

**EAST BRANDYWINE TOWNSHIP PLANNING COMMISSION
REGULAR SESSION
Wednesday, February 1, 2006 – 7:30 P.M.**

Those in Attendance:

Mr. Bruce Rawlings, Chairman
Mr. Stephen Cushman, Vice-Chairman
Mr. Michael Corbin, Member
Mr. Charles Giordano, Member
Mrs. Deborah Marshman, Member
Mr. Mervin Thomas, Member
Mr. Scott T. Piersol, Township Manager
Mr. Albert Giannantonio, Township Engineer
Mrs. Mary Beth Smedley, Township Secretary/Treasurer

Absent:

Mrs. Sandra Moser, Member
Mrs. Beth Valocchi, Ex Officio Member

Mr. Rawlings opened the meeting at 7:30 P.M.

Planning Commission Minutes – January 4, 2006

Mr. Rawlings asked if there were additions or corrections to the above minutes. There were none. Mr. Corbin made a motion to approve the January 4, 2006 minutes as presented. Mr. Giordano seconded the motion, with all voting Aye.

DeCovny Property

The plans depict a proposed 25-lot subdivision of an existing 89.211 acre parcel located on the north side of Dowlin Forge Road. The parcel contains an existing farmhouse and farmstead buildings, wooded steep slopes, ponds, wetlands, and a tributary stream to the East Branch of the Brandywine Creek. The parcel is situated within the R-1 Zoning District and each lot is to be served by on-site water supply and sewage disposal.

Mr. Adam Brower, engineer for the applicant, discussed the preliminary plan. At the January 4, 2006 meeting, the Planning Commission wanted to wait to review the results of the Jurisdictional Determination regarding wetlands before recommending preliminary plan approval to the Board of Supervisors, since the results could affect lot lines on the plan. Mr. Brower forwarded the results of the Jurisdictional Determination and stated that lot lines for the subdivision would not change.

A landscape review letter dated January 30, 2006 from Thomas Kummer at Yerkes Associates will be addressed as part of the final plan submission. Ordinance 350-53-C specifies that a maximum of 25% of existing woodlands may be disturbed, with replacement planting required for disturbed areas in excess of 25%. Mr. Brower thought

that slightly over 25% will be disturbed, so that there will be some need for replacement. Again, this will be addressed as part of the final plan submission.

Mrs. Smedley provided Mr. Brower with a letter from Mr. Robert Winship who lives at 120 Dowlin Forge Road. Mr. Winship is concerned about potential stormwater runoff to his property from the proposed development. He asked that the developer take adequate measures so that there isn't additional flooding downstream of the property. Mr. Brower will send a memo to Mr. Piersol, who will contact Mr. Winship about his concern that will describe the measures being taken with regard to stormwater management.

Mr. Rawlings made a recommendation that the Board of Supervisors grant preliminary plan approval for this subdivision with the condition that the applicant agrees to comply with all outstanding issues in the Yerkes December 23, 2005 review letter and final review of the Jurisdictional Determination by Yerkes Associates. Mr. Giordano seconded the motion, with all voting Aye.

Pine Hill Associates, Inc.

The owner and applicant is Pine Hill Associates, Inc. The property is located at the northwest corner of Creek Road and Dowlin Forge Road, has a gross area of 37.0692 acres and net area of 24.6844 acres. The tract is in the R-1 Residential Zoning District. The plan proposed development of 13 lots based on the yield plan methodology with designated open space areas. The plan has been revised based on comments in the last Yerkes review letter of October 28, 2005.

Sean O'Neil, Esq., attorney for the applicant, and Dennis O'Neill, engineer for the applicant discussed the revised plan and the Yerkes review letter dated January 30, 2006. Sean O'Neill clarified two items in the review letter:

1. The Yerkes letter raises a question as to whether the landscaping plans are a part of the submission. Mr. O'Neill noted that the landscape plans, being sheet L1 of two and sheet L2 of two were submitted, and receipt of them was acknowledged in the engineering review letter by Yerkes dated October 28, 2005. No changes have been made to those plans, though the applicant is prepared, as noted by Yerkes in the current review letter, to relocate all street trees to the outside of the right-of-way (as requested by Yerkes in their current review on page 12 under "landscaping").
2. The plan submission does not show or propose sidewalks. The ordinance requires them only in connection with commercial or high density residential development. There is some confusion created, as has been noted by Yerkes, due to the fact that the plans include a typical road profile showing typical sidewalk specifications adjacent to the cartway. Mr. O'Neill stated this will be revised to eliminate that inconsistency in the final plan.

Mr. O'Neill stated that the applicant would comply with all comments and recommendation in the Yerkes review letter and asked that Planning Commission to recommend preliminary plan approval to the Board of Supervisors.

20. Section 350-30.M – Mr. Giannantonio stated that proposed streets are to be approved by the Fire Marshall for safe maneuverability of all emergency vehicles. A letter of approval from the Fire Marshall is required. Mr. Piersol would like the raised curb taken out of the cul-de-sac and wanted to ensure that the road will support the fire trucks. (This was done December 30th; the applicant had removed the landscape island in the center of the cul-de-sac, so this comment was resolved).
15. Section 350-24.D. (1)(b) – b. A trail is proposed along Route 282 and a note to that effect appears on the top center of Sheet #1 labeled “Recreational Requirements”. The Planning Commission should review the location of the trail system.
3. Section 399-14.D - Mr. Giannantonio noted that the proposed drain field locations on Lot #8 and #11 are directly adjacent to proposed 3:1 slopes, which is not permitted by State regulations. The applicant should make every attempt to maintain the proper isolation distance (10') from the 3:1 slopes. Mr. Dennis O'Neill agreed to address this issue.

Erosion and Sedimentation Control Comments

67. A DEP NPDES Permit and Conservation District letter of adequacy for erosion and sedimentation control will be required prior to final plan approval.
68. The total area of disturbance should be noted on the plan.
69. All septic systems below areas of earth disturbance should be protected with silt fencing.
70. Calculations for all erosion and sedimentation controls, such as sediment basins, swales, etc. should be provided. All details on Sheet #19 should be completed with design information as noted above.
71. All swales and slopes of 3:1 or greater should be provided with erosion control blanket or matting and an installation detail should be provided.
72. Silt fencing should be more clearly identified by either a label or be graphically shown on the plan. It should also be indicated whether it is standard or reinforced fencing.

Dennis O'Neill stated that he would attempt to minimize grading and would be submitting grading plans once house types are selected. He will also be looking at installing retaining walls as a way to minimize disturbance.

16. Section 350-24.D(1)(g) – The Riparian Corridor Conservation District is shown on the plan and a Riparian Corridor Management Plan note has been added to Sheet #6 and appears satisfactory according to Mr. Giannantonio.

The Planning Commission had several questions

1. Will the barn on lot 12 remain? Mr. Dennis O'Neill said it will remain.
2. Will the well in the street for Lot 13 be capped if the site is served by public water? Mr. O'Neill said it would be capped.
3. Mr. O'Neill was asked about the height of any proposed retaining walls. He said they would be three to four feet high and said he understood that a building permit would be required if the walls were more than four feet high.
4. There will be two parking spaces at the bottom of the driveways for Lots 6 and 7 and 3 and 4.

Public Water vs. Wells

15. Section 350-24.D (1)(c)[1] – c. Mr. Giannantonio noted that the plan proposed on-site wells, but it also appears to depict a public water line. He said that the purpose of the “water main” should be clarified and noted on the plan.
40. Section 350-48.B – Approval will be required from DEP and the County Health Department for on-site wells.

The applicant would like to provide water to the development via the Hillendale development. Sean O'Neill said that in the event public water isn't available, the plan is to provide water via wells. Mr. Corbin, a member of the Planning Commission and Chairman of the East Brandywine Township Municipal Authority, stated that at the present time public water isn't available for this property, and it is uncertain if it will ever be available. He encouraged the applicant to provide water via wells, rather than pursuing public water. Although it is likely that the homes can be served by wells, because of the topography and the close proximity of several abandoned wells on the Hillendale property, it's not a certainty since test wells haven't been drilled. The Planning Commission is concerned that if they make a recommendation for preliminary plan approval prior to knowing that water is available from one source or another, the development won't be able to be constructed as approved.

Sean O'Neill stated that the applicant has submitted an application for a Conditional Use Hearing to public water pursuant to §399-25.B(10)(b) of the Zoning Ordinance. This section states that "Dwellings in a clustered residential development may be served by a public water supply system, as defined by this chapter, where the Board approves such system as a conditional use, consistent with the standards and criteria of this section and the requirements of §399-137 of this chapter". This chapter goes on to say that "The applicant must demonstrate that the adequacy and reliability of projected yields from individual water supply wells, based on results of the test well procedure specified in §350-48C(2) of Chapter 350, Subdivision and Land Development Ordinance, and at the applicant's discretion, additional documentation on groundwater quantity and reliability at the site".

The Planning Commission members feel that the applicant should demonstrate that water is available from individual supply wells prior to recommending preliminary plan approval, particularly since there is no public water available in the vicinity of this property at the present time.

Sean O'Neill acknowledged that if water wasn't available from either source, the plan couldn't be built. He stated that this would be noted on the plan. He said that this would be his client's risk and that building permits couldn't be issued if water weren't available, and that the applicant wouldn't be entitled to final plan approval until the water source issue is resolved.

Mr. Rawlings polled the Planning Commission regarding recommending preliminary plan approval. The members unanimously agreed that they could not make a recommendation for preliminary plan approval at this time because of the outstanding water issues and the number of conditions that would need to be met prior to the Board of Supervisors meeting on February 16th. These items include #4, #5, #10, #13, #15, #24, #26, #32.b, #38, #41, #44.b, #46, #49, #50a.i, #50a.iv, #50a.v, #50b.ii, #50c, #51a, #51h, #55, #57, #58, #65, #68, #71, and #73 in the January 30, 2006 Yerkes review letter. Mr. Dennis O'Neill will revise the plan. He asked that that the Township waive the provision that a plan has to be submitted 15 working days prior to the next Planning Commission meeting. The Township and Mr. Giannantonio agreed to do this. In addition, the applicant was asked to provide a well test on the existing well prior to the next Planning Commission meeting.

Mrs. Mary Ann Clayton attended the meeting to discuss several issues she would like addressed as part of the review process. Mr. and Mrs. Clayton live at 410 Creek Road, in the vicinity of lots #1 and #3. They asked that a landscape buffer be provided near those lots. In addition, Mr. and Mrs. Clayton are concerned that if water is provided to the development by wells, this may affect their well. It was suggested that when the applicant does well testing they monitor the Clayton well to see if there are any fluctuations. The Planning Commission asked that the well evaluation be done by a hydrogeologist so information can be obtained on the affect of existing surrounding wells.

There is an easement shown on the plan for a public water line on the property between Lots 1 and 2. This easement will remain on the plan whether or not the site is served by public water. Although this easement isn't shown in steep slopes on the Forge Hill property, the area where it connects to the Hillendale property is in the steep slope district.

Pine Hill Associates, Inc. Zoning Hearing

Pine Hill Associates, Inc. has applied for special exceptions pursuant to Sections 399-14.D.(3)(a) and 399-14.D.(3)(d) of the East Brandywine Township Zoning Ordinance of 1989, as amended, and/or requests variances from Sections 399.14.D. Alternatively, the applicant has appealed, pursuant to Section 399-14.C (3)(c), the determination of the Township Engineer of the exact location of the boundaries of the Steep Slope Conservation District in relation to the proposed Forge Hill Cluster Development. The Zoning Hearing is scheduled for Thursday, February 2, 2006 at 7:30 P.M. at the East Brandywine Fire Company, 2096 Bondsville Road, Guthriesville, Pa.

At their January 4, 2006 meeting, the Planning Commission reviewed the application in order to offer their recommendations and comments to the Zoning Hearing Board.

Sean O'Neill, Esq. attorney for the applicant stated that the Zoning Hearing Application will be amended to request only three special exceptions. The original variance requests will be withdrawn at the February 2, 2006 Zoning Hearing.

Special Exception Requests

399-14-D(3)(a) – The applicant has applied for special exceptions to permit construction of any portion of the single-family detached dwellings on Lots 1 and 12, which are located in the Steep Slope Conservation District. Lot 1 shows two contours in the steep slopes and the north and south corners of Lot 12 in the steep slopes. Mr. Giannantonio stated he considers these encroachments de minimis and supports the Zoning Hearing Board granting these Special Exceptions

399-14.D(3)(d) – The applicant has applied for a special exception to permit construction of any portion of the storm sewer components on Lot 12, which are located in the Steep Slope Conservation District. The proposed storm sewer from the road's stormwater collection system passes through a small segment of the Steep Slope District to carry road runoff to the detention basin to the south of Lot #12. Mr. Giannantonio views this proposed encroachment as a minimal disturbance of the Steep Slopes and does not object to approval of this Special Exception.

Mr. Giannantonio commended Mr. O'Neill for revising the plan in order to minimize the requested zoning relief.

Mr. Cushman questioned whether these requests should be special exceptions or variances. Mr. Dennis O'Neill stated these requests were uses by special exception as outlined in §399-14.D (3) of the Zoning Ordinance.

After review of the revised application, the Planning Commission had no objection to the Zoning Hearing Board granting the above special exception requests.

Appeal from the Determination of the Township Engineer

The applicant has not withdrawn the appeal from the determination of the Township Engineer of the Steep Slope Conservation District. The Planning Commission still unanimously agreed with Mr. Giannantonio's interpretation of the steep slope definition and recommended the Zoning Hearing Board deny this appeal.

Extension

The applicant granted an extension to review this subdivision application until March 16, 2006. Mr. Rawlings made a motion to recommend the Board of Supervisors accept this extension. Mr. Thomas seconded the motion, with all voting Aye.

Applecross AKA Overlook Road Farm

Extension

The applicant is granting an extension to review this subdivision until March 16, 2006. Mr. Rawlings made a motion to recommend the Board of Supervisors grant this extension. Mr. Giordano seconded the motion, with all voting Aye.

Brandywine Village/Croppers

Extension

The applicant is granting an extension to review this subdivision application until April 30, 2006. Mrs. Marshman made a motion to recommend the Board of Supervisors accept this extension. Mr. Cushman seconded the motion, with all voting Aye.

Deets/Geyer Zoning Hearing

The applicant submitted a zoning hearing application to build a home on a 3.3 acre tract of land that is partially in Caln Township and partially in East Brandywine Township. Mr. and Mrs. Geyer would like to situate the actual house on the portion of land that is entirely within East Brandywine Township. The portion of the parcel that is within East Brandywine Township is less than 1.5 acres gross or 45,000 net, as required in the R-2 Zoning District. They will be seeking a variance from Section 399-28 of the Zoning Ordinance to allow them to construct the house in East Brandywine Township. The

applicant stated that all other area and bulk regulations, such as setbacks from the property line, can be met as outlined in the Zoning Ordinance. Access to the parcel is through a common driveway in East Brandywine Township. After review of the application, the Planning Commission took no position. The Planning Commission did recommend that the parcel be deed restricted from further subdivision since that would likely create a non-conforming lot in East Brandywine Township. Mr. Piersol will speak to Township Solicitor Stacey Fuller regarding this application to determine if the applicant actually needs zoning relief for what they intend to do, since they will no longer be subdividing the property.

Cushman Subdivision Sketch Plan

Mr. Cushman stepped down from the Planning Commission to discuss this subdivision.

The owners and applicants of the subdivision are Stephen Cushman and Vernon MacIntyre. The project site is located on the north side of Hopewell Road and the west side of Corner Ketch/Lyndell Road between Rolling Glen Lane and Hopewell Road in the R-2 Residential District. The site currently consists of two existing properties, parcels 30-05-49 and 52. The total combined property area is 8.128 acres gross and 7.868 net. The properties contain an existing two-story dwelling, driveway, detached block garage, sheds, ruins and a mostly wooded area. The existing driveway has access from Corner Ketch/Lyndell Road.

The plans proposed to combine the two parcels and re-subdivide the property into five new lots. Lot 1 retains the existing dwelling and proposes no new improvements. The remaining 4 lots propose new single family dwellings. Lots 2, 3 and 4 propose access from Hopewell Road via a common driveway. Lot 5 will also have a separate access from Hopewell Road. Each lot proposes on-lot stormwater management, on-site septic and on-site water. The application has not been accepted as a formal subdivision at this time. Mr. Cushman agrees that the 90-day clock to review this application has not started.

At last month's meeting Mr. Cushman discussed the following waiver request.

Sections 350-29.F(3)(a)

- a. A waiver has been requested from Section 350-29.F(3)(a) requiring that a 50-foot wide access strip serving more than one interior lot be included within the property lines of one of the interior lots served (Lots 2 and 3 in this case). A 50-foot wide access easement has been provided on Lot 4 for the benefit of Lots 2 and 3 in lieu of the fee simple access strip required by the Ordinance. Normally the easement would be owned by Lot 2 or 3, but in order to meet the required lot area, Mr. Cushman is requesting the easement be owned by Lot 4.

It was thought that there was a right of way off of Keller Way that might be used so that Lot 3 would not be considered an interior lot, even though it would not be the applicant's intention to access Lot 3 via Keller Way. The Planning Commission suggested that Mr. Cushman investigate whether the easement on Keller Way is a dedicated road right of way. Mr. Cushman did investigate this and determined that the easement had never been recorded, so essentially it doesn't exist.

Mr. Cushman stated there would be a common driveway declaration that would outline ownership and maintenance issues. He has agreed to have the easement language reviewed and approved by the Township Solicitor.

Mr. Rawlings asked if the Supervisors would be setting a precedent by granting the waiver. Messrs. Piersol, Giannantonio and Thomas each said that the waiver requests are reviewed on a case-by-case basis.

Mr. Giannantonio stated that he had no objection to the Board of Supervisors granting this waiver. After review of the plan Mr. Rawlings made a motion to recommend the Board of Supervisors grant the above waiver request from Section 350-29.F(3)(a) of the Zoning Ordinance. Mr. Corbin seconded the motion, with all voting Aye.

Watters/Spence Property Sketch Plan

Mr. Piersol and Mr. Cushman met with representatives from Gambone Brothers to review a proposed sketch plan to development approximately 51 acres of the Watters farm. The applicant is proposing 115 town homes and development of a 10 acre commercial piece.

The applicant is proposing to develop the commercial piece first. The land development plan for the commercial piece will be submitted prior to submission of the proposed town home community. This commercial development would utilize the existing entrance at the traffic signal, and be provided with a western exit which would be a restricted "right-out only" traffic way.

The applicant is proposing to build the 115 town homes with one long street, which ends in a cul-de-sac. The length of this street is well beyond the 1,000 foot limitation allowed by Ordinance.

As the Township looked more closely at the plan Mr. Piersol stated that two major items for discussion would be the street system and sewage treatment.

Mr. Rawlings reviewed the plan with regard to ingress and egress of the development and provided a sketch plan for Mr. Piersol to pass along to the applicant. The plan includes the following suggestions:

1. The entrance roadway should align with Bollinger Road.

2. There should be a second entrance to the development from North Guthriesville Road at Firethorne Drive.
3. Re-direct North Guthriesville Road to the existing traffic signal in front of the Brandywine Village Center.
4. Restrict the North Guthriesville Road intersection to “right in/right out”. Some signalization may still be needed at the Township municipal complex for emergency vehicles.

This plan will be discussed at the March 1st Planning Commission meeting. Mr. Piersol will forward these suggestions to the applicant.

Hopewell Methodist Church

Mr. Piersol has been working with one of the Church trustees on the fencing around the basin. This has been an outstanding issue since the land development application was approved. They have temporarily secured the two openings in the fence material. The trustees originally thought this would be a temporary barrier, due to their plans for additional parking, which would include creation of a large underground storage basin. Once the actual cost to construct this stormwater facility was determined, they decided to pursue other parking areas on the site. The Planning Commission is very concerned that this matter isn't being adequately addressed by the Church. They would like to see a secure fence on three sides of the basin as was agreed upon in the land development approval. Mr. Piersol will follow up on this matter. Mr. Giordano asked Mr. Piersol why the parking lot needed to be illuminated all night long and also commented that a truck comes every Wednesday morning at approximately 4:30 to remove trash. This is not allowed by Ordinance. Mr. Piersol will also investigate this.

Rothman Property Update

Russell Yerkes was successful in getting Neal Barkon, the equitable owner of this property to secure the former ice house pit with orange construction fence 4 feet in height. The installation has been inspected by Mr. Yerkes, and he is satisfied that it secures the area.

Mr. Barkon has requested he be permitted to demolish the building on the property. A demolition permit must be submitted prior to this being done. Since this is a Class II Historic Structure, the applicant will need to comply with Section 399-65 of the Township Ordinance regarding demolition of historic resources. A letter will be sent to the Rothmans, giving them 30 days to secure the building against entry and further demolition by the elements. This letter will be written giving them 30 days to secure the building to the satisfaction of the building official, or the Township will take appropriate legal action.

Ordinance Task Force Items

Mr. Piersol stated that The County Planning Commission is recommending adoption of amendments regarding mobiles homes, open space, exotic animals, continuing care, and the preliminary and final plan revisions. Mr. Cushman made a motion to recommend the Board of Supervisors advertise and adopt these amendments. Mrs. Marshman seconded the motion, with all voting Aye.

The February 22nd Ordinance Task Force meeting will be a public meeting to discuss the resident survey and Comprehensive Plan. Mr. Piersol was asked to arrange for a microphone for the meeting.

K. Hovnanian Stipulation Agreement

Mr. Piersol reported that a letter was sent to K. Hovnanian asking them to send a copy of more detailed plans for the property as part of the settlement agreement review. To date, this hasn't been received.

Rt. 322 Improvements

A meeting has been scheduled with Township officials, representatives of Pulte and PADOT to discuss improvements to Rt. 322 from Corner Ketch Road to the Pulte development. Mr. Piersol also plans to talk about the loop road proposed by the Traffic Impact Committee. It was suggested that K. Hovnanian and Gambone Brothers participate in these discussion as plan to improve Rt. 322 move forward.

Sunoco Convenience Store

The Planning Commission asked if Sunoco had installed a "No Left Turn" sign at the western entrance of the property, as requested by the Township. Mr. Piersol spoke to the store manager. She will call the building maintenance department again to remind them to install the signage as soon as possible.

Hide-A-Way Farms

Mr. Peter Taylor Howe, a resident on Aspen Drive had several concerns about the subdivision. He asked that the following be addressed:

1. He would like as much of the tree line as possible to be maintained. He said that the trees provide a lot of protection from the weather. He is concerned that the trees may be removed during construction.
2. He is concerned about the emergency access easement becoming a thru street.

3. He is concerned about potential damage to his septic drain field. The location of the drain field is near the emergency access easement.

This information was passed along to Earl Cooke at Southdown Homes to address with Mr. Howe.

Comments from the Audience

Mr. Rawlings asked if there were comments from the audience. There were none.

Adjournment

There being no further business Mr. Corbin made a motion to adjourn the meeting. Mr. Thomas seconded the motion, with all voting Aye. The meeting was adjourned at 9:50 P.M.

Respectfully submitted,

Mary Beth Smedley
Secretary/Treasurer
East Brandywine Township