

**EAST BRANDYWINE TOWNSHIP PLANNING COMMISSION  
REGULAR SESSION**

**Wednesday, August 4, 2010 - 7:30 P.M.**

**Those in Attendance:**

Mr. Bruce Rawlings, Chairman  
Mrs. Sandra Moser, Vice-Chairman  
Mr. Stephen Cushman, Member  
Mr. Ray Crossan, Member  
Mr. Charles Giordano  
Mr. Carl Croft, Ex-Officio Member  
Mr. Michael Wagoner, Ex-Officio Member  
Mr. Scott Piersol, Township Manager  
Mr. Matthew VanLew, Roadmaster  
Mr. Michael Mayhew, Township Engineer  
Mr. Andreas Heinrich, Traffic Consultant  
Mrs. Mary Beth Smedley, Secretary/Treasurer

SCANNED

**Absent:**

Mr. Michael Corbin, Member  
Mr. Mervin Thomas, Member

**Opening of Meeting**

Mr. Rawlings opened the meeting at 7:30 P.M. with a Salute to the Flag. There were ten visitors present, along with MileMarker Editor George Holmes.

**Planning Commission Minutes – July 7, 2010**

Mr. Rawlings asked if there were any additions or corrections to the above minutes. There were none. Mrs. Moser made a motion to approve the July 7, 2010 minutes as presented. Mr. Rawlings seconded the motion, with all voting Aye.

**Reidinger Property Proposed Lot Line Change**

The property is located south of Hopewell Road and is accessed from Hopewell Road by a shared driveway. The Reidinger Property is located in the R-1 Zoning District and currently contains a single family home with a deck, is mostly wooded, and contains some Waters of the Commonwealth, wetlands and some steep slopes. The existing gross acreage is 2.511 acres and the existing net acreage is 2.039 acres.

At the southern portion of the tract, the applicant is proposing to move the eastern lot line outward and to move the western lot line inward. The amount of acreage that is gained and lost is equal (8,572 sq. ft.).

The applicant is proposing to build a garage, not to exceed 20 feet in height, partially in the expanded area, that actually increases the minimum lot width and minimum side yard enough to change these values from non-compliant to compliant.

The areas proposed to be gained and lost are with Hillendale Partners and are part of the proposed Hillendale subdivision, which is subject to a Settlement Agreement plan.

Mr. Reidinger and Mr. Andrew Eberwein from E.B. Walsh and Associates attended the meeting to discuss the plan and the July 30, 2010 Yerkes review letter. The Board of Supervisors granted preliminary plan approval on June 16, 2010.

The existing house is in the corner, near the rear of the tract boundary and the Reidingers would like to construct a garage. According to the applicant, the only logical location for the garage is to the east of the house. In order to do this and have the garage comply with zoning setbacks, the applicant is proposing an even land swap.

The applicant has provided a cost estimate for the erosion and sedimentation control and stormwater management facilities for a total of \$10,230.00. Mr. Mayhew recommends that this amount be posted in a financial instrument that is acceptable to the Township Solicitor.

The plans have been revised to add a note regarding the maintenance of the shared driveway. This agreement should be provided to the Township for review.

Mr. Piersol spoke with Township Solicitor Stacey Fuller about the subdivision and its impact on the Hillendale project. Ms. Fuller has one minor concern. The Settlement Agreement references a Settlement Plan. Ms. Fuller will contact Bill Burke, acknowledging this minor revision to the Settlement Agreement. The final revision will be shown on the final Hillendale land development plan, which will contain a plan note acknowledging the revision in the metes and bounds description.

Mr. Rawlings made a motion to recommend the Board of Supervisors grant final plan approval for this subdivision with the conditions that the applicant satisfy all outstanding issues in the July 30, 2010 Yerkes review letter and that a note be added to the plan referencing the Hillendale Settlement Agreement. Mrs. Moser seconded the motion, with all voting Aye.

### **Brandywine Center (Giant Grocery Store)**

Carlino East Brandywine L.P. is proposing a commercial development named East Brandywine Center, containing a supermarket (Giant), retail buildings, and a bank. The project is located on Rt. 322, west of the Brandywine Village Shopping Center and is zoned Mixed-Use Commercial.

The plan generally consists of the following proposed features: Two commercial buildings, a parking lot, and a road. Stormwater BMP's include two infiltration basins, six rain gardens, a vegetated swale, and two areas of porous pavement. There are woodlands and wetlands on the tract, but no disturbance is proposed for either of these natural features.

The project site will be serviced by public water and public sanitary sewer services. The plan proposes to abandon the existing sewer system, existing storm sewer and existing easements on the Watters Parcel and to provide a general cross access and utility easement over the Watters Parcel and proposed Parcel B. The sanitary sewer easement and sanitary sewer components within the easement are to be offered for dedication to the East Brandywine Township Municipal Authority.

Mr. Peter Miller from Carlino Development, Marc Kaplin, Esq., the applicant's attorney and also the attorney for the Watters family who own this parcel, and Chirag Thakker, P.E. from Langan Engineering attended the meeting to discuss the preliminary land development plan submission.

Mr. Rawlings said that all Planning Commission members present at this meeting have read Mr. Piersol's August 2, 2010 correspondence to Mr. Miller and are in support of the letter. Mr. Kaplin asked why he was attending the meeting if the Planning Commission has already made a judgment. He said that he totally disagreed with some of the determinations in the letter and that under Act 209 his client is entitled to a credit against the traffic impact fee for road improvements. Mr. Kaplin referenced Table 5 of the Transportation Capital Improvements Plan, which calculates improvements at Horseshoe Pike and the Brandywine Village Shopping Center to be \$0. He went on to say that it was his opinion that the Township's traffic study doesn't comply with the Act. Mr. Heinrich said that the North Guthriesville extension was not part of the Act 209 Plan and wasn't considered until two or three years after the study was completed. Mr. Piersol agreed and said that Table 5 references the intersection as is, but did not anticipate improvements that would be needed by future development, or the North Guthriesville extension. Mr. Kaplin wondered why it was mentioned in Table 5 at all and or why it was given a \$0 value. He went on to say that he believed an agreement can be reached with the Township, but his client can't build a shopping center and pay the exorbitant traffic impact fee that the Township has imposed. Using the formula provided by the Township, Mr Kaplin said that his client would be liable to pay \$1,795,000. He said that the Township's traffic impact fee was the highest he has seen and that the Township is not willing to give a credit for the Spence property acquisition. Mr. Rawlings said that he wanted the Planning Commission's position on record, but that further discussion should be held tomorrow morning at the Board of Supervisors meeting.

Mr. Kaplin provided a revised plan for review. He said that Mr. Thakker met with Mr. Mayhew and Mr. Heinrich this week with the revised plan being the result of those meetings. He also said that this plan only works if the traffic fee and sewer issues are resolved and if his client doesn't get into a protracted battle with the Blair family, who own the Brandywine Village Shopping Center.

At Mr. Heinrich's request, the new plan shows that the bank and road are flipped, with the roadway being moved to the east. Mr. Kaplin said that this will necessitate tearing up the existing entrance and installing a new traffic signal. There will be two lanes in and two lanes out of the shopping center. The plan also lines up the entrance to Giant with the existing interconnection to Croppers so there is now a 90° turn in and out. The plan shows the existing easement area and says that the proposed improvements clearly comply with the Cross Easement Agreement executed between the Watters family and the Brandywine Village Shopping Center. Mr. Heinrich said that the plan shown this evening is much closer to what he is recommending, but would still like to see the entry from Rt. 322 be at a 90° angle and would also like to have a deceleration lane installed.

Mr. Croft asked if there would be a deceleration lane. Mr. Kaplin said that the Blair family owns the property needed for that. Mr. Heinrich said that since PennDOT is recommending a deceleration lane the applicant will need to approach the Blair family about acquiring land for this purpose.

Ms. Elizabeth Witmer, the attorney for Croppers introduced herself to the Planning Commission. She said that Mr. Kaplin's assertion that the plan complies with the Cross Easement Agreement may or may not be accurate. She said that her client doesn't necessarily agree that it does. Ms. Witmer represents Croppers who is a tenant in the shopping center, but she does not represent the Blair family, who own the center. Croppers is not a party to the Cross Easement Agreement.

The next section of road on the plan is three lanes and shows an entrance into the Brandywine Village Shopping Center. The radius has been reconfigured at the back of the center so that trucks can maneuver. The road at the back of the new shopping center is two lanes.

With the present configuration the applicant is showing a 50 ft. ROW, which is something that Mr. Heinrich and the Planning Commission had previously requested.

Mr. Kaplin said that his client had previously been willing to give an interconnection for truck traffic in back of the Brandywine Village Shopping Center. Because of opposition by Croppers and the Blair family, his client is not willing to provide that now. He also said that with the new configuration a second interconnection with Croppers doesn't work. Mr. Heinrich will take a look at that and make a recommendation to the Planning Commission.

Mr. Rawlings said that he would like to see an access point for future development on the Spence property. Mr. Kaplin said that he has no idea where a future entrance might be needed. Mr. Rawlings said that he would like to see a design. Mr. Kaplin suggested that Mr. Heinrich design it and then his applicant will show it on the plan. Mr. Heinrich recommended that any design provided by the applicant, and approved by the Township, not preclude a future entrance to the Spence or Watters properties.

PennDOT previously recommended that the proposed road line up with the Quail Hill Development off North Guthriesville Road. Mr. Kaplin said that wasn't possible and was not considered as part of the plan submitted by Gambone Development. His client will contact PennDOT about this.

The plan shows a limited number of compact parking spaces, which Mr. Kaplin says are permitted by the Township Ordinance. Mr. Kaplin said that these are needed in order to make the plan work. The majority of these spaces will be used for employee parking although there are several compact parking spaces to the rear of Retail B. There is an area to the east of Retail B which is marked as reserved spaces. Mr. Kaplin said they can be built immediately or at a later date, depending on what the Board of Supervisors decides.

Mr Rawlings asked about the proposed porous paving. At the last Planning Commission meeting he asked the applicant to provide examples of where this is used. Mr. Kaplin said that porous paving is allowed by Ordinance and he isn't required to provide any further studies or analysis. He did say that his client would provide a maintenance program to ensure that it was working properly. The Planning Commission is still requesting examples of porous paving on site that have been used locally and is requesting Yerkes to carefully review this. Although the Planning Commission acknowledges that porous paving can be used by ordinance it is their responsibly to ensure that materials are used that can be properly maintained so there will be no issues in the future.

Mr. Kaplin said that he thinks the Township has been less than cooperative with his client. He has tried to contact two of the Township Supervisors individually, but with no success.

Mrs. Moser said that she prefers the new location for the roadway. Mr. Crossan said that he likes that the bank and roadway have been flipped. He said he has reservations about the interconnection, but realizes there isn't a lot of space for the applicant to maneuver. Mr. Croft said that he liked the new presentation. He asked if the Spence property was included in calculating the percentage of impervious. Mr. Thakker said that it wasn't included, but if it were

included it would decrease the percentage of impervious. Mr. VanLew had no new comments. Mr. Cushman was pleased with the progress made on the plan.

The applicant will need to purchase Parcel B from Gambone Development in order to construct the roadway. Mr. Kaplin said that his client attempted to purchase an easement for the roadway, but Gambone was concerned about their future ability to sell the property. Parcel B will have the proposed roadway and a basin. Mr. Thakker said that the tract showed 58.2% impervious. Mr. Mayhew said he quickly calculated it and agreed that it was under 65%, which is allowed by ordinance.

Ms. Witmer said that this is the first time she and her client have seen the original or revised plan. She disputed Mr. Kaplin's earlier assertion that her client and the Blairs have "declared war" on this development. She said that it was simply prudent of them to obtain counsel and to have an engineer look at the plan to protect their interests.

Mr. Kaplin asked if the Planning Commission supported the revised plan. It was the consensus of the Planning Commission that they needed further time to study the plan since it wasn't formally submitted and the first time they've seen it was at this meeting and the 90 day clock has still not started. They asked the applicant to submit a formal revision to be reviewed by the Township and their consultants. Once comments are received by Mr. Mayhew and Mr. Heinrich it will be reviewed at the September 1, 2010 Planning Commission meeting.

Mr. Kaplin said that he would like to resolve the outstanding traffic impact fee and sewer issues as quickly as possible. He also reiterated that he thinks the Township's traffic fee is the highest he has seen and that it doesn't comply with Act 209. If these issues can't be resolved it is his client's intention to submit a plan showing the previously submitted alternate road configuration.

### **Ordinance Task Force**

The following items were discussed at the July 28<sup>th</sup> Task Force Meeting.

1. Land Use Code updates have been submitted and are still under review with General Code Publishers.
2. Discussion of the Giant traffic impact fee credit requested by the developer.
3. Impervious percentage amendment - increase from 12% to 15%, under stipulated conditions.
4. Loop road corridor and Official Map. Mr. Piersol said that Chuck Jackson will revise the Official Map and the proposed location will be shown on future Downingtown Area School District land development submissions once it is finished.
5. Uwchlan Township Comprehensive Plan – comments requested.
6. Ongoing Business
  - a. Solar panels, windmills and alternative energy
  - b. Ordinance amendments – MU change to R-2 – Village extension overlay
  - c. Draft Stormwater Management Ordinances, 5,000 sq. ft. disturbance threshold.
  - d. 2005 Code Changes

e. Definitions

f. Pulte Homes – Guthriesville section

Items #3, #4 and one item from #6 will be discussed at the August Task Force meeting. The next Ordinance Task Force meeting will be held Wednesday, August 25, 2010 at 7:30 P.M.

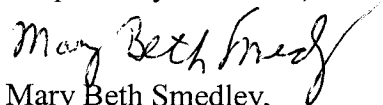
**Comments from the Audience**

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

**Adjournment**

There being no further business Mr. Rawlings made a motion to adjourn the meeting. Mrs. Moser seconded the motion, with all voting Aye. The meeting was adjourned at 8:40 P.M.

Respectfully submitted,



Mary Beth Smedley,  
Secretary/Treasurer