

**TYRONE TOWNSHIP PLANNING COMMISSION**  
**Approved Regular Meeting Minutes**

**May 22, 2007            7:30 p. m.**

**PRESENT:** Gary Butler, Joe Fumich, Dave Hanoute, Ed Kempisty, Mark Meisel, Laurie Radcliffe

**ABSENT:** Bob Byerly

**CALL TO ORDER:** 7:30 p. m. by Chairman Hanoute

**PLEDGE OF ALLEGIANCE:**

**CALL TO THE PUBLIC:** John Norris and James Soldan asked to speak during discussion of Subcommittee Report 2

**APPROVAL OF THE AGENDA:**

Mr. Meisel requested discussion of accessory structures (Item 2) and Mr. Hanoute requested discussion of a "Planning and Zoning" article (Item 3) under Other Business from Members.

MOTION: Moved by Radcliffe, seconded by Fumich, to approve the Agenda as amended. Motion carried by unanimous voice vote.

**APPROVAL OF THE MINUTES:**

1) April 24, 2007 Work Session Minutes

MOTION: Moved by Butler, seconded by Radcliffe to approve the April 24, 2007 Work Session Minutes with the following corrections:

Page 1, Line 16: (...Chairman **Hanoute** Hasbrouck)

Page 2, Line 24: (...vehicles would **be** stored...)

Page 2, Line 34: (They were **sensitive** concerned about the impact...)

**CORRESPONDENCE:**

1) May 15, 2007 letter from Rizik & Rizik regarding Planner Greg Milliken's review of the Runyan Lake East Master Deed and Bylaws

The correspondence was received and placed on file.

2) May 21, 2007 letter from Mark Meisel regarding the final site plan approval request of Lillian Warwick Properties for Runyan Lake East.

The correspondence was received and placed on file.

## SUBCOMMITTEE REPORT:

Chairman Hanoute and Vice Chairman Meisel both stated that they had a conflict of interest regarding the Hicks request and removed themselves from Planning Commission participation. Ed Kempisty, previously appointed as interim Chairman, conducted the Subcommittee Report discussion.

- 1) Request of the **Ray Hicks Trust**, represented by CHMP, for boundary realignment of property at 10265 Carmer Road (LK-1 parcel 10-301-019) and 10287 Carmer Road (LK-1 parcel 10-100-031)

Jim Sporer of CHMP informed the Planning Commission that there would be no change in the width of parcel 10-301-019 at the lake front, but it would be wider at Carmer Road. The new configuration would provide a better building envelope.

MOTION: Moved by Fumich, seconded by Radcliffe, to approve the boundary realignment for parcels 10-301-019 and 10-100-031 as shown in the drawing dated 2/13/2007. Present and voting Aye: Butler, Radcliffe, Kempisty, Fumich. Motion carried by majority vote.

- 2) Request of **Lillian Warwick Properties**, Ray Hicks Personal Representative, for Final Site Plan Approval for the development of Runyan Lake East, a site condominium at 10287 Carmer Road, LK-1 Parcel 10-100-031, to set off 4 lake front units with lake access and 4 interior units without lake access.

The Subcommittee recommended approval of the Runyan Lake East Condominium Final Site Plan pending receipt of revisions to the Master Deed and Bylaws requested by the Township Planner and inclusion of clear vision maintenance easements in the site plan.

Jim Sporer, representing Ray Hicks, said the original plan proposed 14 units—4 lots with lake frontage and 10 back lots without frontage. The lots meet the LK-1 zoning minimum area (1,100 square feet) and the minimum lot width (50 feet). Because of the Runyan Lake Point road issue, the number of units has been reduced to eight.

Referring to the revised plan, Mr. Sporer said:

- Parcels were combined to provide 4 lots on the water and 4 back lots;
- There is access from Carmer Road for 2 shared driveways and one private driveway;
- All access positions have been approved by the Road Commission;
- There is a minimum lot size of 0.5 acres (Unit 3) and an average lot size is of 1.3 acres;
- The Livingston County Drain Commissioner has approved the storm water drainage plans for the site;
- Detention areas for 100 year storms have been provided at 3 locations;
- Check dams will be included in the drainage swales;
- The Health Department has approved the site for water wells with a contingency for arsenic treatment;
- Regulated wetland locations have been confirmed by the MDEQ;
- The 50 foot wetland buffer required by the Township has been provided;
- The 100 year flood plain has been shown on the site plans and no grading or filling will occur in the flood plain or wetlands;

- Discharge permits from the detention areas through the wetlands have been requested from the MDEQ and soil erosion permits have been requested from the Drain Commissioner;
- Mail service has been reviewed and approved for group mail boxes by the Post Office;
- All addresses will be on Carmer Road;
- The draft Master Deed has been reviewed by the Township Attorney together with Document B which outlines the unit areas, the general common areas, and the limited common areas; and
- The yard designations and setback lines on Unit 8 were located to match the setbacks of the other units with frontage on Carmer Road or Runyan Lake Point;

Responding to Planning Commission questions, Mr. Sporer explained that:

- The front yard for Lot 8 would face the shared driveway to maintain consistent setbacks on Carmer Road and Runyan Lake;
- Although the front yard has been located on the shared driveway, the access will be from Carmer Road because of ordinance restrictions for shared driveways;
- The front yard designation for corner lots is optional;
- The rear lot line has been located opposite the front yard;
- The shared driveway maintenance agreement is contained in the Master Deed reviewed by the Township Attorney;
- All lots will be part of the Runyan Lake Association but not all lots will have lake access;
- The Runyan Lake Association Bylaws are being rewritten to accommodate lots without lake access;
- Permits for soil erosion control and discharge of storm water have been applied for, but not received;
- Clear vision maintenance easements have been included in common element areas; and
- Livingston County sight distance requirements will determine what needs to be removed from the road side access points.

Mr. Milliken said he had reviewed the new proposals. Most of the comments made in his May 3, 2007 review had been addressed, but he noted that:

- The entrance location of Unit 8 would have to be reapproved by the Road Commission;
- Language regarding subdivision of the units wasn't included in the condominium documents;
- Disposition of the test wells needed to be clarified prior to approval of the final master deed;
- Landscaping details do not indicate where trees will be removed, where they will be retained, and where they will be replaced;
- Shared driveway turn-around details have not been included in the site plan;
- Maintenance of the clear vision area should be referenced in the Master Deed and Bylaws; and
- Based on the grading plan, many of the interior trees will have to come down.

Mr. Sporer replied that:

- The site will require extensive grading for the shared driveways, the detention basins, and the swales to direct the flow of water into Runyan Lake;
- They will save as many trees from the grading process as they can;

- Tree removal or replacement within the parcels will be the prerogative of the unit owner;
- The grade from Carmer Road to the end of the shared driveways is approximately 4%;
- A turn around detail will be added to the site drawings; and
- References to the sight distance and test well requirements will be added to the Master Deed.

John Norris, a representative of the Runyan Lake Association distributed a copy of a letter forwarded to the Planning Commission last year regarding the question of lake access and deed restrictions. He had not seen the Runyan Lake East deed proposals, but wanted to insure that the documents are written in such a way that the condominium owners can't vote themselves lake access rights at a later date. He asked that the Planning Commission make the Runyan Lake Owners Association legal review and approval of the condominium documents a condition of the Planning Commission approval recommendation.

Jim Soldan, a representative of the Runyan Lake Point Association, wanted assurances that Runyan Lake Point would not be used during construction. He asked Mr. Hicks to block off the back of Lots 6, 7, and 8 with a berm, a fence, or a greenbelt, so residents wouldn't have to look at the backs of new houses when they used the Runyan Lake Point entrance from Carmer Road. He wanted assurance that there would be separation between his road and Mr. Hicks' property. He told the Planning Commission to include mandatory screening as part of their approval recommendation.

During a general discussion of the comments from the Runyan Lake residents, Mr. Hicks said that he would plant trees if required, but thought the owners would want to choose their own privacy screening based on the type of building. Mr. Soldan said the Association had no control over the type of housing that could be built. In case the owners would want to build modular homes, he wanted immediate screening.

Mr. Norris didn't feel that the documents which would prohibit lake access were strong enough. The residents could use their voting rights to change the terms of agreement in the future. An unidentified Runyan Lake resident commented that the tree planting would be a good idea to help protect the new residents from having a view of the property on the north side of Runyan Lake Point. He recommended construction of a fence so the Runyan Lake Point residents wouldn't continue to use the Hicks property as a dump site. Mr. Sporer replied that there was more than enough footage to provide a staggered planting using 6 foot spruce trees along the Runyan Lake Point frontage.

Mr. Soldan said he also wanted a guarantee that any part of Runyan Lake Point damaged during building construction or installation of sewers would be replaced, not just repaired. Mr. Van Hecke explained that videos were taken of roads and driveways before and after sewer construction and they were repaired to the standards shown on the tape.

Mr. Soldan said that in most lake areas, the front of the house faces the lake and the rear yard faces the road. He was concerned about the appearance of rear yard accessory buildings and boat storage. Mr. Hicks explained that the condominium documents would not permit accessory buildings or outdoor storage.

Referring to Mr. Meisel's letter, Mr. Milliken said there were still concerns about "Wetland A." The Drain Commissioner advised that there should be a blanket easement for a wetland which

crosses property lines. So far, none of the drawings or documents show that there is a wetland easement. Water going into the wetland won't just stay on Mr. Hicks' side of the property. He hadn't specifically commented on that because the wetland reviews had been handled by the Drain Commissioner, but he agreed that there should be an overall wetland easement since the water coming from Detention Basin #1 wouldn't drain into Mr. Hicks' half alone.

Mr. Fumich commented that Mr. Meisel's letter stated that the amount of water draining into the wetland was being increased without his express permission and if the increased water draining onto his property resulted in damage he would have to take legal action. He wanted to know if the water would increase or not.

Mr. Hicks said there would be no increase in the amount of drainage based on the grading plan. Kevin Cook, CHMP representative, said that the three proposed detention basins had been designed for a 100 year storm event. The water will be released from the basins at the agricultural rate. The basins will discharge via pipe into the flood plain. Basins #1 and #2 will have direct drainage into Runyan Lake. Basin #1 drains into the flood plain and then into the regulated wetland.

As a result of Mr. Meisel's letter, he had been contacted by the Deputy Drain Commissioner Ken Recker about shedding water onto a building constructed within a flood plain. As a condition suggested by the Drain Commissioner to resolve any potential flooding, Mr. Hicks has agreed to cut another swale from the wetland that will drain directly into Runyan Lake. In the event that elevation of the storm water run off in the wetland rises, the overflow will be collected by the swale with direct connection to Runyan Lake. That will become part of the MDEQ permit for discharge or work within a flood plain. Mr. Fumich asked if that would cure the problem. Mr. Cook replied that was the Drain Commissioner's recommendation.

Mr. Kempisty asked if directing the water to the flood plain would increase the amount of discharge. Mr. Cook explained that the detention pond was sized to handle the water from a 100 year storm. In that event, the water would flow out of the pond into the flood plain and then into the overflow swale connected to Runyan Lake.

MOTION: Moved by Fumich, seconded by Butler, to recommend to the Township Board approval of the Runyan Lake East Final Site Plan pending receipt of a response to the conditions raised in Mr. Milliken's letter of May 3, 2007 regarding the Document B language in the Master Deed and Bylaws related to arsenic management, clear vision easement maintenance, and test wells; the Runyan Lake Point landscaping and tree replacement plans; shared driveway turn around details; and revised storm water management plans as approved by the LCDC. In particular, the revised drainage from Basin #1 should be incorporated into the site drawings showing the LCDC's recommendation for an additional swale with drainage into Runyan Lake; and a definition of "long range voting." Present and voting Aye: Butler, Kempisty, Fumich, Radcliffe. Motion carried by majority voice vote.

## OLD BUSINESS:

Mr. Hanoute resumed the chair.

- 1) Proposed amendments to the LK-1 Lake Front Single Family Residential District text provided by Mr. Meisel

Mr. Meisel commented that the document should refer to "sight" throughout the text, rather than "site."

The Planning Commission discussed the intent of Section 7.04.A.1.b regarding single ownership of adjacent parcels which are non-conforming. Mr. Hanoute suggested that the Planning Commission specifically recommend combination of all non-conforming lots for zoning purposes. Mr. Milliken said that he would investigate the issue of combination of lots and how recently the division of previously combined nonconforming lots would have to occur before the owner could split them and apply for development of a nonconforming lot.

The Planning Commission asked for revisions to Section 7.02.A.2 to read, "Lots of record with water frontage of 50 feet or more and a net lot area of 6,250 square feet or more.." Mr. Van Hecke requested revision of Section 7.04.B.6 to read, "~~New Structures and accessory uses~~ **Any new construction** shall not obstruct the **Sight Site Lines** to the water..." and asked Mr. Milliken to look at the proposed Sight Line definition with consideration of a graphic to define Sight Lines.

Mr. Hanoute asked Mr. Meisel to come back with revised language to forward to the Board for comments about the draft prior to holding a hearing or sending the material to the County.

- 2) Proposed amendments to the Master Plan Public Utilities Text (4/17/06)

The Planning Commission:

- Requested removal of references to public water management from the first paragraph of the Urban Services Boundary text (page 63);
- Agreed to schedule discussion of the Urban Services District Boundary with the Township Board at the joint meeting; and
- Requested copies of an urban services boundary map to include with the joint meeting discussion material.

- 3) Proposed amendments to the Future Land Use Master Plan (4/16/07)

The Planning Commission agreed with the Chairman's recommendation to postpone discussion of this section to the Joint Meeting.

## NEW BUSINESS:

### OTHER BUSINESS FROM MEMBERS:

- 1) Items for inclusion on the Joint Meeting Agenda

The Planning Commission agreed to include discussion of the Master Plan Amendments, the road and driveway maintenance agreements and Mr. Meisel's zoning amendment processing recommendations as Agenda items.

2) Accessory Structures

Mr. Meisel said that a resident had recently requested construction of an accessory structure of 864 square feet, but the Zoning Ordinance limit is 800 square feet. Many residents have come in with building construction packages pre-engineered for 864 feet. He recommended an ordinance revision to amend the number and requested discussion at a future meeting

3) Recent Court Decisions

Mr. Hanoute referred the Planning Commission to the April 6, 2007 issue of Planning and Zoning News which contained a court decision regarding the voting authority of the Commission's ZBA member. The court held that the Planning Commission representative to the ZBA may not vote on any request which was reviewed by the Planning Commission prior to ZBA review.

Mr. Milliken explained that the article dealt with a recent court ruling which would allow the Planning Commission ZBA representative to vote on items sent to the ZBA for interpretation or recommendation, but not on requests which were previously denied by the Planning Commission and/or Board.

**ZONING ADMINISTRATOR'S REPORT:**

**ZONING BOARD OF APPEALS REPORT:**

Mr. Meisel reported that the ZBA held a special meeting to resolve a variance appeal by traveling to the site of the request. They felt that a new advertisement was not needed because the request had been advertised once.

On a personal note, he commented that although the Hicks situation was close to him, he has tried to maintain complete objectivity regarding that request as well as others in the decisions he makes. He received his packet of information in Friday afternoon's mail. He has no relationship with Mr. Hicks or the developer and he is not privy to any information in advance. Having received his information on Friday, and having researched it on Saturday and Sunday, Monday and Tuesday were the only days he could submit any comments on this matter. Since he is not allowed to speak at this meeting on his own behalf, per the bylaws, his only opportunity is to comment in writing and to maintain objectivity as he does it, and to keep emotion out. He felt that it had been inferred that he was throwing something in at the last minute.

This has the potential to become personal, but he is trying to keep it impersonal. He didn't use e-mail because he wanted to go through the official process. He didn't want to get into this, but the wetland and all the water goes through his property and under his house. That's the challenge for people to understand because half of the wetland is on his property. Every drop of water that goes on that wetland winds up on his property. Arguably, there are other houses in the wetlands, but there is separation between them because of driveways.

Mr. Kempisty asked if he thought the developer's response was positive. Mr. Meisel said he didn't know. Until he has some details, he would say not positive. Ms. Radcliffe reminded him that he was allowed to speak when he was sitting in the audience. Mr. Meisel said that the bylaws literally suggest that he could have someone speak on his behalf, but he shouldn't speak at all. Even if he could argue, and you believe he is being 100 percent objective, some people will see it as emotional. That is also why he declared a conflict for the boundary realignment. He didn't believe he had any conflict, but technically he is the adjacent property owner. He just wanted to stay away from the request so nobody could infer anything from anything he said.

Ms. Radcliffe reminded him that when the request gets to the Board he can attend that meeting and have the floor or he can have someone else speak for him.

**BOARD ACTION:**

**FUTURE AGENDA ITEMS:**

**NEXT MEETINGS:**

June 12, 2007 - Joint Meeting

June 19, 2007 - Subcommittee Meeting

June 26, 2007 - Regular Meeting

**ADJOURNMENT:** 9:40 p.m.

  
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Laurie Radcliffe, Secretary  
Tyrone Township Planning Commission

  
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Barbara Burtch, Recording Secretary  
Tyrone Township Planning Commission