

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

November 24, 2003

The Marlboro Township Council held a "Special" Council Meeting on November 24, 2003 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Karcher announced that pursuant to the provisions of the Open Public Meetings Act, notice of this special meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on November 14, 2003; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilman Denkensohn, Councilman Kovalski, Council Vice President Mione, Councilwoman Singer, and Council President Karcher.

Also present were: Mayor Scannapieco, Mayor Elect Robert Kleinberg, Township Attorney Jonathan Williams, Esq., Ronald H. Gordon, Esq., Business Administrator Chris Marion, Municipal Clerk Alida DeGaeta.

Mayor-elect Kleinberg, Councilwoman-elect Patricia Morelli, and Councilman-elect Joseph Pernice were in attendance.

The following Resolution # 2003-343/Ord. # 2003-29 (Amend Chapter 84 - Stream Corridor Preservation) was introduced by reference, offered by Councilwoman Singer, seconded by Council Vice President Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-343

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2003-29

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS", ARTICLE III BY ADDING A NEW SECTION 84-30(F), TO PLACE STREAM CORRIDOR PRESERVATION RESTRICTIONS ON ALL PROPERTY THROUGHOUT THE TOWNSHIP OF MARLBORO, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on December 11, 2003 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2003-29

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS", ARTICLE III BY ADDING A NEW SECTION 84-30(F), TO PLACE STREAM CORRIDOR PRESERVATION RESTRICTIONS ON ALL PROPERTY THROUGHOUT THE TOWNSHIP OF MARLBORO, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

WHEREAS, in order to more fully protect and preserve our State's and Township's streams and waterways for the health, welfare and benefit of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey, it has become necessary to revise the Township of Marlboro's ordinances to enact Stream Corridor Preservation Restrictions ("SCPR") upon all lands contained in the Township of Marlboro, so that the citizens of this Township, County and State may enjoy to the fullest extent possible the benefits of untainted and pristine waters.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey that Chapter 84, Article III of the Code of the Township of Marlboro, be and hereby is amended and supplemented to provide for Stream Corridor Preservation Restrictions on all lands in the Township of Marlboro by adding a new Section 84-30(F) as follows:

§84-30(F)

Stream Corridor Preservation Restrictions

A. Establishment. Stream corridor preservation restrictions on lands contained in the Township of Marlboro are hereby established.

B. Definitions.

(1) Stream channel - shall mean permanent or intermittent watercourses shown on U.S.G.S. quadrangle maps, the Monmouth County Soil Survey or other sources as the Planning Board and Zoning Board of Adjustment of the Township of Marlboro may deem applicable and germane.

(2) Stream Corridor - shall mean the stream channel and all lands on either side of the stream channel to a width of 50 feet (50') on either side or which is within the 100 year floodplain, including any sloping areas of fifteen degrees (15°) or greater that are contiguous to the stream channel or 100 year floodplain. A slope shall be identified from an elevation contour plan of a site based on two-foot (2') elevation intervals.

(3) Stream Corridor Buffer - shall mean an area contiguous with the stream corridor where no permanent structure shall be allowed.

(4) Stream Corridor Averaging - shall mean the replacing of a curved corridor buffer boundary by a straight line or sequence of joined straight lines so that the total corridor buffer area remains consistent.

C. Purpose. The purpose of the stream corridor preservation restrictions are as follows:

(1) Improve the management, care and preservation of waterways and water resources in the Township of Marlboro.

(2) Protect significant ecological components of Stream Corridors including, but not limited to, floodplains, woodlands, steep slopes, wildlife and plant life habitats within stream corridors to prevent flood related damage.

(3) Complement existing Federal, State, Regional, County and Municipal Stream Corridor and flood hazard protection, management regulations and plans.

(4) Coordinate the regulation of development within Stream Corridors in a manner consistent with the Township's other regulatory approaches regarding environmentally sensitive areas.

(5) Reduce the amount of nutrients, sediment, organic matter, pesticides and other harmful substances that reach waterways and subsurface and surface water bodies by using scientifically proven processes, including, but not limited to, filtration, deposition, absorption, adsorption, plant uptake, biodegradation, denitrification and any and all other means now or hereinafter devised and by improving infiltration, encouraging sheet flow and stabilizing concentrated flows.

(6) Regulate land use and development within the Township so that such uses are consistent with the intent of this section and the regulations promulgated herein and generally accepted preservation practices.

(7) Preserve natural, scenic and recreation areas within and adjacent to streams and waterways throughout the Township of Marlboro.

(8) Support the water resource policies of the New Jersey State Development and Redevelopment Plan.

(9) Advance the purposes of the New Jersey Municipal Land Use Law with particular emphases on those items set forth in N.J.S.A. 40:55D-2(a)(b)(d)(i) and (j).

(10) Protect natural drainage features.

(11) Aid in the reduction of flooding.

(12) Reduce development impacts on water quality.

(13) Protect the rights of others within the same waterway areas from the adverse effects of improper stream corridor development.

(14) Provide for potential recreation and wildlife mitigation corridors throughout the Township for the health, welfare and benefit of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey.

D. Applicability.

(1) The Stream Corridor Preservation Restrictions in this Section shall be applicable to all lands contained in the Township of Marlboro, including, but not limited to, any and all tracts of land that are the subject of an application for subdivision, site

plan or any land use approvals that fall, in whole or in part, within a stream corridor and/or stream corridor buffer.

(2) The Stream Corridor Preservation Restrictions in this Section shall also be applicable in the review of any land disturbance in any stream corridor and/or stream corridor buffer (or portion thereof) which shall be undertaken as part of the application review by the applicable land use approval board or municipal agency.

E. Rules.

(1) Stream corridors shall have a buffer of one hundred feet (100') on each side.

(2) No septic system shall be located within any stream corridor or stream corridor buffer, or portion thereof.

(3) On any major subdivision where a stream corridor buffer has been disturbed by prior land use such as agriculture, re-vegetation of the disturbed area using native tree and plant species is required. The submitted plan must be approved by the Township Conservation Officer.

(4) An approved application for development on a property that contains a stream corridor or stream corridor buffer or portion thereof, shall provide a conservation easement for the continued protection of the stream corridor or stream corridor buffer or portion thereof. Any conservation easements made under the provisions of this Section shall be dedicated to the Township in perpetuity and shall specifically prohibit the erection of any and all structures, including, but not limited to, fences and walls, and shall be in conformance with all provisions of the Land Use Development and Regulations Ordinance of the Township of Marlboro. Any conservation easements created under the provisions of this Section shall be made by Deed, which shall be recorded in the Monmouth County Clerk's Office.

(5) Stream corridor buffer averaging may be permitted, provided that the width at all points of the averaged buffer is at least seventy percent (70%) of the width of the stream corridor buffer before such averaging.

F. Standards and Practices.

(1) Permitted Activities. Stream corridors and stream corridor buffers shall remain in their natural state with no

altering of waterways, re-grading or construction or any clearing or cutting of trees and/or brush, (except for the removal or pruning of dead vegetation for reasons of public safety and welfare as deemed necessary by the Township Engineer) except in the case of the following activities:

(a) Wildlife sanctuaries, woodland preserves and arboretums, excluding enclosed structures;

(b) Game farms, fish hatcheries and fishing reserves operated for the protection and propagation of wildlife, excluding any enclosed structures;

(c) Hiking, bicycle and bridle trails, including bridges or other structures appurtenant thereto;

(d) Trails or pathways, including bridges or other structures appurtenant thereto, constructed and/or maintained by or under the authority of the Township for the purpose of providing access to public recreation areas;

(e) Fishing areas; and

(f) Cultivation of the soil for agricultural or horticultural production, pasture and similar agricultural uses undertaken in accordance with agricultural best management practices to reduce or prevent non-point source pollution.

(2) Location of activities on tracts partially within stream corridors and/or stream corridor buffer areas.

(a) All new lots in major and minor subdivisions and site plans shall be designed to provide sufficient areas outside of stream corridors and stream corridor buffers to accommodate principal buildings and uses as well as any permitted accessory use; and

(b) The applicable land use approval board may allow an average stream corridor buffer width of one hundred feet (100') from the Stream Corridor, allowing for reasonable flexibility to accommodate site planning when necessitated by the size and shape of the tract and physical conditions thereupon. The Stream Corridor Buffer width may be reduced to no less than a minimum of seventy feet (70') from the Stream Corridor, provided that there is an equivalent increase in the width elsewhere on site and that all relevant permits, e.g. stream encroachment, freshwater wetlands and so forth, are obtained from the New Jersey Department

of Environmental Protection and any other applicable, Federal, State and Local Agencies.

(3) Permitted activities in stream corridors and stream buffers when there is no reasonable or prudent alternative.

In cases where there are no reasonable or prudent alternatives, the following exceptions to the regulations and requirements of this Section may be permitted by the applicable land use approval board in a stream corridor or stream corridor buffer when subdivisions or site plans cannot be designed in the manner set forth herein and if the land use approval board determines that there is no other reasonable or prudent alternative to placement in the stream corridor or stream corridor buffer.

(a) Recreational use, whether open to the public or restricted to private membership, such as parks, camps, picnic areas, golf courses, sports or boating clubs, not to include enclosed structures, but permitting piers, docks, floats or shelters customarily associated with developed outdoor recreational areas;

(b) Outlet installation for sewage treatment plants and sewage pumping stations and the expansion of existing sewage treatment facilities;

(c) Private or public water supply wells that have a sanitary seal, flood-proofed water treatment facilities or pumping facilities;

(d) Dredging or grading when incidental to permitted structures or uses, including stream cleaning and stream rehabilitation work undertaken to improve hydraulics or to protect the public health, safety and welfare;

(e) Dams, culverts, bridges and roads, provided that such structures cross the stream corridor directly;

(f) Sanitary or storm sewers;

(g) Utility transmission lines installed during periods of low stream flow in accordance with soil erosion and sediment control practices and approved by the State Soil Conservation District in a manner that will not impede flows or cause ponding of water;

(h) Stormwater management facilities such as detention basins and outfall facilities; and

(4) Prohibited Activities. All activities not permitted pursuant to this Section shall be prohibited. In no circumstances shall the following be permitted as exceptions to any of the provisions contained in this Section.

(a) Any solid or hazardous waste facilities, including, but not limited to, sanitary landfills, transfer stations and wastewater lagoons; and

(b) Junkyards, commercial and industrial storage facilities and open storage of vehicles and materials.

(5) Provisions governing activities in stream corridors and stream corridor buffers.

(a) The applicant for any activity permitted in a stream corridor or stream corridor buffer shall rehabilitate any degraded areas within the stream corridor or stream corridor buffer, in a manner acceptable to the applicable land use approval board and/or municipal agency.

(b) The applicant shall also:

[1] Rehabilitate or cure the effects of the disturbance caused during construction in a timely manner and using best business and construction practices;

[2] Maintain the integrity and pristine nature of the surrounding habitat; and

[3] Maintain the existing ability of the stream corridor to buffer the affected water way.

(c) The applicant shall provide whatever additional measures are deemed necessary by the applicable land use approval board and any Federal, State or Local Agencies or laws, to ensure that areas designated as stream corridors and stream corridor buffers will be preserved and to prevent additional encroachments in the stream corridors or stream corridor buffers likely to occur as the result of any approvals granted.

(d) The applicable land use approval board may also require that conservation easements or deed restrictions ensuring that there will be no further intrusion and/or encroachment on any

stream corridor and stream corridor buffer than that permitted by the activity so approved be dedicated to the Township and memorialized by deed and recorded in the Monmouth County Clerk's Office.

G. Submission Requirements. The following information shall be provided for any development on any property containing a stream corridor or stream corridor buffer or portion thereof, or on any property directly bordering on a stream corridor or stream corridor buffer or portion thereof.

An applicant for an activity in a stream corridor or stream corridor buffer or any portion thereof shall submit to the municipality or applicable land use approval board, a map at a scale of not less than one inch being equal to one hundred feet (100') of the proposed project site delineating the following:

(1) The stream corridor(s) and stream corridor buffer(s) boundaries and/or any portions thereof;

(2) Detailed hydrologic engineering studies indicating the effects on drainage, streams and other waterways and water sources, as well as the property in question and any adjacent properties, which should include the necessary data to determine whether the boundaries of the stream corridor and/or stream corridor buffer (or portion thereof) would be affected if the application were granted;

(3) State wetland boundary lines;

(4) Any steep slopes located within the proposed site;

(5) The location of all improvements and land disturbances proposed to be located within any of the aforementioned boundaries

(6) A plan indicating the disposition of any fill materials proposed to be deposited by the grading or re-grading of land;

(7) A plan demonstrating the manner in which suitable techniques, including, but not limited to, erosion and soil stabilization measures, sediment traps and nutrient control by vegetation filters or other mechanisms will be incorporated to protect the stream; and

(8) If any disturbance is planned to a stream corridor, stream corridor buffer area or any portion thereof, or if such has been disturbed by prior land use such as agriculture, a re-

vegetation plan shall be provided, subject to the approval of the Township Conservation Officer.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall only apply to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed invalid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

The following Resolution # 2003-344 (Reject and Rebid: Police In-Car Video System) was introduced by reference, offered by Councilman Kovalski, seconded by Councilwoman Singer and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-344

BE IT RESOLVED by the Township Council of the Township of Marlboro that all bids heretofore received for

Police In-Car Video System

are hereby rejected and the Business Administrator is authorized and directed to return the bid bond or other security to the appropriate bidder.

BE IT FURTHER RESOLVED that the Business Administrator be and he is hereby authorized and directed to advertise for open, competitive bids for

Police In-Car Video System

as required by law.

At 8:50 pm, Councilman Kovalski moved that the meeting go into executive session for reason of discussing contract negotiations, property acquisition and litigation. This was seconded by

Councilwoman Singer, and as there was no objection, the Clerk was asked to cast one ballot.

RESOLUTION # 2003-345

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 24th day of November, 2003 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely property acquisition, contract negotiations, and litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 90 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 12:55 AM, Councilwoman Singer moved that the meeting be opened. This was seconded by Council President Karcher, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Denkensohn & Kovalski).

At 12:56 AM, Councilwoman Singer moved that the meeting be adjourned. This was seconded by Council President Karcher, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Denkensohn & Kovalski).

MINUTES APPROVED: December 11, 2003

OFFERED BY:	Denkensohn	AYES:	3
SECONDED BY:	Singer	NAYS:	0
			(Burrows and Rosen not eligible to vote)

ALIDA DE GAETA
MUNICIPAL CLERK

ELLEN KARCHER
COUNCIL PRESIDENT