands would be damaged. Seventeen species of threatened and New Jersey species of concern listed birds maintain habitat at the site, and 63 migratory birds use the property. Mrs. Gneiding said evidence shows water towers increase bird kills.

Mrs. Gneiding concluded that the applicant had not provided a current LOI and elements required by the EIS ordinance.

Stephen Ombalski, P.E., P.P. and LS, introduced himself, representing John Dotter. He introduced a letter marked P-15. Mr. Ombalski said the Dotter property is surround by Windy Acres property. He addressed concerns as to a wall within 10-15' of the Dotter property. He described the height of the wall and expressed concern for the impact to the Dotter property. He also raised concerns related to the sewer lines in the vicinity.

Frank Golan, P.E., of Pulte, addressed maintenance of the wall. They referenced the Najarian plan sheet 22 of 68 (Grading plan 12). Mr. Ombalski reiterated his concern for maintenance. Mr. Golan explained that the wall could be dropped from the top for maintenance.

David Gromack, 16 Roundtop Drive, Chairman of the Clinton Township Environmental Commission, was sworn. He said CTEC had reviewed the wastewater treatment plant plans. He said establishing a tertiary treatment plant on a trout stream does not make any sense. As to the EIS statement that there would be no effects on the stream, he said the Environmental Commission concurs with Honachefsky.

Jeff Tittel, 57 Mountain Ave., Princeton, Director of NJ Sierra Club, introduced himself. He referenced 3 major water intakes located downstream of the property. He said New Jersey has more threatened watersheds than any other state. He contended new discharges would further compromise the watershed.

Mr. Tittel said this project demonstrates why the New Jersey State plan does not work. He said New Jersey is 49<sup>th</sup> in the country for air quality, and this project would further impair the air quality. Mr. Tittel asked the Board to consider the major regional and state concerns.

He confirmed that the Sierra Club views this project as the worst example of sprawl in the state of New Jersey. Mr. Tittel said this is a 911 sprawl emergency.

Mr. Tittel recommended full assessment of possible arsenic contamination, and he emphasized the bigger picture.

Rosemarie Malaker, of Clinton Township, questioned Mt. Laurel housing being forced on the Township.

Frances Spann, introduced herself on behalf of Readington Township Environmental Commission. Ms. Spann testified that RTEC recommends denial of the application based on deficiencies in the EIS. She contended there would be harm to the environment. Further, Ms. Spann pointed out that COAH obligations are no excuse for environmental degradation. Ms. Spann referenced water quality, habitat, resource protection, and wetland transition areas.

Michael Brady, P.E., 46 Old Mountain Road, introduced himself. He was previously sworn. Mr. Brady distributed an Overview of Environmental Risks, marked P-14. He addressed applicant's responsibilities for public health and safety. He noted pesticide and herbicide uses typically associated with farming. Mr. Brady raised concerns as to residues remaining in soils to be used on the site. He contended the applicant had not met its burden to protect public health and safety.

Lunch break was announced. The hearing resumed at 1:30 p.m. with public comment.

John Caglione of Stonegate Lane, Clinton Township, was sworn. Mr. Caglione said the old plan instituted 10 years ago is not consistent with the Township's current needs. He asked the Board to consider the future.

Wilma Frey introduced herself on behalf of the Highlands Coalition. She explained the Highlands Coalition is a combination of over 85 entities committed to preserving the Highlands region. Mr. Hill objected indicating that Ms. Frey is not an attorney. Mr. Bernstein elicited response from Ms. Frey that she is a resident of Tewksbury Township and can testify as an individual and give opinions of the organization. The organization represents the Appalachians. Ms. Frey disclosed that Windy Acres is at the southern end of the Highlands in N.J. She acknowledged water, recreation and farmland values.

Ms. Frey pointed out that there is a study identifying impacts. Watershed conditions are being studied. She said the Highlands provide water for 1.5 million people statewide. Ms. Frey contended that this is an assault on the environment. She enumerated shortfalls in the

application and encouraged rejection. She reiterated that this site is on the Hunterdon County Park System master plan.

Assemblyman Leonard Lance, 264 Stanton Mountain Road, Clinton Township, Chairman of the New Jersey Assembly Budget Committee, introduced himself. Mr. Lance noted that he represents 20 Hunterdon municipalities, Warren and Mercer County. He referenced his letter to NJDEP requesting reclassification of the stream. Assemblyman Lance advocated retaining the rural character of the Township and the County. Finally, he encouraged protection of the environment and open space.

Lisa Lauderdale, resident of Lebanon Borough expressed concern for traffic on Main Street. She referenced police and fire services in Lebanon Borough.

Alexander Litwornia, the Board's traffic expert, was sworn. His report of 5/29 was marked PB-7. Mr. Litwornia presented his credentials, and he summarized his report. He contended the street widths proposed by the applicant would preclude parking, and therefore, the Township would have to introduce an ordinance preventing parking.

His recommendations are summarized on pages 5 and 6 of his report. He noted that he had consulted with the Fire Department as to requirements for their equipment. He further addressed improvements to off-site intersections. He commented on the inadequacy of some of the cul de sacs. Mr. Litwornia spoke to cut-throughs in the commercial areas and u-turns on the highway. Mr. Litwornia disputed applicant's interpretation of treatment of grades in excess of 5%.

Mr. Litwornia reviewed and responded to Orth-Rodgers report of June 1, 2001. He disagreed with applicant's proposal for roadway widths (A) and profiles (B). He suggested that traffic studies be monitored. Mr. Litwornia said there is a direct conflict with the DEP related to access. Further, he took issue with the traffic signal plan.

Ms. Tubman asked about RSIS application. Mr. Litwornia pointed out that there could be no restrictions on parking without a municipal ordinance. Ms. Tubman said applicant would agree to the Township's adopting an ordinance restricting parking. Mr. Bernstein said the reality is people would utilize parking as needed. Mr. Hill noted that the Association could impose a restriction. Mr. Bernstein expressed concern as to enforcement. There was discussion as to restrictions, monitoring and jurisdiction. It was suggested that after issuance of 300 certificates of occupancy, the traffic scenario be re-evaluated.

Scott Kennel of Orth Rodgers was sworn. He said he is the project manager for the Windy Acres project. Mayor Borkowski questioned a portion of Orth Rodgers' report that said "there would not be a negligible affect". Mr. Kennel clarified that he meant the impact would be minimal. There was some discussion with Mr. Kennel as to traffic impacts. Numbers from

the 1999 report were questioned. Mr. Kennell conjectured that based on annual growth rates, there could be a 10% increase in traffic.

Michael Brady asked whether applicant would receive any State funding for the property. Applicant responded it would not be receiving State funding.

Mr. Thonet was introduced. Mr. Bernstein said direct testimony had been completed. Mr. Thonet and Mr. Rothausser are available for questions. The Board asked whether soil quality analysis had been conducted. Mr. Thonet said there had not been any analysis. The Board also questioned whether there had been water quality analysis. Mr. Thonet responded there had been no sampling. Further, no specific habitat analysis had been conducted. Additional questions were posed as to discharge from detention basins. Mr. Thonet confirmed that three basins discharge to the streams, 2 to South Branch Rockaway Creek and one to a minor tributary.

Ms. Tubman questioned Thonet as to the reduction of total suspended solids off site, post development. Mr. Thonet disagreed with Cosgrove's findings. Mr. Thonet contended that less sediment goes to the stream from an agricultural use. He confirmed that agricultural uses produce more suspended solids than residential use. As to the proposed residential use at Windy Acres, solids go to the detention basins, and there will be a finer sediment that goes to the streams.

Ms. Tubman asked whether there was confirmation that DEP standards for discharge would be met by the applicant. Mr. Thonet said there had been no analysis. Mr. Thonet said NJDEP anti-degradation policies are applied to any water discharge. Thonet contended applicant had not made the necessary analysis.

As to slopes, Ms. Tubman referenced applicant's plan revisions related to slopes. Ms. Tubman reviewed applicant's plans for slopes in areas of disturbance. Mr. Thonet explained the total amount of steep slopes constituted 35 acres, which is approximately 12%. Mr. Thonet computed an area of approximately 15 acres.

Mr. Thonet contended that the steep slope disturbance could be minimized by reducing the number of units by approximately 10%.

Ms. Tubman noted that the total number of units had decreased often, and yet applicant has preserved the number of affordable units. Ms. Tubman pointed out that applicant had extended great efforts to minimize disturbance.

Mayor Borkowski asked about levels of arsenic. Jeff Meyer said there had been no arsenic levels revealed.

Ms. Gneiding asked questions about maturation of wood turtles.

Question was raised as to whether there was a farm dump found. Applicant responded that there was not an organized dump although there are some abandoned cars and refrigerators. He noted there is a place with a number of tires, and he concluded the tires were placed for erosion controls.

Testimony was concluded.

Mr. Hill renewed his motion originally brought on 10/2/00, asking that Mayor Borkowski and Councilman Kacedon be disqualified from voting. The Chairman asked why it has taken 8 months to prosecute the matter. In addition, the Chairman questioned whether the Board has jurisdiction to disqualify its members Borkowski and Kacedon with the matter pending in the Court.

The Chairman noted that the applicant had been given extraordinary opportunity to present its case in its effort to offer a fair consideration of the application. Mr. Bernstein reiterated that the applicant went to Court in October and there was an order to show cause issued in November. Mayor Borkowski and Councilman Kacedon were deposed on November 25. He confirmed that the matter has been fully briefed. Mr. Bernstein questioned why applicant had not pursued the matter in Court.

This hearing will be continued on 6/4 with Mr. Bogart's testimony. Then there will be deliberation and vote.

#### ADJOURNMENT

The meeting was adjourned 4:45 p.m.

These minutes were approved 6/12/01.

Alice Oldford  
Secretary to the Board