

**HAMILTON TOWNSHIP PLANNING BOARD
RESOLUTION 2005-11**

**In the Matter of John and Eileen Haller/
Gres and Kaluzny Land Development, LLC
For Final Major Subdivision Approval of
Christopher Estates**

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

**Map 1, Section 1504, Lot 1.02
Hamilton Township, Mercer County
Zone: R-15**

**Application No. 01-03-016B
Approval Date: February 10, 2005**

BE IT RESOLVED by the Planning Board of the Township of Hamilton ("Township") that the action of this Board on February 10, 2005 in this matter is hereby memorialized by the adoption of this written decision setting forth the Board's findings and conclusions.

RELIEF SOUGHT AND JURISDICTION

1. The applicant seeks a final major subdivision approval to subdivide Block 1504, Lot 1.02, which encompass 7.68 acres into sixteen (16) lots for single family detached residential dwellings. One (1) additional lot will be created for a detention basin facility. The proposed subdivision is located at the corner of Laura and Evelyn Avenue and will be accessed from proposed "Gres Court" and houses fronting on Evelyn Avenue. The property is located in the R-15 zone.
2. The subject of this application is within the jurisdiction of this Board. The Board has acted within the time required by law.
3. The street address of the property is the corner of Laura and Evelyn Avenue, Hamilton Township, New Jersey.
4. Map 1, Section 1504, Lot 1.02 is located in the area designated on the Hamilton Township Zoning Map as R-15 Residential.

THE APPLICANT

5. The property is currently owned by John and Eileen Haller, pursuant to the recorded deed from the estate of John Haller. The applicants are Gres and Kaluzny Land Development, LLC. The owners of the property are heirs to the estate of Andrew Merck and have been involved in contentious probate litigation in the Chancery Division over the last ten years.

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entitled *In the Matter of the Estate of Andrew Merk*, Docket No. 94-44. The primary issue of this litigation has been the land which is the subject of this application. In fact, the Township of Hamilton was briefly involved in the litigation, as the estate sued for the right to subdivide the land. Due to the fact that the will of the decedent provided for the subdivision, the matter was quickly resolved between the Township and the heirs, pursuant to *N.J.S.A. 40:55D-7*. The Township requested and received road widening and conservation easement deeds, which have been reviewed by the Engineering Department and were recorded with the County Clerk. This subdivision application has been allowed to proceed pursuant to the Order of the Honorable Neil Shuster, P.J.Ch., dated July 16, 2003, that directed the recording of the deed from the estate of John Haller, which is the land that is the subject of this subdivision application. Also as a result of the litigation, a deed was recorded from the estate of John Haller to Kalman Miscolci, which became the remainder of the decedent's land. Even though no appeal of Judge Shuster's ruling has been filed, the Miscolci continued to battle the Hallers over the land. Clearly, it is the finding of this Board that the Miscolci have no standing to object to the application going forward, only to the construction, since they are adjoining land owners.

6. The applicant has certified that the owner has paid all property taxes for the property and the applicant has certified that it has paid all escrow fees required under ordinance for such an application. This certification includes agreement to pay all future monies due under the escrow ordinance for consultants and other professional work on the property.

THE HEARINGS

7. One public hearing took place with regard to this application.

a. On February 10, 2005, a hearing took place before the Planning Board at the Township Municipal Building located on Greenwood Avenue.

PLANS PRESENTED

8. The Board reviewed the following plans and sketches:

a. At the time of this hearing, the applicant presented final subdivision plans prepared by Harris Surveying, Inc. dated July 26, 2004.

TOWNSHIP REPORTS

9. At the hearing, the Board considered the following reports presented by Township officials:

a. Memorandum from Division of Engineering to Michael Guhanick, Land

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1504, Lot 1.02, which encompass 7.68 acres into sixteen (16) lots for single family detached residential dwellings. One (1) additional lot will be created for a detention basin facility. The proposed subdivision is located at the corner of Laura and Evelyn Avenue and the detention basin will be accessed at the intersection of Laura and Evelyn Avenues. The property is located in the R-15 zone.

- b. All of the proposed lots conform to the minimum lot area requirements of fifteen thousand (15,000 sq. ft.) square feet for interior lots and fifteen thousand six hundred twenty-five (15,625 sq. ft.) square feet for corner lots. The lots vary in size from fifteen thousand eleven (15,011 sq. ft.) square feet to twenty three thousand three hundred five (23,305 sq. ft.) square feet.
- c. The submitted final major subdivision substantially conforms to the approved preliminary major subdivision.

CONDITIONS REQUIRED

14. Board finds that, in order to address the concerns expressed in the course of the hearing, and to limit the relief to that which is reasonably necessary to satisfy the applicant's legitimate requirements, the relief granted is subject to the following conditions:

- a. In terms of landscaping, the Board requires:
 - i. The applicant is proposing six (6) arrowwood viburnum (3 each) around the flared end section and the outlet structure. To cover the sides that will not have stone veneer, at least seven (7) shrubs should be planted around the outlet structure and the flared end section.
 - ii. The deciduous and evergreen tree planting details should be revised to show a second detail for trees installed within the basin where 6" of sand is present.
- b. The applicant has submitted one (1) landscape package for each housing model proposed for the application. We have reviewed the same and offer the following comments:
 - i. Each package is deficient the required three (3) large growing deciduous trees (min. 1-1/2" caliper).
 - ii. The upright Juniper should be sized at least six (6) foot high at time of planting, the shrubs must be at least 18"-24" at time of planting.
 - iii. The bond estimate must also itemize each landscape package with quantities and unit costs for each.
- c. The landscape and lighting plan indicates that the basin will be designed as an infiltration basin with six (6) inches of K-5 sand on the entire basin bottom. The NJ Stormwater BMP identifies this "type" of basin can be

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- used to achieve the required 80% TSS. However, several others designs such as the vegetative filter or the bioretention system achieve the same TSS. As the BMP is used for guidance only, the applicant should explore other basin designs that would require less maintenance while providing an attractive vegetative area at this intersection.
- d. The applicant is subject to the fees established in the Affordable Housing ordinance.
- e. Regarding the architecture, the applicant is subject to Section 160-112 (b) (1) (2) and (3) of the ordinance. The applicant has submitted four alternatives categorized as Courtland, Highgrove, Zachary, and Victoria. The Board has the following requirements:
- i. Victoria Elevation "B" Courtland A, Courtland C and Highgrove C are identical and should not be placed next to each other.
 - ii. Victoria D and Zachary C are identical and should not be placed next to each other; Victoria E and Highgrove D are identical and should not be placed next to each other. We would also like to add that Victoria D and Zachary C are pretty similar to Victoria B and Highgrove D. There are some minor differences but they are not easily noticeable and therefore should not be placed next to each other.
 - iii. One alternative of Courtland D with a gable end of the garage on the front elevation is identical to Victoria A; therefore should not be placed next to each other.
 - iv. Zachary B and Zachary D are pretty similar except for the windows to the left and the front door, which is not a substantial change and therefore should not be placed next to each other.
 - v. Please note that "Courtland," unlike the other alternatives, had no alphabetical designation so we have designated the alphabetical order to those elevations. We would also like to add at the time of applying for construction permits the proposed elevations must be approved by the Division of Planning
- f. The Township requests that the applicant include the application number within the subject line of all correspondence relating to this application, and that the application number be shown adjacent to the title block on all plans.
- g. All resubmissions of plans, reports and other documents shall be accompanied by a cover letter which describes the purpose of the resubmission, includes appropriate references and list the specific changes and additions included with the resubmission. Along with the listing there shall be a reference to the related page number where the change/addition was incorporated. The change/addition shall be highlighted. Also, the transmittal letter shall specifically state there are no other changes, modifications or additions to the plan, report, etc.

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- h. The applicant is requested to provide the Township with a list of proposed street names for consideration by the Township. The list shall include one alternate name for each name provided. The Township will provide the applicant with a current street map, with the street names if so requested.
- i. The Township in turn will advise the applicant of the selected street names in writing. The street names along with the lot and block must be on the mylars to be filed at the Mercer County Clerk's Office.
- j. This site is located within the Township Transportation Improvement District and as such is subject to the appropriate fees as established by the "Land Use Development Ordinance."
- k. The applicant proposes to exceed both the Township "Land Development Ordinance" and the "Residential Site Improvement Standards" for the right-of-way width and cartway width.
- l. The shape of the cul-de-sac does not conform with the Township Ordinance; however, it is larger than that required. An SU vehicle can negotiate through it. The administration takes no exception.
- m. The applicant shall be required to contribute to the future maintenance of the detention basin.
- n. The applicant complied with the conditions of the Township Department of Water Pollution Control as outlined in a memorandum to Michael Guhanick, dated February 17, 2004.
- o. The applicant has submitted a Bond estimate for on-site improvements for the following amounts:
 - "A" Bond = \$246,200.00
 - "B" Bond = \$119,990.00.The estimate will be reviewed and approved prior to signing of the mylars.
- p. The following approvals will be required:
 - 1) Mercer County Planning Board
 - 2) Mercer County Soil Conservation District
 - 3) NJDEP Treatment Works has been approved for the sanitary sewer and is on file with the Township office..
- q. The applicant shall be required to construct a minimum 100 feet long pavement taper from the end of the proposed road widening on Laura Avenue and include 2 object marker signs, which has been indicated on the plans.
- r. There are no environmentally sensitive features such as flood hazard areas and wetlands on this site. The plan has a satisfactory drainage pattern. The soils on this site are in the hydrologic soil group A and drain well. The network of inlets, drainpipes and detention basin are satisfactory and designed to allow for infiltration recharge.
- s. The plans shall comply with NJDEP Phase II Storm Water Regulations. The

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applicant needs to demonstrate compliance. This will require revisions to the Stormwater plan to the outfall structure and an acceptable maintenance plan for the basin.

- t. The applicant has submitted Site Investigation Report, prepared by Pioneer Environmental Group, dated November 12, 2004. The report complies with the requirements of the Township Site Investigation and Soil Sampling Ordinance. All elements of concern were found to be well below NJDEP residential cleanup criteria.
- u. Subject to and modified by the conditions of the Division of Engineering memorandum of August 10, 2004 (revised September 15, 2005 and February 10, 2005).
- v. Subject to the conditions of the Division of Planning memorandum dated August 31, 2004 (revised February 10, 2005).

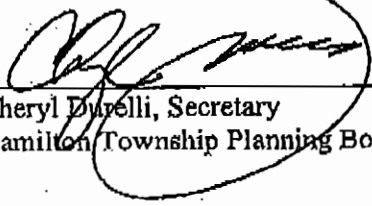
CONCLUSION

Based upon the foregoing, the Hamilton Township Planning Board, at its February 10, 2005 meeting, voted to approve the application.

This Resolution of Memorialization was adopted on March 10, 2005 by a vote of the majority of the members present, who voted to grant the relief sought by the applicant.

The date of decision shall be February 10, 2005 except that the date of the adoption of this memorializing resolution is the date of decision for purposes of (1) mailing a copy of the decision to the applicant within ten (10) days of the date of the decision; (2) filing a copy of the decision with the administrative officer; and (3) publication of a notice of this decision. The date of the publication of the notice of decision shall be the date for the commencement of the vesting protection.

We do hereby certify that the foregoing resolution was adopted by the Hamilton Township Planning Board at its regular meeting held on March 10, 2005. This resolution memorializes formal action taken by the Board at its regular meeting held on February 10, 2005.


Cheryl D'Amore, Secretary
Hamilton Township Planning Board

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