

**EAST BRANDYWINE TOWNSHIP PLANNING COMMISSION
REGULAR SESSION**

Wednesday, November 5, 2008- 7:30 P.M.

Those in Attendance:

Mr. Bruce Rawlings, Chairman
Mr. Stephen Cushman, Vice-Chairman
Mr. Michael Corbin, Member
Deborah Marshman, Member
Mrs. Sandra Moser, Member
Mr. Scott T. Piersol, Township Manager
Mr. Michael Mayhew
Mr. Matthew VanLew, Roadmaster
Mrs. Mary Beth Smedley, Township Secretary/Treasurer

Absent:

Charles Giordano, Member
Mervin Thomas, Member

Opening of Meeting

Mr. Rawlings opened the meeting at 7:35 P.M. with a Salute to the Flag. There was one visitor present.

Planning Commission Minutes – October 1, 2008

Mr. Rawlings asked if there were additions or corrections to the October 1, 2008 minutes. There were none. Mr. Rawlings made a motion to approve the minutes as presented. Mrs. Marshman seconded the motion, with all voting Aye.

Corner Ketch Landing

Mr. Rawlings and Mr. Piersol will meet at the property with Mr. Philip Zalkind within the next two weeks to resolve outstanding landscape issues.

All Terrain Vehicle Ordinance/Noise Standards

Mr. Rawlings stepped down from the Planning Commission for this discussion since he is a concerned resident. Mr. Corbin reported that Mr. Piersol provided the latest drafts of the revised ATV Ordinance and the proposed noise standards. Mr. Piersol stated that the drafts have been reviewed by Township Solicitor Stacy Fullers, Esq. She suggested some minor modifications to the penalty provisions, which Mr. Piersol incorporated into the drafts.

Mr. Corbin continues to be concerned with permitting all terrain vehicles to be driven on Sundays and certain holidays. It is his opinion that the Ordinance doesn't adequately address concerns of those residents who are bothered by their use. He would like there to be some specified times when residents can be assured of some relief from the noise.

Mrs. Moser said that she agreed with Mr. Corbin. She pointed out that hunting wasn't allowed on Sundays. Mr. Corbin said that if certain days were prohibited the ordinance would be easier to enforce.

Mrs. Marshman said she had mixed feelings. She is concerned that recommending a prohibition against riding on Sundays or holidays will likely be rejected by the Board of Supervisors. Mr. Cushman said that the Planning Commission is charged with making their best recommendation. It is then up to the Board to accept the recommendations or not. Mrs. Marshman went on to say that she was very frustrated after the last meeting because no real progress was being made toward a solution.

The Planning Commission raised concerns that the language "from dusk until dawn" isn't measurable. They suggested that the language be changed to "from sunset to sunrise".

Mr. George Holmes said that he is also opposed to the Township allowing the operation of all terrain vehicles on Sundays. He feels the Township is being indulgent to a small minority.

Mr. Rawlings isn't in favor of allowing ATV's to be operated on Sundays and major holidays.

Mr. Piersol said that there is another meeting scheduled for Tuesday, November 11th at 6:00 P.M. to discuss the ATV ordinance and noise standards. He also said that he will be meeting with Mr. Voltz and Mr. Bates to check decibel levels of ATV's within the next week.

After review of the documents Mr. Cushman made a motion to recommend the following changes to the Board of Supervisors:

1. Change "dusk to dawn" to "sunset to sunrise".
2. Make sure the decibel levels in the Ordinance are acceptable to the Board of Supervisors
3. Prohibit the use of ATV on Sundays or major legal holidays.

Mrs. Moser seconded the motion, with all voting Aye.

Rothman Tract

The applicant received a letter from the Department of Environmental Protection regarding an inspection of the dam that was done on July 30th. They found that the dam was overgrown with vegetation cover, the root system of the surrounding trees was potentially hazardous, and the stone masonry was deteriorated. Although it is unclear from the letter whether DEP will require any improvements to the dam, it is the responsibility of the owner of the dam to maintain and operate it in a safe condition.

Mr. Piersol attempted to contact the applicant, Neal Barkon, about the letter, but to date hasn't received a reply. He then contacted Mr. Abdel Nassani, who wrote the letter on behalf of PADEP. They discussed what steps need to be taken to resolve the concerns raised in his letter. Mr. Nassani didn't provide specifics, but did say that PADEP will initiate enforcement action if the problems aren't remedied. Mr. Piersol also contacted the applicant's engineer, Dennis O'Neill, to update him on the issue. Mr. O'Neill said he was unaware of the PADEP correspondence, but will follow-up with his client.

Mr. Rawlings said that he wanted to make sure the Township followed up on the letter so that the Township doesn't incur any liability. This issue should be resolved between PADEP and the applicant.

Mrs. Moser remarked that PADEP may not want the dam to be restored, since they have recently indicated they would prefer similar dams to be removed. Mrs. Marshman said that the dam, house and barn continue to deteriorate. Mr. Piersol will discuss the house and barn with the Township's Building Code Official, Russell Yerkes, so he can contact Mr. Barkon. The Planning Commission will discuss these issues again at their December meeting. If the applicant doesn't take steps to secure the house and barn by then, they will recommend the Board of Supervisors take enforcement action for "demolition by neglect".

Mr. Rawlings asked Mrs. Smedley to provide copies of the minutes granting preliminary plan approval for the Rothman Tract subdivision. He recalls that restoration of the dam was a condition the applicant agreed to for preliminary plan approval.

Wawa Final Land Development Conditions Review – October 28, 2008 Letter

Mr. Mayhew stated that there were three outstanding conditions in the review letter.

25. Section 501.B.2.k – In accordance with the Township Manager's letter of October 18, 2002, the plan must satisfactorily address all governmental regulations associated with the historical aspects of the Mama Lena's building. The response letter indicates that Note #24 has been added to Sheet 3 of 12 stating that the plan shall be subject to the conditions of approval to be set forth by PADEP and the Army Corps of Engineers.

The Army Corps of Engineers issued a letter of approval on July 3, 2008. One of the ten conditions stipulated in the Army Corps' authorization is that construction must be performed in accordance with the Programmatic Agreement. Another condition of the Corps approval is that a deed restriction should be added to the property to protect the Waters of the United States, including Federally Regulated wetlands. Mr. Giannantonio stated that reference to the Programmatic Agreement and the deed restriction should be included on the plan.

26. Section 626.G – Construction notes and details for the proposed Bondsville Road driveway open bottom culvert should be added to the PADEP permit plans. Yerkes recommended a condition of final plan approval be that copies of all appropriate permits are provided to the Township prior to issuance of any building permits. PADEP Permit E15-704 has been received by the Township for Water Obstruction and Encroachment for the work proposed in the watercourse on the plans. The PADEP Water Obstruction and Encroachment Permit #E15-732 issued to PennDOT is being transferred to Wawa and a signed copy will be forwarded to the Township when all signatures are in place. When the signed permits are received by the Township, this item will be resolved.
57. The sanitary sewer comments outlined in the October 7, 2003 review letter from Gannett Fleming must be satisfactorily addressed. Mrs. Smedley reported that the Municipal Authority Engineer provided correspondence dated October 7, 2008, which states that all major outstanding items are resolved.

Ordinance Task Force Items

Notices

Mr. Piersol reported that the November 26th and December 24th Ordinance Task Force meetings have been cancelled. The Task Force will meet November 18th and December 9th. Both meetings will be held at 7:30 P.M.

The East Brandywine Township Board of Supervisors and the Ordinance Task Force will hold a public meeting Tuesday, January 6, 2009 at 7:30 P.M. to discuss the revised Comprehensive Plan and the Guthriesville Master Plan.

Proposed Revisions to Section 350.50 on Recreation Lands and Facilities – Act 247

Review

Mr. Sweet has provided a means for calculating the fee-in-lieu of open space. Currently, the amount of the fee is \$2,000 for each proposed new dwelling unit within a tract. Mr. Sweet is proposing that instead of the flat fee there are ways to calculate the fee based on the fair market value. This would require that the property be appraised and the appraisal accepted by the Board of Supervisors.

The Planning Commission would like this draft to be sent back to the Ordinance Task Force for further review. They have concerns that the new language is overly complicated and may put the Township in a position of having to dispute the calculation.

Old Business/New Business

Mr. Rawlings asked if there were any old or new business items to be discussed. There were none.

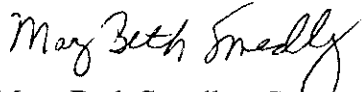
Comments from the Audience

Mr. Rawlings asked if there were additional comments from the audience. There were no comments.

Adjournment

There being no further business Mrs. Moser made a motion to adjourn the meeting. Mr. Rawlings seconded the motion, with all voting Aye. The meeting was adjourned at 8:25 P.M.

Respectfully submitted,



Mary Beth Smedley, Secretary/Treasurer