

November 12, 2007

Mayor Bernard O'Brien
Holland Township Municipal Building
61 Church Road
Milford, New Jersey 08848

RE: VR-A Rezoning
Block 6, Lot 61, Block 10, Lot47
Holland Township, New Jersey

Mayor O'Brien:

The following memo outlines the deficiencies and errors within the VR –A District Ordinance approved at the November 7, 2007 public hearing in which, you once again suppressed the public's voice by disallowing any questions from the public regarding the Ordinance. These comments are submitted as requested in the desire to avoid further degradation of the very character and resources that the Township's Master Plan Goals indicate as requiring conservation and protection. Over the last several years, I have repeatedly stated that this proposed rezoning does not meet the Policies and Objectives of the State Plan, County Publications, and the Goals and Objectives of the Township's Master Plan. While recent campaign literature and statements by members of the Township Committee, Planning Board and others falsely accused my position as solely being against the affordable housing component, the purpose and point of my objections were not the inclusion of affordable housing but the excessive density proposed within this zone.

The enclosed letter, submitted in July of 2005 to the Planning Board and copied to the Township Committee, the planner, engineer, and the Historic Preservation Commission indicates supporting limited affordable housing on the Galloway property but restricting the density to the "water budget" ordinance. I am well aware of a township's obligation to fulfill its affordable housing requirements, but I continue to be adamantly opposed to degrading non-renewable resources the Master Plan cites as requiring protection to fulfill that obligation. I hope that the members of the Township Committee will take this opportunity to review these comments and revise the approved Ordinance to ensure that public resources expended for this private development garner a product that truly benefits the public.

Inaccurate Published Information

The published notice along with Section 100-3 Section Two A (2) contains inaccurate and misleading information regarding the tract area. The filed map entitled, "Major Subdivision for Billie Gardner Phase I Final Plat," dated 10-17-01, last revised 11-01-01 on file with the county, documents the net area of Block 6 Lot 61 as 4.825 acres, not the 3.825 acres outlined in the notice and in the Ordinance. Similarly, a cover e-mail transmitting a revised version of the Ordinance indicates that the lot size for Block 10 Lot 47 is only slightly less than ten acres, not the nine acres as provided in the notice. The discrepancies result in an Ordinance that is deceptive in portraying the maximum permitted dwelling units over the tract area.

Using the real acreage of Block 6 Lot 61, the combined area yields a potential tract area of 4.825 (Block 6 Lot 61) + 9.5+/- ac (Block 10 Lot 47) = 14.32+/- acres. In accordance with Section 100-50.1D, "*the density shall be calculated prior to the subdivision of the tract to create a lot around the existing residential structure*" and "*shall not exceed 1.05 dwelling units per gross acre of the VR-A District, exclusive of the land within the right of way,*" apparently yielding at least 15 dwelling units (du) or $14.32 \text{ ac} \times 1.05 \text{ du} = 15.036 \text{ units}$.

If the existing single-family dwelling and one net acre (apparently containing two dwelling units previously nonconforming) is subtracted from the tract area as noticed and indicated in Section 100-3 Section Two A(2), before the density calculation, then the density increases to (16) units. [$13.32 \text{ acre} \times 1.05 = 13.986$ or arguably (14) dwelling units + the two previously nonconforming units in the existing structure on the subtracted one acre for a total of (16) units].

Neither of these potential density adjustments comport with description of the development for the Galloway property within several documents submitted to state agencies. The 2007 Periodic Reexamination Report, revised January 18, 2007 states, "*has proposed its development with twelve new dwellings, six (6) of which would be market-priced age restricted units and six (6) of which would be non-age restricted affordable rental units. The existing farmhouse would be subdivided from the balance of the parcel and retained as the two family dwelling it is now.*" (page 13) Clearly, this report indicates a total of only (14) total dwelling units across the entire tract.

The Holland Township Report for Initial Plan Endorsement Application Dec. 2006 states, "*It has been proposed for development with up to twelve new dwellings, six (6) of which would be market-priced age restricted units and six (6) of which would be non-age restricted affordable rental units. The existing historic farmhouse would be retained as the two family dwelling it is now.*" (Page 8). The Third Round Interim Housing Element states, "*The Galloway Farm has not yet been rezoned, but it is proposed to be developed with six (6) market rate age-restricted units and six affordable family rental units,*"

(Page 6). This Ordinance should be amended restricting the maximum dwelling units to the quantity previously and repeatedly represented by the Township to state agencies and the public. Unfortunately, the excessive density represented within those Township

documents encourages the destruction of Township's non-renewable resources and the rural context which I contend does not further the Township's Master Plan goals.

Flawed Basis

The Ordinance erroneously indicates conformance with the Hunterdon County Community Design Handbook as well as the Goals and Objectives of the Township Master Plan, the presence of actual water infrastructure along with the preservation of scenic vistas and roadways. The Ordinance also indicates that it "*preserves an existing historic structure,*" promotes conservation of historic sites, is consistent with the policies expressed in the adopted State Development and Redevelopment Plan and a desirable visual environment. However, the Ordinance fails to provide mechanisms to ensure conformance with all of those standards.

The most prominent deficiency is the lack of any mechanism within this Ordinance to prevent the further destruction and degradation of the historic structures and their context. According to a Planning Board subcommittee report dated February 14, 2005, "*There are substantial and significant historic values attached to Bl6 Lot 61. The Galloway house is one of the oldest in the Township and the barns, although in poor repair, have value as well. Through the Historic Preservation Commission, the Subcommittee has arranged for professional help and advice for the owner/developer, at no cost to him.*" Since substantial public resources are invested into this private development, not only as indicated through the Historic Commission but through the expansion of the Sewer Service Area, the Ordinance must be amended to provide vigilant and demonstrated protection of the public investment. The Ordinance should be amended to stipulate no further degradation of the existing historical structures through lack of maintenance, demolition, new additions, subtractions or alterations (other than required to maintain structural integrity) to the existing buildings. The ordinance should require the remaining historical structures be encompassed within the subdivided lot containing the existing dwelling to ensure the proper context of those structures and deed restricted from demolishing the structures. The restriction should include a mechanism ensuring the perpetual maintenance as part of the Township's rural past. According to the County Guidelines, these resources should remain as the dominant feature in the landscape yet the Ordinance offers little control over the mass of the structures. The County indicates the following;

"Rural character: A landscape where the predominant feature is the natural environment, such as open space, farmland, woodlands and water bodies, and the intrusion of development is minimal. For communities that want to retain their rural character, the goal of design guidelines is to create the appearance that the natural environment is still the dominant feature of the landscape." Preserving Community Character in Hunterdon County, A Community Design Handbook, Hunterdon County Planning Board, Dec. 1999, pg.9. "*While the view of homes and other buildings may not necessarily be a bad visual experience, it is the predominance of buildings in a rural/suburban environment that often invites*

criticism.” Preserving Community Character in Hunterdon County, A Community Design Handbook, Hunterdon County Planning Board, pg. 21.

The Master Plan identifies Block 6, Lot 61 as containing one of the Township’s important historic structures. The destruction of the historic site’s context through the provision of excessive density is inconsistent with the Master Plan. *“One of the most important factors affecting the preservation of historic sites and districts is the preservation of their context”.* (Master Plan pg. EX.L.U.-9, L.U.P.-14, G.O.-1) *“Significant historic structures identified in the municipal master plan should be preserved so that they remain or become visually dominant features in the landscape.” Preserving Community Character in Hunterdon County, A Community Design Handbook, Hunterdon County Planning Board, pg.40.*

Lacking Controls

The adopted Ordinance lacks sufficient controls to protect the public health, safety and welfare. According to the Township Planner during the March 29, 2005 Planning Board meeting, the Township may consider using this zoning elsewhere in the Township. The development controls within this Ordinance do not effectively protect adjacent property owners, nor the public, from the detrimental impacts resulting from this Ordinance. The Ordinance does not adequately address impacts such as excessive pavement, and lack of setbacks for accessory structures, pavement and utilities. It fails to provide controls for the maximum building length, minimum building separation, or detrimental lighting as regulated in other Township multi-family zones. The Ordinance also fails to provide a mechanism to discourage the promotion of sprawl by authorizing an excessive percentage of affordable housing which may encourage additional development elsewhere in the Township.

According to the Ordinance Bulk Standards, 25% of the District lands may be covered with impervious surfaces. As indicated above, the tract is likely to be at least 14.32 acres, therefore this ordinance allows a total of 3.58 acres of impervious coverage (14.32 acres x 0.25 = 3.58 acres of impervious). According to the Township Planner, Block 10, Lot 47 is totally constrained and therefore not suitable for any impervious coverage, so the entire 3.58 acres of impervious could be applied to only Block 6 Lot 61. This excessive allowance does not protect the Township’s water resources, the visual environment or the context of the historic structures. It does not adequately protect the Township from a subsequent owner furthering the overdevelopment of the property. In this case, since the constrained lands of Block 10 Lot 47 lie completely separate and across a street from the developed lands, the impervious coverage limitations should be applied to solely Block 6 Lot 61 ensuring that parcel is not excessively developed to the detriment of the community. The Ordinance should be amended to either stipulate the 25 % impervious control over Block 6 Lot 61 or reduce the zone coverage to be equal to only 25% of net area of Block 6 Lot 61 (1.20 acres of impervious coverage). This restriction would result

in a development pattern more typically associated with the Township and other multifamily zones.

The Ordinance does not provide any controls for the minimum setbacks of accessory structures, pavement, maintenance structures or garages. Since this zone was previously considered to be used elsewhere in the Township, it should be amended to provide protection from the detrimental impacts of the nearly 500% increase in density over the current 5 acre minimum zoning and the development's ancillary structures. A standard thirty (30)-foot perimeter setback for all accessory structures, pavement, parking, loading areas, storm water basins and other accessory items should be incorporated in the Ordinance. Section 100-91.12a (1) of the Township's Land use Code provides a 30-foot minimum setback within another Township multifamily zone and therefore should be applied within this zone.

The Ordinance lacks any control over the maximum building length or separation. Minimum separations and restricting the building lengths ensure adequate air and light for the dwelling units while controlling the building mass in turn reducing the detrimental impacts on the historic structures' context. Here again these are typical standards associated with multi-family dwellings and since the actual developer of this property could very well be a different developer than current owner, these controls protect the public in the future.

While the Township attorney partially addressed the issue regarding Section 100-50.1E, the site plan exemption "*for any **development** within the separate lot created for the existing two-family residential structure,*" I do not believe my point was fully understood. While I understand that single-family and two-family dwellings are exempt from site plan, what is not clear within this Ordinance is specifically whether any additional dwelling units or "**development**" as defined in MLUL C.40:55D-4, constructed as an addition to the existing structure, would be exempt. The Ordinance's ambiguity potentially leads to further degradation of the historic resources identified on this property and cited in the Master Plan and the Plan Endorsement Petition. Clarifications should be added to the Ordinance indicating that any additional dwelling units on the subdivided lot containing the existing structures are prohibited. Here again since public resources have been utilized "*in the context of a development that would preserve an existing historic structure,*" a protection mechanism ensures the public's resources are not wasted.

Finally, the Ordinance does not clearly assign the affordable units to the Township's Third Round obligation, which leaves the public vulnerable to having a development with an excessive affordable component approved that furthers sprawl. The Ordinance should be amended to clearly define that the affordable housing units are assigned to the **Township's** past incurred affordable housing debt, not to any future obligations incurred by the developer for new projects. By assigning these affordable units to past debts, the destruction of context of a Master Plan cited resource is assigned to the Township and subsequently the taxpayer's obligation. This offers the taxpayers protection from shouldering a larger burden in the future. The developer's future unknown debt should be a condition of those site plan and subdivisions and shouldered by that developer through those approvals.

These comments are submitted with the purpose of improving the Ordinance, hopefully promoting a better development pattern and reducing the obvious negative impacts associated with this rezoning. Ordinances are complex, while an attempt has been made to itemize the concerns I raised regarding this rezoning, additional issues may remain.

Respectfully,

Kenneth R. Grisewood,
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Milford, New Jersey 08848